

9

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

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OA-209/96

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

SA No. 209 196

M.K. Mishra & Co. Applicant(s)

Union of India & An. Respondent(s)

Mr. A.K. Sarma, M.K. Choudhury Advocates for the applicant(s)  
& S. Sarma

Mr. A.K. Choudhury, A.C.G.S.C. Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
<p>This application is in form and within time C. F. of Rs. 50/- deposited vide LPO/BD No. 346832 Dated 29.8.96</p> <p><u>A. Sarma</u> Dy. Registrar 23/9/96</p> <p>11.10.96</p> <p>App. Notice issued to the respondents vide D.No. 3393 dt. 9.10.96</p> <p>Service Reports are still awaited.</p> <p>Service Reports are still awaited</p> <p>12/12</p>	<p>24.9.96</p> <p>14.11.96</p> <p>14.11.96</p>	<p>Learned counsel Mr M.K. Choudhury for the applicant. Learned Addl. C.G.S.C. Mr A.K. Choudhury for the respondents. Issue notice on the respondents before admission returnable in 6 weeks.</p> <p>List for consideration of admission on 14.11.96.</p> <p>Pendency of admission of the application shall not be a bar for the respondents to dispose of the representations of the applicants, if any in this regard.</p> <p>To be listed for admission before Single Bench of Hon'ble Vice-Chairman.</p> <p>Member</p> <p>Learned counsel Mr M.K. Choudhury for the applicant. Learned Addl. C.G.S.C. Mr A.K. Choudhuri for the respondents.</p> <p>Adjourned for admission on 13.12.96.</p> <p>Member</p>

10-1-97

13.12.96

Show Cause has not been submitted.

None present for the applicant. Mr A.K.Choudhury, Addl.C.G.S.C for the respondents seeks time for filing show cause.

List for show cause and consideration of admission on 15.1.97.

Member

pg

16/12

15.1.97

Mr. S.Sarma for the applicants.

Mr. M.Chanda mentions that Mr. A.K.Choudhury, Addl. C.G.S.C. is unable to be present in court due to his personal difficulties. Show cause has not been submitted.

List for show cause and consideration of admission on 12.2.1997.

See order dated 24.9.96.

Member

List for consideration for admission before the Single Bench of Hon'ble Vice-Chairman as per order dated 24.9.96.

trd

15/1

28.1.97

This <sup>case</sup> ~~application~~ has been filed by several employees for common cause of action in a single application. Permission is granted to join in this application under the provision of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987.

Heard Mr B.K.Sharma, learned counsel for the applicants. O.A. is admitted. Issue notice on the respondents. Written statement within 2 months.

Heard Mr Sharma on the interim relief prayer. Issue notice to show cause as to why the prayer for interim relief shall not be granted. Notice is returnable by 2 months. Meanwhile the authorities shall not make any recovery of Special (Duty) Allowance from the applicants and stay the operation of Annexures 3 and 4.

List on 4.4.97 for show cause and further orders.

Vice Chairman

pg 29/11

Pl. comply order 28.1.97.

29.1.97.

6-2-97

Copy of the order Dt - 28-1-97 issued to the Respondant

No - 1, 11 & 2 vide J. No - 1137 Dt. 6.2.97

15.1.96

12.1.96

(3)

O.A. 209/96

3

- 1) Service reports are still awaited.
- 2) W/Statement is not-  
been b'w.
- 3) Show Cause is not-  
been b'w.

314

4.4.97

On the prayer for interim order on 28.1.1997, the respondents were asked to show cause within two months. More than two months have elapsed. Objection has not been filed.

Heard Mr B.K. Sharma, learned counsel for the applicant, and Mr A.K. Choudhury, learned Addl. C.G.S.C. On hearing the counsel for the parties the interim order granted on 28.1.1997 shall continue until further orders.

List on 23.5.97.

*[Signature]*  
Vice-Chairman

8-4-97

1/ Record received  
From court on 8-4-97.

2/ Copy of The order  
Dt- 4-4-97 are prepared  
to serve to the respondents  
and sent to D. Section  
on 8-4-97.

nkm

23.5.97

Mr A.K. Choudhury, learned C.G.S.C., prays for two weeks time for filing of written statement. Pray allowed.

List it on 6.6.97.

*[Signature]*  
Vice-Chairman

1) Service reports are still awaited.  
2) W/s. and show cause has not been filed.

nkm

6.6.97

The learned counsel for the parties submit that the case is otherwise ready for hearing. List it for hearing on 11.7.97.

Mr S. Sarma, learned counsel for the applicants, submits that applicant No.2 want to withdraw from the case. Mr A.K. Choudhury learned Addl. C.G.S.C., has no objection. According applicant No.2 is allowed to withdraw from the case. Office to strike out the name of applicant No.2.

*[Signature]*  
Vice-Chairman

30-5-97  
Written statement filed  
on behalf of the  
respondents No- 1 & 2.  
at page 49 to 54.

nkm

W/s. has been filed.

*[Signature]*  
12/6

(5) OA 209/96

11.7.97 Left over list on  
7.8.97.

By order

4.8.97 On the prayer of Mr. B.K.Sharma, learned  
counsel appearing on behalf of the applicants  
the case is adjourned till 7.8.97.

List on 7.8.97 for hearing.

  
Vice-Chairman

trd

5/8

7.8.97 Adjourned to 11.8.97.

By order

11.8.97 Adjourned to 13.8.97.

By order

13.8.97 Case to be listed  
at Shillong circuit court.

By order

20.8.97

Written statement  
has been filed.

Memo of appearance  
filed by Mr. A.K. Choudhary,  
Addl. Counsel.

The case is ready  
for hearing.

mf  
20/8/97

1/3 has been filed

5/9

26 12.9.97

Counsel for the parties submit  
that the case is ready for hearing.  
List for hearing on 26.9.97.

  
Vice-Chairman

nkm

19/9

26.9.97

Heard Mr B.K. Sharma, Mr J.L. Sarkar and Mr A. Ahmed, learned counsel for the applicants, and Mr S. Ali, Mr A.K. Choudhury and Mr G. Sarma, learned counsel for the respondents. The learned counsel for the parties need some more time to work out the details. Accordingly the case is adjourned till 31.10.97.

  
Vice-Chairman

nkm

  
29/9

31.10.97

The learned counsel for the parties pray for a short adjournment on the ground that certain law points are required to be examined. Prayer allowed. List it on 21.11.97 for hearing.

  
Vice-Chairman

nkm

  
4/11

21.11.97 Adjourned to 28.11.97.

By order.

28.11.97 There is no representation list on 5/12/97.

By order.

W/s. As per H/W.

29/10

W/s. As per H/W  
on R. Nos. 1 & 2.

29/11

O.A.Nos. 209/96, 11/97, 22/97, 25/97, 31/97, 35/97, 36/97,  
37/97, 38/97, 59/97, 71/97, 72/97 & 208/97

24.11.97

Hearing concluded. Judgment pronounced in open Court, kept in separate sheets. The application is disposed of. No order as to costs.



Vice-Chairman

pg

O.A 72/97  
Received Copy  
J. H.  
Admitted  
30.12.97

OA 209/96  
Recd copy by  
Respt 1 (2)  
Jammal Q. A.  
1.1.98.

31.12.97

Copy of the judgment  
has been sent to the  
D/Sec. for filing and  
sent to the parties.

Disposal vide  
dispatch no. 6 dt  
on 1.1.98

sh



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 209/96, 11/97, 22/97, 25/97, 31/97, 35/97,  
36/97, 37/97, 38/97, 59/97, 71/97, 72/97.

DATE OF DECISION...5.12.1997.....

Shri U.K.Mishra & others (PETITIONER(S))

S/Shri J.L.Sarkar, M.Chanda, S.Sarma & A.Ahmed. ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors. G.Sar & A.K. RESPONDENT(S)  
Adl. C.G.S.C.

