

50/600  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 180/95

R.A/C.P No. ....

E.P/M.A No. ....

1. Orders Sheet..... Pg. .... to .....  
*M.P. 32/98 order* Pg. .... to ..... 2/10/31/8/98
2. Judgment/Order dtd. 1.1.1.96 ..... Pg. .... to ..... 3.4.1998
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. .... 180/95 ..... Pg. .... to ..... 23
5. E.P/M.P. .... Pg. .... to .....
6. R.A/C.P. .... Pg. .... to .....
7. W.S. .... Pg. .... to .....
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.)

*(Signature)*  
6.2.1998

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 180 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. )

..... Gangadhar Bonia & Ors. APPLICANT(S)

-vs-

..... U.O.I. & Ors. RESPONDENT(S)

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

Mr.

Mr.

Mr.

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

OFFICE NOTE	DATE	ORDER
This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO GD No. 316637 dated 30-5-95.	2.11.95	<p>Applicant claims S.D.A on the strength of earlier judgment on the point O.A. admitted. Issue notice to the respondents. 8 weeks for written statement.</p> <p>Adjourned to 11.1.1996 for orders.</p> <p><i>RP 27/10</i> By. Registrar (D)</p> <p><i>RD</i></p> <p>Member</p>
<i>Regd. to date 13-12-95</i> <i>done w.r.t.</i> <i>DR</i>	13-12-95	<p><i>DR</i></p> <p>Vice-Chairman</p> <p>As requested by learned advocate for the applicant by letter dated 7-12-95 to be listed for hearing on 11-1-96. Mr. S. Ali takes note of this direction. Inform advocate of applicant.</p> <p><i>DR</i></p> <p>Member</p> <p><i>DR</i></p> <p>Vice-Chairman</p> <p>order asking to submit resumé to the applicant's Ad. &amp; son in F.M. 179/95. 1m</p>

order asking to submit resumé to the applicant's Ad. & son in F.M. 179/95. 1m

1/12 Order d. 13-12-95-  
sent from F no. 179/95.

(contd. to Page No. 2)

1/12

OA/TA/GP/RA/MP No. 180 of 1995

## OFFICE NOTE

## DATE

## ORDER

- 1) Service reports are still awaited  
 2) W/Statement has not been filed

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, Gadhadhar Bonia.

*Sub*  
 6/6 Vice-Chairman

The copy of the Judgment communicated to the parties together with the parties concerned vide D.No. 1227 to 1230 dt 26.96

nkm

*Sub*  
 Member

*Sub 6/6*

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

O.A. NO. 180 of 1995  
T.A. NO.

DATE OF DECISION 11.1.1996

Shri Gadhadhar Bonia

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

NO

*M.G. Chaudhary*  
Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.180 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 Gadhadhar Bonia,  
Electrician, MES No.243646 and 107 others,  
Working in MES Leimakhong, 57 Mountain Division,  
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. Commanding Works Engineer (P),  
137 HQ C/o 99 A.P.O.,
3. Assistant Garrison Engineer,  
MES, Leimakhong, 57, Mountain Division,  
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.

This application is purported to be filed on behalf of 108 Defence civilian employees by one Gadhadhar Bonia whose name alone appears in the title claiming Special (Duty) Allowance (SDA) on the strength of the earlier judgment and order of the Tribunal in O.A.No.48/89 dated 29.3.1994. The title mentions the name of only one person. The O.A. is also signed by him alone. The verification is also made only on behalf of the said Gadhadhar Bonia and not others. The Vakalatnama is attached to a list containing 111 names. Against those names the persons concerned appear to have signed except in respect of some

*hsl*

of the names. Some names are also deleted. Even though the Vakalatnama may have been signed in this manner it is difficult to treat the application as filed by all of the persons for whom the application is purported to be filed. Even otherwise the list together with the signatures does not appear to have been served on the respondents and thus they had no opportunity to verify the correctness of the particulars of the persons mentioned in the list.