Mr S.Ali, Sr.C.G.S.C, G.Sarma & A.K.Choudhury, ADVOCATE FOR THE  
Adl.C.G.S.C. RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? *NO*
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order: This the 5th Day of December, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Original Application No. 209 of 1996.

Shri U.K.Mishra & 44 others . . . Applicants  
By Advocate Shri S.Sarma

-Versus -

Union of India & Ors. . . Respondents  
By Advocate Shri A.K.Choudhury, Addl.C.G.S.C.

O.A.No. 11 of 1997

Meghalaya MES Civilian Employees Union,  
Shillong & others. . . Applicants  
By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

Union of India & Ors. . . Respondents  
By Advocate Shri G.Sarma, Addl.C.G.S.C.

O.A. No. 22 of 1997.

Shri J.Rai & Ors. . . Applicants  
By Advocate Shri M.Chanda

- Versus -

Union of India & Ors. . . Respondents.  
By Advocate Shri S.Ali, Sr.C.G.S.C &  
G.Sarma, Addl.C.G.S.C

O.A. No. 25 of 1997.

Shri R.B.Limbu . . . Applicant  
By Advocate Shri S.Sarma.

- Versus -

Union of India & Ors. . . Respondents.  
By Advocate Shri S.Ali, Sr.C.G.S.C.

O.A.No. 31 of 1997.

Shri R.S.Ray & others . . . Applicants.  
By Advocate S/Shri J.L.Sarkar & M.Chanda

- Versus -

Union of India & Ors. . . Respondents  
By Advocate Shri G.Sarma, Addl.C.G.S.C

O.A. No.35 of 1997.

Shri D.B.Chetri & Ors. . . Applicants  
By Advocate S/Shri J.L.Sarkar & M.Chanda

- versus -

Union of India & Ors. . . Respondents  
By Advocate Shri G.Sarma, Addl.C.G.S.C

Original Application No. 36 of 1997.

Shri M.B.Dasgupta & Ors. . . . Applicants

By Advocate Shri J.L.Sarkar & M.Chanda.

- Versus -

Union of India & Ors. . . . Respondents.

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

O.A. No.37 of 1997.

Shri B.K.Sinha Choudhury & 163 others . . . Applicants

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents

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

O.A.No. 38 of 1997.

MES Workers Union Headquarters  
C.W.E and another . . . Applicants

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents

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

O.A. No. 59 of 1997.

Shri K.Prasad & others . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda

- Versus -

Union of India & Ors. . . . Respondents

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

O.A.No. 71 of 1997.

All Assam MES Employees Union . . . Applicants

By Advocate Sri A.Dasgupta

- Versus -

Union of India & Ors. . . . Respondents

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

O.A. No. 72 of 1997.

Shri P.K.Dutta & Ors. . . . Applicants

By Advocate Shri A.Ahmed

- Versus -

Union of India & Ors. . . . Respondents

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

O.A.No. 208 of 1997.

Shri A.Chakraborty & others. . . . Applicant

By Advocate Shri S.Sarma

- Versus -

Union of India & Ors. . . . Respondents.

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

O R D E R

BARUAH J(V.C)

All the above Original Applications involve common question of law and similar facts. The applicants had been working at the material time in different posts in the North Eastern Region of different departments under the Central Government and posted at different places. As per the Office Memorandum dated 14.12.1983 persons working in North Eastern Region were entitled to get the Special (Duty) Allowance (SDA for short). The relevant portion of the said circular is quoted below :

"Central Government civilian employees who have all India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/-per month on posting 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 Rs.400/-p.m. Special Allowance like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately."

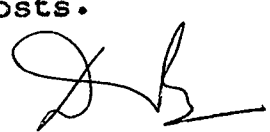
On the basis of the said circular the applicants were given SDA and they receive it. However, in certain cases of similar nature the Central Government approached the Supreme Court by filing Civil Appeal No.1572 of 1997 and other Civil Appeals. The Apex Court disposed of those cases on 17.2.1997 holding interalia that the person who belong to North Eastern Region would not get SDA. The present applicants also though working in the various departments under the Central Government were not outsider. They belonged to this Region. As per the decision of the Apex Court they

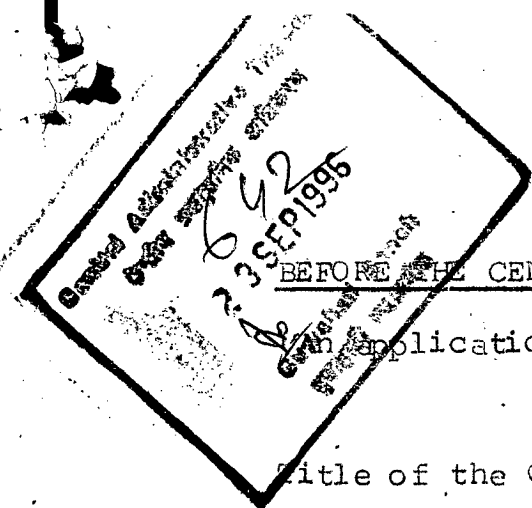
contd...4

were not entitled to get the SDA. However, the Supreme Court in all the cases held that whatever amount was paid to the employees would not be recovered. In the present case also the applicants who received SDA belong to the North Eastern Region and therefore they are not entitled to the SDA. The Central Government, therefore, wanted to recover the same against which the present applicants have approached this Tribunal.

2. Heard Mr J.L.Sarkar, M.Chanda, S.Sarma and Mr A. Ahmed, learned counsel appearing on behalf of the applicants. Learned counsel for the applicants submit that the observation of the Apex Court giving direction to the respondents not to recover the amount which have already been paid to them is also applicable to the present case. Mr S.Ali, learned Sr.C.G.S.C, Mr G.Sarma, learned Addl.C.G.S.C and Mr A.K. Choudhury, learned Addl.C.G.S.C do not dispute this submission. Considering the submissions of the learned counsel for the parties, I am of the opinion that though the present applicants are not entitled to get SDA as held by the Apex Court, the SDA which had already been paid to the applicants shall not be recovered. Mr S.Ali however, points out that in those cases it was ordered not to recover the payment which were earlier to 17.2.1995. The present applicants were not parties to the said decision. In my view the same principle will apply to the present applicants also. Therefore, following the decision of the Apex Court as held in Civil Appeal No.1572 of 1997 arising out of SLP(C) No.14088 of 1996 the respondents are directed not to recover the SDA paid prior to the date of issue of notice in each case. Applications are disposed of accordingly.

Considering the entire facts and circumstances of the case however, I make no order as to costs.

  
(D.N.BARUAH )  
VICE CHAIRMAN



14

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

Application under Section 19 of the Administrative  
Tribunals Act, 1985)

Title of the Case : O.A. No. 209 of 1996

Shri U.K. Mishra & 44 others ... Applicants

- Versus -

Union of India & Others ... Respondents

I N D E X

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Copy already  
served on Mr.  
A.K. Choudhury  
Addl. C.G.S.O.  
Siddhanta Sarma  
23.9.96.

For use in Tribunal's Office :

Date of filing : 23.9.96

Registration No. OA 209/96

REGISTRAR

15  
Filed by  
Sdmt. Datta  
23-9-96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

O.A. NO. 209 OF 1996

BETWEEN

1. Shri U.K. Mishra, Geologist (Sr.)
2. ~~Shri R.C. Singh, Geophysicist (Sr.)~~
3. Shri Japan Pal, Geologist (Jr.)
4. Shri A.K. Singh, -do-
5. Shri Shubhasis Sen, -do-
6. Shri Suman Chatterjee -do-
7. Shri Anshuman Acharyya -do-
8. Shri Saibal Ghosh -do-
9. Shri D. Panigrahi -do-
10. Shri K.C. Das -do-
11. Shri S.C. Mitra -do-
12. Shri Joyesh Bagchi -do-
13. Shri R.C. Shukla -do-
14. Smt. Champa Sensarma, Asstt. Geologist
15. Shri T.K. Sinha, Asstt. Chemist
16. Shri R. Prasad Adm. Officer
17. Shri S.K. Patel, Geologist (Jr.)
18. Shri S. Datta, Adm. Officer
19. Shri B. Mukhopadhyay, Geologist (Jr.)
20. Shri S.N. Mahato, Adm. Officer
21. Shri S.C. Sawayan, Asstt. Geophysicist
22. Shri C.K. Jena, Asstt. Geologist
23. Shri Niladri Hazra, -do-
24. Shri G. Chattopadhyay, Geologist (Jr.)
25. Shri R.G. Sinha, Geologist (Jr.)
26. Shri S.N. Sharma, -do-
27. Shri H. Sarma, -do-
28. Shri H.K. Goswami, -do-

Contd...P/2.