2. It is also not prayed in the application that the applicants have joined together in filing the single application and should be allowed to do so. No application has been filed for leave under Rule 5(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 nor any leave has been obtained. We cannot, therefore, regard the application as being properly constituted and we would not, therefore, be entitled to exercise our jurisdiction in law. Mr S. Ali, learned counsel for the respondents, also raised the objection that the application is not maintainable in this form. Procedure can be relaxed or non-compliance therewith can be condoned in the interest of justice, but that can be done only when a properly constituted application is brought before the Tribunal and only after which it will be in a position to exercise its jurisdiction for that purpose. In the present circumstances, unfortunate as it is, ~~though~~ the whole difficulty may have arisen because of the inadvertence on the part of the learned Advocate that cannot be rectified having regard to the position in law. Consequently, we are constrained to confine the order only to the extent of the applicant whose names appears in the title, namely, Gadhadhar Bonia, leaving it open to the other persons who purportedly are applicants to file separate applications in accordance with law and the rules. ~~The order now passed may be considered to be extended after such applications have been filed.~~

3. The applicant, Gadhadhar Bonia, is a civilian Defence employee working in the Manipur Field Area under respondent No.3. Relying on the decision of this Tribunal in O.A.No.48/89 dated 29.3.1994 the applicant claims SDA on the same terms.

he/ll

4. Although the respondents have not filed written statement we have permitted Mr S. Ali, learned Sr. C.G.S.C., to rely upon the contentions in the written statement filed in O.A.No.176/95 wherein also similar claim on the same basis was made by the applicants therein who are posted in Tripura Modified Field Area. We did not agree with contentions of the respondents and for the reasons recorded in the order separately passed in that O.A. have allowed the claim as indicated therein. We adopt the same reasons in support of the following order passed in this O.A.

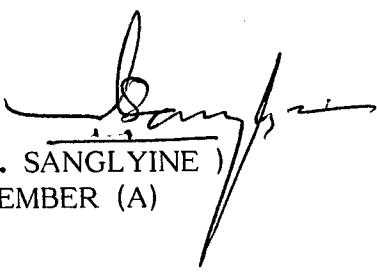
i) The respondents are directed to pay SDA to the applicant if he was appointed outside the N.E. Region, but ~~have~~ been posted in the N.E. Region at the prescribed rate with effect from 1.12.1988 upto date and continue to pay the same so long as the concession remains admissible.

ii) The respondents may verify whether he is eligible to get <sup>in above terms</sup> the allowance or not and take necessary steps accordingly.

iii) The arrears for the period from 1.12.1988 or the date of actual posting in the N.E. Region (whichever is later), if he is found eligible, shall be paid within a period of three months from the date of communication of this order.

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

6. This order is confined to the applicant in the name of the title, i.e. Gadhadhar Bonia, with liberty to the other persons to file separate applications if so advised as indicated earlier.

  
( G. L. SANGLYINE )  
MEMBER (A)

  
( M. G. CHAUDHARI )  
VICE-CHAIRMAN

SPECIAL DUTY ALLOWANCE

Filed by  
D.K. BISWAS  
&  
ADVOCATE  
(AGRAHARA)  
Advocate  
Court  
over

16 AUG 1994

Case No. D.A No. 180 of 1995.

Shri Gadhadhar Bonia, Electrician  
MES No. 243646 and 107 others as detailed  
in the list of applicants, all working in  
MES Leimakhong, 57 Mountain Division -  
99 APO.

.....Applicants

Versus

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

2. Commanding Works Engineer (CWE)  
137 HQ C/O 99 APO

3. Assistant Garrison Engineer,  
MES, Leimakhong, 57, Mountain Div.  
99 A.P.O

.....Respondents

Particulars of Respondents

1. Secretary to the Govt. of India,  
Ministry of Defence,  
Central Secretariate,  
New Delhi-1

2. Commanding Works Engineer,  
137 H.Q C/O 99 A.P.O  
Controlling authority of the  
establishment of Asstt. Garrison Engineer,  
57, Mountain Division

.....Contd Page-2

3. Asstt. Garrison Engineer, Leimakhong,  
In-charge of the establishment in which  
the applicants are posted.

Particulars of orders against  
which the application is made.