Ce

Strike out  
vide order  
dt. 6.6.97.

Bon.

29. Shri B. Pathak, Asstt. Geophysicist
30. Shri B.L. Banik, -do-
31. Shri Amitabha Ghose -do-
32. Smt. R.T. Bhuyan, Asstt. Geologist
33. Shri Anjan Bora, -do-
34. Shri G.C. Sharma, -do-
35. Shri G.C. Saikia, Asstt. Chemist
36. Shri Dipak Gurung, -do-
37. Shri D.P. Chakraborty -do-
38. Shri D.C. Syiemlieh, Sr. Admn. Officer
39. Shri F. Kharshing, Chemist (Jr.)
40. Shri T. Pongen, Mech. Engr. (Sr.)
41. Shri K. Kharmalki, Adm. Officer
42. Shri G.F. Sanglin, -do-
43. Shri P.C. Narzari, -do-
44. Shri S. Sweltan -do-
45. Smt. Mina Laloo, Sr. P.A.

All are Group 'A' and 'B' officers  
of Geological Survey of India,  
North Eastern Region,  
and posted at different stations of  
N.E. Region such as Guwahati, Shillong,  
Itanagar, Agartala, Dimapur etc.

.... Applicants

- AND -

1. The Union of India,  
represented by the :
  - (1) Secretary to the Govt. of India,  
Ministry of Mines, New Delhi
  - (2) Secretary to the Govt. of India,  
Ministry of Finance, New Delhi
2. Deputy Director General,  
Geological Survey of India,  
N.E. Region, Shillong.

.... Respondents

C ntd....P/3.

Ce



DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH  
THE APPLICATION IS MADE :

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed against office order No. 4/56/CIR(SDA)/NER/AE-I/83 dated 11.9.96 issued by the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong under No. O.M. 11(3)/95-E.II(B) dated 12.1.96 issued by the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi.

2. JURISDICTION OF THE TRIBUNAL :

The applicants declare that the subject matter of the instant applicant is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicants further declare that the instant applicant has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

~~That~~

4.1 That the applicants are all citizens of India and as such they are entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2 That the applicants are group A and Group B officers of the Geological Survey of India (GSI) and presently posted in different stations of the North Eastern Region such as Shillong, Guwahati, Itanagar, Agartala, Dimapur etc. &

Among the applicants the Geologist (Senior), Geologist (Junior), Senior Administrative Officer, Chemist (Junior), Mechanical Engineer (Senior) are group A officers and the rest are Group B officers.

4.3 That the applicants state that they have got a common grievance raised in this application and they have come before this Hon'ble Tribunal against the same cause of action and the reliefs sought for in this application are also same. Thus they have got a common interest in this application and accordingly, the applicants may be permitted to join together in a single application as provided for under Rule 4(5)(a) of the C.A.T. (Procedure) Rules, 1987.

4.4 That the applicants being Group A and Group B officers of the G.S.I.. All of them have got All India Transfer Liability and as such clause is not only in the appointment letters but in practice also they are transferred ~~from~~ throughout the territory of India. They having fulfilled the conditions laid down in the O.M. 20014/3-E.IV dated 14.12.83 issued by Govt. of India, Ministry of Finance, Department of Expenditure for getting Special Duty Allowance as admissible under the said O.A. with effect from 1.11.83. Be it stated here that while continuing the aforesaid O.M. dated 14.12.83, the Government of India, Ministry of Finance issued a further O.M. dated 1.12.88 stipulating that the S.D.A. would be paid @ 12½% of the basic pay subject to a ceiling of Rs.1,000/- and other conditions as regards the S.D.A. remained the same.

A copy of the said O.M. dated 14.12.83 is annexed hereto as ANNEXURE-1.

Contd...P/5.

be

4.5 That among the applicants, the applicant Nos. 1 to 24 have come to the N.E. Region from different ~~stations~~ States out of N. E. Region. The applicant No. 1 has come from U.P., the applicant Nos. 2, 4, 15, 20 and 21 have come from Bihar, the applicant Nos. 3, 5, 6, 7, 8, 11, 14, 18, 19 23 and 24 have come from ~~the~~ West Bengal. The applicant Nos. 9, 10, 17 and 22 have come from Orissa and the applicant No. 2 has come from Delhi and the applicant No. 13 has come from M.P. to the N.E. Region and have been serving in different stations of the N.E. Region. The applicant Nos 25 to 37 although originally belong to N.E. Region, they have got all India Transfer Liability and are transferred out of N.E. Region and ~~xxxxx~~ again re-transferred to N.E. Region. Similar is the case in respect of the applicant No. 38 to 45. Be that as it may, the applicants having belonged to Group A and B services, they invariably carry all India Transfer liability clause and they are also transferred throughout the territories of India in practice also. The applicant ~~xxxx~~ at Sl. Nos. 3, 4, 12, 23 and 24 have been recently transferred from the N.E. Region and they are now serving outside the N.E. Region. Their transfers were effected in the year 1996. They are again liable to be transferred back to N.E. Region.

4.6 That the applicants state that they have all along been getting the S.D.A. as granted under the aforesaid Annexure-1 O.M. dated 14.12.83.

4.7 That the applicants state that the respondents pursuant to the utilisation of the services of the Group C and D employees of the GSI inserted a clause in the appointment

letters of the Group C and D of the GSI to the effect that their appointments carried the liability to serve in any part ~~of~~ within and under the control of the Regions only. Thus in their case, the earlier clause of all India transfer liability was deleted and replaced by original transfer liability. No such clause has been inserted and/or replaced in case of the Group A and B employees inasmuch as they are in practice transferred to and from N.E. Region to and from other parts of the country.

4.8 That the Group C and D employees of the GSI being ~~xx~~ not granted the SDA had occasioned to move this Hon'ble Tribunal by filing the O.A. No. 132/90 and 183/90 and the Hon'ble Tribunal vide its judgment dated 12.9.91 held that the Group C and D employees are also entitled to SDA. Against this Judgment, the departmental authorities had preferred appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court having regard to the contentions raised on behalf of the respondents held that the Group C and D employees of the GSI are not entitled to SDA. However, by their order dated 17.9.95 correction was issued not to recover any part of payment of SDA already made to the concerned employees.

A copy of the said Supreme Court order dated 7.9.95 is annexed hereto as ANNEXURE-2.

4.9 That from the above, it is crystal clear that the applicants belonging to Group A and B services are entitled to SDA inasmuch as they carry in practice all India transfer liability throughout the territories of India.

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4.10 That the applicants were surprised to receive an office order No. 4/56/CIR/SDA/NER/SE-I/83 dated 11.9.96 purportedly issued pursuant to O.M. (3).95-E.II(B) dated 12.1.96.

Copies of the aforesaid office order dated 11.9.96 enclosing therewith the O.M. dated 12.1.96 is annexed herewith as ANNEXURES-3 and 4 respectively.

4.11 That the applicants state that by Annexure-3 letter dated 11.9.96, the persons named therein are included. The applicants also have been declared ineligible to receive the SDA with effect from 20.9.94. Further the amount paid on account of SDA to the so called ineligible persons after 20.9.94 has been directed to be recovered from the applicants from their monthly salary bills. The same has been done purportedly on the basis of the O.M. dated 12.1.96 (Annexure-4). By Annexure-4 O.M. dated 12.1.96 it has been laid down in paragraph 3 that for the purpose of sanctioning SDA, all India transfer liability of the members of the N.E. Service (Cadre) or incumbent of any post/group of posts has to be determined by affording the test of recruitment shown, promotion shown etc. i.e. whether recruitment to service/cadre/post has been made on all India basis and whether promotions is also done on the basis of an all India seniority list service/cadre/post as a whole. It has been clarified that a mere clause in the appointment letter to the effect that the persons concernx is liable to be transferred ~~in~~ anywhere in India

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do not make him eligible for the grant of SDA. Accordingly, referring to the ~~High~~ Supreme Court Judgment as mentioned therein, the decisions mentioned in the O.A. have been taken. According to the said decision, the amount already paid on account of SDA to the ~~xxx~~ ineligible persons on or before 20.9.94 will be waived and the amount paid on account of SDA to ineligible persons after 20.9.94 will be recovered (emphasis added). Consequently according to the said O.M. dated 12.1.96 it is in respect of ineligible persons only, the SDA should be stopped and recovery should be made in respect of payment made after 20.9.94.

4.12 That the applicants state that as pointed out above they all belong to Group A and B services and they fully satisfy the test laid down in different circulars including the one at Annexure-4 dated 12.1.96. They fully satisfy the test laid down in clause 3 of the O.M. dated 12.1.96 inasmuch as in their case, it is not a mere insertion of all India transfer liability clause in their appointment orders but in practice they have been transferred throughout the territory of India. Their recruitment/promotion is also on all India basis, on the basis of ~~xxxxxx~~ all India common seniority list for the purpose as a whole. Thus they fully satisfy the test for getting the SDA and accordingly, they have all along been granted SDA. Now by the impugned order at Annexure-3, <sup>not only</sup> the same is sought to be discontinued, but recovery is also sought to be made for payment of SDA made after 20.9.94.

4.13 That the applicants state that on fulfilment of the pre-requisite for grant of SDA they have been granted the

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the same with effect from 1.11.83 under the aforesaid O.M. issued by the Government of India unlike other employees of other departments including the Group C and D employees of the GSI. There was no occasion for the applicants to approach this Hon'ble Tribunal for grant of SDA. The Government on its own accord granted SDA having regard to the fact that they have fully conformed with the requirement for grant of SDA. Now suddenly on the strength of the purported O.M. dated 12.1.96, they have issued the impugned order dated 11.9.96 seriously jeopardising the interest of the applicants. Admittedly before issuing the aforesaid impugned order dated 11.9.96, no opportunity of being heard has been accorded to the applicants and no exercise has been carried out as to whether the applicants conformed to the requirements for grant of SDA and as to whether they come within the category of "ineligible persons".

4.14 That the applicants being aggrieved by the aforesaid decision conveyed <sup>by</sup> ~~by~~ the impugned order dated 11.9.96 made representations before the respondent No. 3 but till date nothing has been communicated to them and now a stage has come in which not to speak of continuation of payment of SDA, recovery is sought to be made from their salary bill commencing from the month of September 1996.

Instead of annexing copies of all the representations submitted by the applicants, some of them are annexed hereto as ANNEXURES-5 series

4.15 That the applicants state that the members of All India Services like I.A.S., I.P.S., I.F.S. on their postin

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to N.E. Region upon allocation of cadre virtually remain posted through out the N.E. Region without any transfer liability outside the N.E. Region except when they have been sent on deputation as per the provisions of the rules holding the field. They also come through a competitive examination like that of the direct recruits. Among the applicants who also come through UPSC. However in their case, the Government of India, Ministry of Home Affairs, Department of Personnel and Administration, and Reforms has directed the authorities of the different States in N.E. Region to grant the SDA to the members of the AIS in terms of the aforesaid O.M. dated 14.12.83. Such a direction was issued vide letter No.14017/21/83-AIS.II dated 3.2.84. The direction was again reiterated by the Government of India, Ministry of Personal, Public Grievance and Pension vide their letter No. 14017/1/89-AIS(II) dated 25.1.89.

Copies of the aforesaid letters dated 3.2.84 and 25.1.89 are annexed hereto as ANNEXURES-6 and 7.

4.16 That the applicants state that the members of All India Services come through a competitive examination ~~when~~ ~~posting through~~ and when posted to N.E. Region upon their cadre allocation can get their SDA on the strength of the letter of the same Government. There is no earthly reason as to why the applicants should be deprived of the SDA unlike the members of all India Services. The applicants have got all India seniority, all India transfer liability all India Recruitment/Promotion zone and as stated above, they fulfil the requirements as laid down in Government of India O.M. dated 12.1.96.

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4.17 That the applicants state that they demanded <sup>no</sup> SDA to be paid to them and the Government on their own accord made the payment to them and they have accordingly spent the money also. If at all a recovery is permissible, same should have been done immediately after the Supreme Court Judgment dated 20.9.94 on the basis of which the O.M. dated 12.1.96 has been issued. The recovery cannot be made from the applicants without giving them any opportunity of being heard. There are plethora of decisions of the Hon'ble High Court as well as various High Courts and this Hon'ble Tribunal and in such circumstances where the payment has already been made, such recovery is not permissible. Having regard to such facts situation, the Apex Court in case of Group C and D employees of the GSI has issued direction to the respondents not to recovery from the amount already paid to them on account of SDA. On the other hand the applicants as stated above are also entitled to continue to get the SDA as before.

4.18 That the applicants state that the respondents have misread and misinterpreted the provisions of the O.M. dated ~~xx~~ 12.1.96 (Annexure-3). This it is a fit case for passing of an interim order by way of staying the operation of the said order till disposal of the O.A.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that prima facie the impugned order is not sustainable and liable to be set aside and quashed.

5.2 For that under the circumstances, no recovery can be made from the applicants in respect of the payment made after 20.9.94. If at all any recovery was to be made, same

should have been done by the respondents immediately after 20.9.94. But instead they kept on paying the SDA to the applicants . but now by a stroke of pen has sought to recovery the amount on account of SDA paid after 20.9.94.

5.3 For that as pointed out above, the applicants satisfy the pre-requisite for grant of SDA and accordingly, they have also been paid the SDA on the strength of concerned O.M. Now the respondents on ~~an~~ a mechanical application of the O.M. dated 12.1.96 has sought to recovery the amount of SDA and discontinue the same which is arbitrary and illegal.

5.4 For that the Hon'ble Supreme Court having laid down that all India transfer liability clause does not exist only in respect of Group C and D employees of the GSI and they are ~~kn~~ not entitled to SDA implicitly mean that the Group A and B employees of the GSI are entitled to SDA. Thus the impugned order could not have been issued by the respondents.

5.5 For that the respondents before issuing the impugned order ought to have carried out the exercise as to who are the applicants to be termed as ~~ineligible~~ persons instead they have mechanically applied the O.M. dated 12.1.96 and have sought to recover the SDA already paid to them and furthermore, have sought to discontinue the payment of SDA to the applicants.

5.6 For that the respondents failed to appreciate that all the applicants have all India transfer liability

and in practice also they have been transferred through out the territory of India and unlike any other case in which the employees are granted SDA on the basis of mere clause of of all India Transfer liability the applicants have got all India transfer liability on the basis of all India recruitment/promotion zone and all India seniority.

5.7 For that if the <sup>members</sup> ~~principles~~ of the all India service are entitled to SDA in respect of their posting in the N.E. Region through out the entire service career, there is no earthly reasons as to why the applicants should be deprived of the same.

5.8 For that the ~~discrimination sought to be made in respect of the applicants amounts to~~ discrimination sought to be made in respect of the applicants amounts to hostile discrimination in violation of the Articles 14 and 16 of the Constitution of India.