The application is directed against the non-  
implementation of the 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  
and order of this Hon'ble Tribunal in O.A 48/89 passed  
on 29-3-94 and implemented by the Respondent No.1 in  
respect of 149 applicants similarly situated as the  
applicants here.

Jurisdiction of the Tribunal

The applicants are Civilian Defence employee.  
posted in 'Field area' from various dates between  
1984 & 94. The applicants declare that 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.

1. All the 108 applicants are civilian employees working in various posts described in details in the list of names annexed to this petition, are posted in the establishment of Respondent No.3 w.e.f. different dates, after 1984.
2. Special Duty 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 Duty Allowance in the Defence Department by virtue of Ministry of Defence Office Memo No.4(19)85/D(Cive)-I dated 11-1-1984.

A copy of the said Memo dated 11-1-1984 is annexed hereto and marked as Annexure-1.

3. That consequent on the recommendation of the 4th Pay Commission, the Govt. of India decided and the President of India accorded approval to pay Special Duty Allowance to the employees posted in the North-Eastern states.

4. The applicants, by virtue of the memo dated 11-1-84 (Annexure-1) are entitled to the said

Special Duty Allowance with effect from the date on which the individual applicants assume their duties under Respondent No.3.

5. That as many as 149 applicants posted in the establishment of GE(P)872 EWS 99 APO filed an application before this Hon'ble Tribunal challenging the non-implementation of this allowances and this Hon'ble Tribunal examining all the relevant records and hearing all the 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 Respondent No.1 has already implemented the order of this Hon'ble Tribunal and has also paid all arrears w.e.f. 1-10-1986.

6. That the applicants here are similarly situated employees under the Respondent No.1, and they naturally and legitimately expected that they would not be discriminated and the Special Duty Allowance would be paid to all employees as on the same footing with the applicants who have been allowed the allowances consequent on the order of this Hon'ble Tribunal. But the applicants observed that the Respondents No.1 has been discriminating the

the present applicants and the said allowance (SDA) is not being paid to them though it has been given effect to in the case of 149 employees similarly situated. On such eventuality the applicants served demand notice dated 10th April, 1995 through their Counsel to each of 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 10-4-95 are annexed to this application and marked as Annexure-2 & 3 respectively.

7. 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, 1995 under which the civilian employees under the Defence posted in the newly defined "Field areas" were made entitle to Special Compensatory (Remote Locality) allowance and other allowances as admissible to Defence civilians, w.e.f. 1st April'93.

But the 57 Mountain Division at Leimakhong has been declared a field area since 1964 and as such the petitioners here are entitled to the allowances

from 1968 or such later date individual applicants 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.

8. That the applicants here are entitled to Special Duty Allowance with effect from such dates on which the respective applicants joined the establishment of the Respondent No.3 after 1-10-86 and the denial of such allowance by the Respondent No.1 and to his discriminatory unfair and illegal.

9. That the applicants expected that the Notice demanding justice dated justice dated 10-4-95 would bringforth the result , but the Respondents appear to be silent on the claim of the applicants and as such the applicants have been compelled to file this application for an appropriate order of this Hon'ble Tribunal.

Relief Sought

The judgement and order of this Hon'ble Tribunal in O.A 49/89 having been implemented by the Respondent No.1 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 direction to the Respondents to allow Special Duty Allowances in the same manner as has been directed in the said judgement (Annexure-2).