5.9 For that in any view of the matter, the impugned order is not sustainable and liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants state that they have no other alternative remedy than to come under the protective hands of this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicants further declare that they have not filed any application, writ petition or suit ~~in~~ in respect of the subject matter of this application before any other Court,

Authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances stated above, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this O.A. , call for the records of the case and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

- (i) To set aside and quash the order dated 11.9.96 as ~~was~~ contained in Annexure-3 O.M. ~~dated 11.9.96~~ ;
- (ii) To set aside and quash the O.M. dated ~~11.9.96~~ 12.1.96 if it is held that the respondents are entitled to issue the Annexure-3 letter dated 11.9.96 on the basis of the O.M. dated 12.1.96 (Annexure-4) and further if it is held that the same is applicable in respect of the applicants;
- (iii) To direct the respondents to continue to pay SDA to the applicants and not to recover any amount paid on account of SDA to the applicants.
- (iv) Any other relief or reliefs to which the applicants may be entitled to and as may be deemed fit and proper by this Hon'ble Tribunal.
- (iv) Cost of this application.
- (v) Any other relief or reliefs to which the applicants may be entitled and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the O.A., the applicants  
pray that the impugned order dated 11.9.96 (Annexure-3)  
and 12.1.96 (ANNEXURE 4)  
may please be stayed.

10. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 8 09 346832  
(ii) Date : 29/8/96  
(iii) Payable at : Guwahati.

11. LIST OF DOCUMENTS :

As stated in the Index.

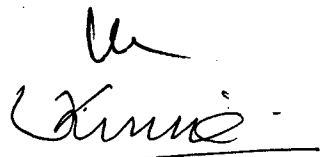
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V E R I F I C A T I O N

I, Shri (Dr.) U.K. Mishra, son of Shri L.D. Mishra, aged about 42 years, at present working as Geologist (Senior) in the office of the Deputy Director General, Geological Survey of India, North Eastern Region, Shillong, the applicant No. 1 do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4<sup>and 6 to 12</sup> are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact. I am also duly authorised and competent to swear this affidavit on behalf of all the applicants.

And I sign this ~~affid~~ verification on this the 23rd day of September 1996 at Guwahati.



(DR. UMESH KUMAR MISHRA)

ANNEXURE - 1.

NO. 20014/2/83-E.IV  
 Government of India  
 Ministry of Finance  
 Department of Expenditure

New Delhi, in the 14th December, 1983

OFFICE MEMORANDUM

Subject :- Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North-Eastern Region - improvement thereof.

The need for attracting and retaining the service of competent officers for service in the North-Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reforms, to review the existing allowances facilities admissible to the various categories of Civilian Central Government employees serving in this region and to suggest suitable ~~improvements~~ improvements. 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 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 employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

ii) Weightage for Central deputation/training abroad and special mention in Confidential Records.

- a. promotion in cadre posts,
- b. deputation of 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.

*Approved*

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

iii) Special (Duty) Allowance :

Central Government civilian employees who have all India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 percent 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 Rs. 400/-p.m. Special Allowance like special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

iv) Special Compensatory Allowance :

1. Assam and Meghalaya

The rate of the allowance will be 5% of basic pay subject to maximum of 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 while of Manipur:

Pay upto Rs. 160/-	Rs. 40/- p.m.
Pay above Rs. 260/-	15% of basic pay subject to a maximum of Rs.150/-pm

3. Tripura :

The rate of the allowance will be as follows :

(a) Difficult areas	25% of <del>the</del> pay subject to a minimum of Rs.50/- and maximum of Rs. 150/-p.m
(b) Other areas	Rs. 40/-p.m.
Pay upto Rs. 260/-	
Pay above Rs. 260/-	15% of basic pay subject to a maximum of Rs. 150/-p.m

There will be no change in the existing rates of Special Compensatory Allowance 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.105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in cases of journeys for taking up initial appointment to a post in the North-Eastern Region, travelling allowance limited to ordinary bus 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 station in the North-Eastern Region, the family of the Government servant does not accompany him, the Government servant will be paid travelling allowance 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 cash 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 accompanied 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 actually 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 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 servant proceeding on leave from a place of posting in North Eastern region, the period of travelling 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 the old duty station or another selected place or 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 in a block period 2 years, or in lieu thereof, facility of travel for himself once a year from the station of posting in the North-Eastern to his home town or place where the family is residing and in addition the facility for the family .

once a year to visit the employees at the station of posting in the North-Eastern Region. In case the option is for the later alternative the cost of level for the initial distance (400 kms/150 kms.) will not be borne by the officer .

Officers drawing pay of Rs. 2250/- or above, and their families, i.o., spouse and two dependent children (upto 18 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala and Calcutta and vice versus while performing journeys mentioned in the proceeding paragraph .

(x) Children Education Allowance/Hostel Subsidy :

Where the children do not accompany the Government servant to the North Eastern region, Children Education Allowance upto 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 servant concerned will be given hostel subsidy without other restrictions .

2. The above orders except in sub-para (iv) will mutatis mutandis apply to Central Government employees posted to Andhra and Nichobar Island .

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

4. All existing special allowances, facilities and a concession extended by any special order by the Ministries/Departments of the Central Government to their employees in the North Eastern Region will be Withdrawn from the date of effect of the orders contained in this offices Memorandum .

5. Seperate orders will be issued in respect of other recommendation of the committee referred to in paragraph 1 as and when decisions are taken in them by the Government .

6. In so far as the persons serving in the Indian Audit and Accounts Department are concerned, these orders issue after ~~can~~ consultation with the Comptroller and Auditor General India .

Sd/-

( S C MAHALIK )

JOINT SECRETARY TO THE GOVERNMENT  
OF INDIA .

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 8208 - 8313  
(Arising out of S.L.P.Nos. 12450-55/92)

Union of India & Ors. .... appellants

- versus -

Geological Survey of India  
Employees Association & Ors. .... respondent .

O R D E R

Delay condoned .

Leave granted .

Mr. P.K. Goswami, learned senior counsel appears for Geological Survey of India Employees' Association and Mr. S.K. Nandy, Advocate. appears for the other respondents in all the matters.

Heard learned counsel for the parties. It appears to us that although the employees of the Geological Survey of India were initially appointed with an all India transfer liability. Subsequently Government of India framed a policy that class C and D employees should not be transferred outside the region in which they are employed. Hence , all India transfer liability no longer continues in respect of group C and D employees. In that view of the matter, the Special Duty Allowance payable to the Central Government employees having all India transfer liability is not to be paid to such group C and group D ~~em~~ employees of Geological Survey of India who are residents of the region in which they are posted. We may also indicate that such question has been considered by this Court in Union of India and others Vs. S.Vijay Kumar & Others (1994 (3) ECC 649).

Accordingly, the impugned order is set aside. We, however, direct that the appellant will not be entitled to recover any part of payment of special duty allowance already made to the concerned employees. Appeals are accordingly disposed of .

New Delhi,  
September 7, 1995

Sd/-

( G.N. Roy )

Sd/-

( S.B. Majumdar )

Geological Survey of India  
North Eastern Region  
Lower Motinagar, Lumsohpoh  
Nongthymmai, Shillong- 14 .

NO ..... /4/56/CIR(SDA)/MER/AC-I/83 Dated the Sept. 1996

OFFICE ORDER

In compliance to the directives of Ministry of Finance, Deptt., of Expenditure, conveyed vide No. 11 (3)/95 E-II (B) dated 12.1.96 ( copy enclosed ) and in the exercise of power to grant S.D.A. to Central Government employees serving in N.E.R., the 62 (sixtyTwo) officers covered under the following categories (list eclosed) are declared ineligible to receive S.D.A. with effect from 20.9.94.

- (a) Group A and B officers who on appointment through U.P.S.C. joined service at any station in NER and have continued to do so as listed at serial No. 1 to 3 .
- (b) Group A and B officers who were promoted from Group C posts while serving in N.E.R., and have continued in N.E.R. as listed at serial No. 44 to 61.

The amount paid as S.D.A. to ineligible persons on or before 20.9.94 is waived. The amount paid on account of S.D.A., to ineligible persons after 20.9.94 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.94 but payments were made after this date i.e. 20.9.94 will be recovered .

Recovery of the total over-paid amount on this account is to be made from the salary of the persons involved at the same monthly rate at which they had been paid in the last month. It is further clarified that in cases involving resignation/retirement during the recovery period the outstanding dues shall be recovered from the retirement benefits.

The total amount to be recovered and the amount of monthly recovery in each case shall be intimated by A.O. (AC-I)/respective DDQ's .

Sd/-

( K. KRISHNANUNNI )  
By DIRECTOR GENERAL, NER

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NO./274/4/56/CIR(SDA)/NER/AC-I/83 Dated, the Sept 1996

Copy forwarded for information and necessary action to :-

1. The Director General (Attn: Dy Director General Personnel) Geological Survey of India , 4 Chowringhee Lane, Calcutta 700 016. This has reference to his letter No. 984-SP/3/1 (671)/ Law- 59/90 dated 10.7.96 .
2. The Dy Director General, Geological Survey of India, Er, Calcutta/Coal Wing Calcutta/SR, Hyderabad/NR, Lucknow/WR, Jaipur/AMSE, Bangalore .
3. The Director, Geological Survey of India, Regional Geology Division, Opn: Assam, Guwahati/Opn:Arunachal Pradesh, Itanagar/ Opn : Manipur- Nagaland, Dimapur/ Opn : Tripura - Mizoram, Agartala/ Drilling Division Shillong. He is requested to calculate the SDA amount ~~dr~~ drawn ( 20.9.94 to 31.8.96) and inform the ineligible persons. He is also requested to inform the new DDO in respect of the transferees for recovery under intimation to this office .
4. Officer - concerned (Shri U.K. Mishra, Geologist (SA), Paleaontology Divn ) GSI,NER, Shillong .

( R.P. SHARMA )  
Geologist (Sr.)  
For by Director General

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*Atul*

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LIST OF OFFICER APPOINTED THROUGH U.P.S.C. EXAMINATION  
AND POSTED IN NER

Sl. No.	Name	Designation	Appointment through U.P.S.C.
1.	Shri Misra.	Geologist (Sr)	U.P.S.C.
2.	Shri R.C. Singh	Geophysicist (Sr)	-do-
3.	Shri D.T. Syiemlieh	Sr. Administr. Officer	-do-
4.	Shri NK Agarwal	Geologist (Sr.)	-do-
5.	Shri RG Sinha .	Geologist (Sr.)	-do-
6.	Shri Tapan Pal.	Geologist (Jr.)	-do-
7.	Shri AK Singh.	Geologist (Jr.)	-do-
8.	Shri PC Das.	Geologist (Jr.)	-do-
9.	Shri Subhasis Sen.	Geologist (Jr.)	-do-
10.	Shri Suman Chatterjee	Geologist (Jr.)	-do-
11.	Shri Anshuman Acharyya	Geologist (Jr.)	-do-
12.	Shri Saibal Ghosh	Geologist (Jr.)	-do-
13.	Shri D. Panigrahi .	Geologist (Jr.)	-do-
14.	Shri KC das.	Geologist (Jr.)	-do-
15.	Shri R. Kharshiing	Chemist (Jr.)	-do-
16.	Shri T. Pongen	M.E. (Sr.)	-do-
17.	Shri SC Mitra	Geologist (Jr.)	-do-
18.	Shri MV Reddy .	Geologist (jr)	-do-
19.	Shri Joyesh Bagchi .	Geologist (Jr)	-do-
20.	Shri RC Shukla	Geologist (Jr)	-do-
21.	Smt. Champa Sensarma	Asstt. Geologist	-do-
22.	Shri TK Sinha	Asstt. Chemist	-do-
23.	Shri SC Sewayan	Asstt. Geophysicist	-do-
24.	Shri R. Prasad	Admn. Officer	-do-
25.	Shri TL Shitiri	Geologist (Jr)	-do-
26.	Shri G. Vidyasagarh	Geologist (Jr)	-do-
27.	Shri JB Khalko	Geologist (Jr)	-do-
28.	Shri G. Chattapadhyay	Geologist (Jr)	-do-
29.	Shri RP Nagar	Geologist (Jr)	-do-
30.	Shri B Mahrotra.	Geologist (Jr)	-do-
31.	Shri ND Jeelan Basha	Asstt. Geologist	-do-
32.	Shri C Gurga Rao .	Asstt. Geologist	-do-
33.	Shri K. Jaya Saban	Asstt. Geologist	-do-
34.	Shri JN Lall .	Admn. Officer .	-do-
35.	Shri sk Patel .	Geologist (Jr)	-do-

Contd...2/

Sl. No.	Name	Designation	Appointment through M.P.S.C
36.	Shri P. Dutta	Geologist (Jr)	<del>xxxx</del> U.P.S.C
37.	Shri B. Mukhopadhyay	Geologist (Jr)	-do-
38.	Shri S. Kumar.	Geologist (Jr)	-do-
39.	Shri PK Jena	Asstt. Geologist	-do-
40.	Shri TD Gupta	Geologist (Jr)	-do-
41.	Shri H. Sarma	Geologist (Jr)	-do-
42.	Shri S.N. Sharma	Geologist (Jr)	-do-
43.	Shri Niladri Hazra	Asstt. Geologist	-do-

LIST OF GROUP 'C' OFFICERS WHO JOINED SERVICE AT N.E.R.  
AND PROMOTED TO GROUP 'B' POSTS AND POSTED IN N.E.R.

Sl. No.	Name	Designation	Promoted from group 'C'	posted
44.	Shri B. Pathak	Asstt. Geophysicist	C	N.E.R.
45.	Shri B. Banik	Asstt. Geophysicist	C	-do-
46.	Shri Amitabha Ghose	Asstt. "	C	-do-
47.	Shri S. Swelton	Admn. Officer.	C	-do-
48.	Shri K. Kharmalki	Admn. Officer	C	-do-
49.	Shri SN Mahato	Admn. Officer	C	-do-
50.	Smt. Mina Laloo	Sr. P.A.	C	-do-
51.	Shri SS Rajput	Stores Officer	C	-do-
52.	Shri Dipak Gurang	Asstt. Chemist	C	-do-
53.	Shri GC Sarmah.	Asstt. Geologist	C	-do-
54.	Shri Smt. Swapna	Asstt. Chemist	C	-do-
55.	Shri C Saikia	Asstt. Chemist	C	-do-
56.	Shri NK Goswami	Geologist (Jr)	C	-do-
57.	Smt. RT Bhuyan	Asstt. Geologist	C	-do-
58.	Shri PC narzari	Admn. Officer	C	-do-
59.	Shri GF Sanglin	Admn. Officer	C	-do-
60.	Shri S Dutta	Admn. Officer	C	-do-
61.	Shri Anjan Boro	Asstt. Geologist	C	-do-

*Done on*

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF EXPENDITURE

New Delhi, the 12th Jan. 1996

OFFICE MEMORANDUM

Sub :- Special Duty Allowance for civilian employees of the Central Government serving in the State and Union Territories of North Eastern Region- regarding .

2. The Government of India vide the above mentioned OM dt. 14.12. 83 granted certain incentives to the Central Government civilian employees posted to the NE Region . One of the incentives was payment of a 'Special Duty Allowance' (SDA) to those who have "All India Transfer liability ".

3. It was clarified vide the above mentioned OM dt. 20.4.1987 that for the purpose of sanctioning 'Special Duty Allowance', the All India Transfer Liability of the members of any service/cadre or incumbents of any post/group of posts has to be determined by applying the tests of recruitment zone, promotion zone, etc. i.e. Whether recruitment to service/cadre/post has been made on all India basis and whether promotion is also done on the basis of an all India common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the defect that the person concerned is liable to the transferref anywhere in India, did not make him eligible for the grant of SDA.