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

Number of I.P.O

809 316637 07.30.5.95

List of Enclosures

1. The application.
2. Annexure-1 (Ministry of Defence Office Memo 4(19) 85/D(Give)-1 dated 11th Jan '94.
3. Annexure-2 ( Judgement and order in O.A 4
4. Annexure-3 (Notice Demanding Justice)
5. Annexure-4 ( Circular of Ministry of Defence)

6. Indian Postal Order.
7. Copies of the application.
8. List of the names of the applicants.
9. Vakalatnama with 5 sheets annexed.

#### VERIFICATION

I Shri Gadhadhar Bonia ~~one of the applicants~~  
aged about ~~45~~ years working as Electrician in the  
establishment of the AGE 57, Mountain Division, 99 APO  
resident of Leimakhong, Manipur, do hereby verify the  
contents of the application above, which are true to  
my knowledge and I have not suppressed any material  
facts.

Sri Gadhadhar Bonia

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 of Arunachal Pradesh and Mazaroram 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

.../-

*affid*  
*Office 6/1/84*  
*Advocate*  
*ABARTAK*

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 of 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.

*After 10 yrs  
Officer can*  
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:-

Satisfactory performance of duties for the prescribed tenure in the North East shall be given due recognition in the case of eligible officers in the matter of :-

- (a) Promotion in cadre posts
- (b) Deputation to Central Tenure posts, and
- (c) Courses of training abroad,

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

A specific entry shall be made in the CR of all employees who rendered / full term of service in the North Eastern Region to that effect.

(iii) special (Duty) allowance :-

Central Government Civilian employees who have left India transfer liability will be granted a special (Duty) Allowance at the rate of 25% of basic pay subject to a ceiling of Rs 400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will

however, not be eligible for this special (duty) allowance, Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed, 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**

*After R  
Open Date*  
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 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 accord-  
ing 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 Mileage for transportation of  
personal effects on transfer

in relaxation of orders below S.R. 116 for transportation of personal effects on transfar 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 transfar 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)

*After  
Leave Travel Concession*

15  
29

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 letter 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

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 (Fin/ AG) vide their U.O.No. 49 PB of 1984.

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

Sd/-

(S. Prasad)

Under Secretary to the Government of India

SDA

ANNEXURE - 2

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. Sanglyine, 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.

ORDER

S. HAQUE

149 (one hundred forty nine) civilian employees in the establishment of the GE 872 WES, C/o 99 APO, Agartala have filed this application under Section 19 of the Administrative Tribunals Act 1985 complaining non-implementation of the Office Memorandum No.20014/16/86/E-IV/E-II(B) dated 1.12.1988 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 1.12.1988 the rate of SDA was revised to 12½% 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.....

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

4. The Respondent No.4, Garrison Engineer, GE(P) 872 Engn. 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

"ile.....

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 these 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

22-28-4594  
Section Officer (A)  
Administrative Tribunals  
Court of Appeals  
Gangtok  
Date: 10.07.1994  
Case No. 6/1994-C-A-5  
SDA 1986-87, 1987-88

Sd/- S. HAQUE  
VICE CHAIRMAN

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

6. 21 ANEXURE - 3  
DEEPAK K. BISWAS

ADVOCATE  
GAUHATI HIGH COURT  
Agartala Bench

Res: Ramnagar Road  
AGARTALA-799002  
Phone: 216586

Camp: Guwahati  
C/O, Shri S. Bhutte  
charjoo  
Secretary to Hon'ble  
Judge, Gauhati H.C

TO

1. Secretary to the Govt. of India  
Ministry of Defence, New Delhi
2. Commanding Works Engineer (CWE)  
137 - HQ.  
C/O, 99-A.P.O.
3. Asst. Garrison Engineer (AGE) 1  
M.E.S., Leimakhong  
57 - Mountain Div.  
99 - A.P.O.

Sub : Notice demanding justice on implementation of :

- (1) House Rent Allowance, (2) Special Comp. Allowance and
- (3) Special Duty Allowance with effect from 1986 and 1984 respectively.