4. Some employees working in the NE Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were eligible for the grant of SDA to this allowance. The Hon'ble Tribunal had upheld the prayers of petitioners as their appointment letters carried the clause of All India Transfer Liability and , accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a

Contd..



few special, leave Petitioners were filed in the Hon'ble Supreme Court by some Ministries/Departments against the Orders of the CAT .

6. The Hon'ble Supreme Court in their judgement delevered on 20.9.94 (in Civil Appeal No. 3251 of 1993) uphold the submissions of the Government of India that central Government civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer liability. The apex Court further added that the grant of the allowance only to the officers transferred from outside the region to this region would not be violative of the provisions contained in Article 14 of the Constitution as well as the equal pay doctrine . The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowances is concerned .

7. In view of the above judgement of the Hon'ble Supreme Court , the matter has been examined in consultation with the Ministry of Law and the following decesions have been taken :

- i) The amount already paid on account of SDA to the ineligible persons on or before 20.9.94 will be waived; &
- ii) the amount paid on account of SDA to ineligible persons after 20.9.91 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20.9.91, but payments were made after this date i.e. 20.9.94) will be recovered .

8. All the Ministers/Departments etc. are requested to keep the above instructions in view for strict compliance

9. In their application to employees of Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India .

10. Hindi version of this OM is enclosed .

( C. Balachandran )

Under Secy. to the Govt. of India

All Ministers/Departments of the Govt. of India , etc.etc.  
Copy (with spare copies) to C & AG, UPSC etc. as per standard endorsement list .

*Attn/om*

NO. 160/P2/ENV/GSI/NER/RCS/96 Dated 18/08/96 .

From : RAMESH CH. SHUKLA  
GEOLOGIST (JR.)  
ENVIRINMENTAL GEOL.PROJECT-IV,  
G.S.I., N.E.R., SHILLONG - 3.

To,  
The Deputy Director General,  
Geological Survey of India.  
North Eastern Region,  
Shillong - 3 .

Sub :- Resuming of payment of S.D.A. and to stop  
the recovery of the S.D.A. already paid  
since 20/9/94 .

Sir,

With reference to the office prder No.  
1293/4/56/CIR (SDA)/NER/AC-I/93 dated 11th Sept. '96,  
as received on 16th Sept., 896 most respectfully I beg  
to submit the following for your sympathetic conside-  
rations :-

1. That I am a permanant resident of Ujjain  
(Madhya Pradesh) and prior to joining the Geological  
Survey of India I served the Gujrat Water Supply and  
Sewerage Board of the Govt. of Gujrat as Junior Geo-  
logist and was posted at Jamnagar (Gujrat) till my  
resignation on 04/02/1983 .
2. That I was selected through Geologist Examination  
1981 by the U.P.S.C. for the post of Geologist (Jr)  
Group 'A' services on dated 23/03/82 and was posted by th  
Geological Survey of India on the basis of All India  
Transfer Liability to its North eastern Regional office  
at Shillong on 27/11/1982.
3. By virtue of selection through U.P.S.C. besides  
having the All India Transfer liability I have All  
India Common Seniority , at the time of appointment  
and afterward till date .
4. That as per original O.M. dated 18/12/83 and conse-  
quent clarification till issuance of O.M. dated 12/1/96  
the Deptt. on being satisfied of the eligibility criteria  
and granted the amount of C.D.A. along with monthly  
salary as per existing rules till 31/8/96.

Contd..P/2.

5. That Hon'ble Supreme Court also directed that whatever amount has already been paid to the Respondents of for that matter similarly situated employees would not be recovered from them in so far as the allowance is concerned .

In view of the above mentioned facts :-

1. I humbly request that the order of the Hon'ble Supreme Court dated 20/9/94 may please be implemented in true spirit and no recovery be made.

2. Since I was posted in the North Eastern Region from outside the region on All India Transfer liability basis the S.D.A. payment as admissible to me under the existing rules may be continued .

Yours faithfully,

( RAMESH CHANDRA SHUKLA )

*Handwritten signature/initials*

No. / PAL/NER/SS(P)/44

Dated the 19th September 1996

From :  
Subhasis Sen,  
Geologist (Jr.)  
Palaeontology Division,  
Geological Survey of India,  
North Eastern Region,  
Shillong .

To,  
The Deputy Director General.  
Geological Survey of India,  
North Eastern Region,  
Shillong.

Sub :- Representation against stoppage and  
recovery of S.D.A.

Ref :- Your office order under No. 1282/4/56/CIR  
(SDA)/NER/AC-I/83 Dated 11/9/96 .

Sir,

With reference to your above offices order, I have  
been declared ineligible for drawal of SDA with  
effect from 20/9/94. Among the 82 declared  
ineligible persons my name is mentioned in Sl.No.  
9 of the enclosed list .

I would like to draw your kind attention  
to the following points for reconsidering my case  
and pass an order for granting me SDA and non-reco-  
very of the SDA already drawn with effect from  
20/9/94.

1. I joined GSI as Geologist (Jr) on 3/10/94  
after resigning from the post of Inspector of  
Central Excise under Central Board of Custom  
and Excise, Ministry of Finance, Govt. of India  
with permission and proper release from app-  
ropriate authority. Later on the benefit of  
my past service has been granted by the  
Director General of GSI in the present service  
and as such service continuity is being counted  
presently. I resigned from the past service  
from Cooch Behar, West Bengal on 30/9/94 and  
joined in GSI on 3/10/94.

Thus as in continuous service under Govt  
of India I may be considered as a person coming  
from outside the N.E.R., to joined here in GSI,  
NER., Shillong and in turn be eligible for gran-  
ting of S.D.A.

2. I have been recruited through U.P.S.C. on all India basis by Geologists' Examination 1991 with all India common merit list. Obviously my recruitment zone, promotion zone and seniority list - all are on all on all India basis only. Thus all criteria mentioned in para 3 of the attached O.M. No. 11(3)/95-E II(B) dated 12/1/96 of Ministry of Finance are being fulfilled by me .
3. My all India transfer liability is not 'merely' but actual only as defined by the para 3 of the above mentioned Ministry of Finance (MF) O.M. which justify my eligibility for drawal of S.D.A.
4. Para 6 of the mention MF. O.M. is redundantly applied to declare me ineligible for SDA. In fact the para states about violation of equal pay doctrine only - and not fixing eligibility criteria for SDA. Thus not being transferred from any other region of GSI to GSI., NER cannot make me ineligible for S.D.A.

Thus in view of above points, I seek your kind intervention to the case to declare me eligible for S.D.A. with effect from 3/10/94 (my date of joining in G.S.I.) .

Yours faithfully,

( SUBHASIS SEN )  
Geologist (Jr.)  
Palaeontology Division  
G.S.I., N.E.R., Shillong.

*Subhasis*

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ANNEXURE - 5 (Contd)

NO. /PAL/NER/UKM/96

Dated 19th September 1996

From,  
U.K. Mishra,  
Geologist (Sr.),  
Palaeontology Division,  
G.S.I., N.E.R., Shillong.

To,  
The Deputy Director General  
Geological Survey of India  
North Eastern Region,  
Shillong.

Sub :- S.D.A.

Ref :- Your letter No. 1274/4/56/CIR(SDA)/NER/  
AC-I/83, dated 11th Sept. , '96 .

Sir?

With reference to your above letter No.  
which were received by me on 16th September '96, I  
would like to draw your kind attention for the  
following facts :-

1. I am serving in G.S.I? N.E.R., Shillong as  
a group 'A' officer (Geologist (Jr) and Geologist  
(Sr.). I had been recruited by U.P.S.C., by  
Geologists' Examination .
2. I am having actual all India transfer liability  
and not 'merely all India Transfer liability as men-  
tion in the Office Memorandum of Ministry of Finance  
make me eligible for drawal of S.D.A.
3. My home place is in Uttar Pradesh and not  
in N.E.R.