Sirs,

Under instructions of my 108 clients, whose names and particulars are given in the enclosed list, I wish to draw your kind attention to the following :-

1. That my clients are all posted since long in the 57-Mountain Div. Leimakhong, 99-APO which is a field area and also a remote and difficult place.
2. That for being posted in field area they are being given nominal field area concessions like single accommodation and ration. But under the existing rules they are entitled to House Rent allowance in the prescribed ratio in compliance of the G.I. Office Memorandum No.11013/2/86-E.II(B) dated 25.9.1986 which they are being denied without any rhyme or reasons.
3. That my clients are also entitled to Special Compensation allowance in terms of O.M. No.20014/10/86-E-IV dated 23.9.1986 and Special Duty allowance under the same Office Memorandum with effect from the date of enforcing the revised Pay-scale of 1986, but such allowances are also being denied illegally.

DEEPAK K. BISWAS

ADVOCATE  
GAUHATI HIGH COURT  
Agartala Bench

(Continuation - page-2 )

Res. : Jinnagar Road-2  
AGAR N.L.A. - 92  
Phone : 226566

4. That similarly situated employees under different establishments in the field areas of the Government of India are allowed all those allowances while my clients have been discriminated all through, and consequently they have represented on many occasions to you for removing the discriminations and enforcing the said Office Memoranda, but nothing has been done so far.

5. That the civilian employees posted under G.E.(P) 872, EWS, 99-APO being similarly deprived filed applications before the Central Administrative Tribunal, Guwahati Bench. The Cases registered as O.A.48/89 O.A. 49/89 and O.A. 50/89 were disposed of by orders dated 29-3-1994 allowing all the 3 allowances and in pursuance of the Orders of the C.A. Tribunal all the 149 applicants of EWS, G.E.(P)872 have been paid the arrears and are being paid the allowances month to month.

6. That my clients being similarly situated and having same rights and entitlements are entitled to the same said allowances, namely, H.R.A. S.C.A. and S.D.A. with effect from from 1986. in the same manner in which the civilian employees of G.E.(P) 872 have been given by orders of the Hon'ble Tribunal enforcing the Rule of law.

I, on behalf of my clients, would therefore call upon you to set right the illegality as said above and implement the allowances in respect of my clients in the same manner as ordered by the Hon'ble Tribunal in O.A.48/89, O.A.49/89 and O.A.50/89 within a period of one month from today. Unless you indicate your willingness to implement the said allowances in the manner said above my clients would be compelled to approach the Hon'ble Tribunal for appropriate remedy, and for such forced litigations you would be responsible for the cost and consequences.

Yours faithfully

Dated:

10th, APRIL 1995

( Deepak Biswas )

दीमा नहीं NOT INSURED

Amount of Stamps affixed	Rs. 8/- P.
Received & Registered	.....
Addressed to	Commissioning Officer Engineering Department 139 HQ, 377
Signature of Recd.	.....

दीमा नहीं NOT INSURED

Amount of Stamps affixed	Rs. 8/- P.
Received & Registered	.....
Addressed to	Commissioning Officer Engineering Department 139 HQ, 377
Signature of Recd.	.....

No.	1	दीमा नहीं NOT INSURED	No.
Amount of Stamps affixed	Rs. 8/- P.	Received & Registered	.....
Addressed to	Commissioning Officer Engineering Department 139 HQ, 377	Date Stamp	.....
Signature of Recd.	.....	Signature of Receiving Officer	.....

No.	2333	Amount of Stamps affixed	Rs. 8/- P.
Received & Registered	.....	Date Stamp	.....
Addressed to	Commissioning Officer Engineering Department 139 HQ, 377	Signature of Receiving Officer	.....
Signature of Recd.	.....	Signature of Receiving Officer	.....

IIQ 3 Corps (A)  
C/o 99 APO

06 Mar 95

16037/R/A2

List 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  
K67

(D. Olhrai)  
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)/47-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 w.e.f 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.T. Tluanga)

Under Secretary to the Govt of India

*Hean*  
*Open Box*  
*JD*