Considering the above points, I would  
request your kind intervention to declare me  
eligible for S.D.A.

Yours faithfully,

( Dr. U.K. Mishra),  
Geologist (Sr.)

*Dr. U.K. Mishra*

GOVERNMENT OF INDIA

No. 17/DDP/NER/96

Dated, 17/09/96

From,  
D. Panigrahi,  
Geologist (Jr.)  
Petrology Division,  
Geological Survey of India,  
North Eastern Region,  
Shillong : 793003 .

To,  
The Deputy Director General,  
Geological Survey of India,  
North Eastern Region,  
Shillong : 798003

Sub :- SDA (Special Duty allowance)

Sir,

With due reference to your office order no. 1286/4/56/cir(SDA)/NER/AC-I/83, dated 11.09.96 and office Memorandum No. (OM)No. 11 (3)/95-E II B dated 12.1.96, I would like to present the following facts :-

1. I was recruit through U.P.S.C. and appointed as Geologist (Jr) IN THE G.S.I.(GroupA) by the President of India.
2. Thereafter the posting was given at NER, Shillong by Director General, G.S.I., Calcutta .
3. I have joined in G.S.I., N.E.R., Shillong on 30.6.1994.
4. I have ~~joined in G.S.I.~~ availed joining T.A. on first posting which is one of the special concession given only to Officers on being posted to any station in North Eastern Region .
5. As per tests mentioned in the para 3 of the office memorandum I am having All India Transfer Liability And as per the para- 2 of the OM I am eligible for the payment of Special Duty Allowance (SDA).
6. As per the para- 6 of OM, Central Government Civilian employees who have all India transfer liability are entitled to the grant of SDA on being posted to any station in the North Eastern Region from out side the region. Thus I, not being the resident of North Eastern Region, appointed in G.S.I.with H.Q. at Calcutta and thereafter posted at North Eastern Region, as entitled for all incentives and allowances inherent to the posting in N.E.R. including SDA .
7. As per the lines 9 to 12 of para 6 of OM the grant of SDA only to the Officers transferred from out side the region to this region would not be violative of the provisions in Article 14 of the constitution as well as equal pay doctrine . Which clearly does not speak about my ineligibility for the grant of SDA on being posted to N.E.R.

*Atulya*

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48  
ANNEXURE - 5 (Contd..)

8. As per lines 14 to 18 of para 6 of OM, The Hon'ble Supreme Court has directed that whatever amount has already been paid would not be recovered so far as SDA is concerned .
9. It is nowhere mentioned in the OM that the group A & B officers who on appointment through U.P.S.C. and posted in N.E.R. shall not be eligible to draw SDA from 20.9.94. Thus, para 7 (ii) of the OM may not be applicable in my case .

Keeping in view the above mentioned facts I would request you to kindly reconsider my case and declare me eligible for the continuation of payment of SDA.

Yours faithfully,

( D. PANIGRAHI )  
Geologist (Jr.)

*Atty on*



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ANNEXURE - 5 (Contd..) 49

NO. \_\_\_\_\_/PAL/NER/SS(P)/44

Dated the 19th September '96

From,  
Subhasis Sen.  
Geologist (Jr.)  
Palaeontology Division,  
Geological Survey of India,  
North Eastern Region,  
Shillong.

To,  
The Deputy Director General.  
Geological Survey of India,  
North Eastern Region,  
Shillong.

Sub :- Representation against stoppage and recovery of S.D.A.

Ref :- Your Office order under No. 1282/4/56/CIR (SDA)/NER/AC-I/83 Dated 11/9/96.

Sir,

With reference to your above office order, I have been declared ineligible for drawal of SDA with effect from 20/9/94. Among the 62 declared ineligible persons my name is mentioned in Sl. No. 9 of the enclosed list .

I would like to draw your kind attention to the following points for reconsidering my case and pass an order for granting me SDA and non-recovery of the SDA already drawn with effect from 20/9/94.

1. I joined GSI as Geologist (Jr.) on 3/10/94 after resigning from the post of Inspector of Central Excise under Central Board of Custom and Excise, Ministry of Finance, Govt. of India with permission and proper release from appropriate authority. Later on the benefit of my past service has been granted by the Director General of GSI in the present service and as such service continuity is being counted presently. I resigned from the past service from Cooch Behar, West Bengal on 30/9/94 and joined in GSI on 3/10/94.

Thus as in continuous service under Govt. of India I may be considered as a person coming from outside the N.E.R., to join here in GSI., NER., Shillong and in turn be eligible for granting of S.D.A.

*File on*

Contd...

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ANNEXURE I 5 (Contd..)

2. I have been recruited through U.P.S.C. on all India basis by Geologists' Examination 1991 with all India common merit list. Obviously my recruitment zone, promotion zone and seniority list- all are on all India basis only. Thus all criteria mentioned in para 3 of the attached O.M. NO. 11(3) /95-E II(B) dated 12/1/96 of Ministry of Finance are being fulfilled by me .
3. My all India transfer liability is not 'merely' but actual only as defined the para 3 of the above mentioned Ministry of Finance(MF) O.M. which justify my eligibility for drawal of S.D.A.
4. Para 6 of the mention~~ed~~ MF O.M. redundantly applied to declare me ineligible for SDA. In fact the para states about violation of equal pay doctrine only - and not fixing eligibility criteria for SDA. Thus not being transferred from any other region of GSI., NER cannot make me ineligible for S.D.A.

Thus in view of above points, I seek your kind intervention to the case to declare me eligible for S.D.A. with effect from 3/10/94 (my date of joining in G.S.I.)

Yours faithfully,

( SUBHASIS SEN )  
Geologist (Jr.)  
Palaeontology Division,  
G.S.I., N.E.R., Shillong.

26.5

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ANNEXURE - 5 (Contd..)

To,

The Dy. Director General.  
Geological Survey of India,  
North Eastern Region,  
Shillong.

Sub :- Recovery of S.D.A from 20.9.94.

Sir,

With reference to office ~~Order~~ order No. 1297/4/56/CIR(SDA)/NER/AC-I/83, dated 11.9.96, most respectfully I have the honour to submit the following for your sympathetic consideration .

01. That I am a permanent resident of Delhi and before joining the G.S.I., on 15th March 1993, I was in Government service and posted at Air Force Station Pathankot, Punjab, I was appointed through U.P.S.C. on the present post and posted at G.S.I., N.E.R. Shillong vide letter No. 1874 R/A - 19012(AO-RP) 92/19 A, dated 3.11.92 in continuity of my service, I was on the strength of Indian Air Force upto 28.2.93. After that I came to N.E.R. Shillong and joined G.S.I., on 15.3.93 as per letter No. 85 R/A-19012 (AO.RP)/92/19A, dated 15-1-93. Thus it is clear that I was not recruited locally in N.E.R. but was posted from outside the N.E. Region with All India Transfer Liability.

02. That Hon'ble Supreme Court, in its judgement, dated 20.9.94 clearly stated that the S.D.A. in N.E.R was meant to attract persons outside in N.E.R. to work in that region because of inaccessibility and difficult terrain and need of the allowance was felt for attracting and retaining the service of the competent officers for service in the North Eastern Region. On the same line O.M. dated 12.1.96 also corroborates.

*Done*  
03. That based on the Hon'ble Supreme Court judgement, dated 20.9.94 in Civil Appeal No. 3251 of 1993 Ministry of Finance Department of Expenditure vide office Memorandum No. 11(3)/95 E II(B), dated 12.1.96 issued further clarifications regarding payment of S.D.A. and also directed to make recovery of the payment made after 20.4.94 to ineligible recipients of S.D.A.

04. That as per original O.M. dated 14.12.83 and subsequent clarifications till the issue of O.M. dated 12.1.96, the department on being satisfied on eligibility criteria had granted the S.D.A. as admissible within the existing rules at that time till 31.8.96.

05. That the Hon'ble Supreme Court in ~~the~~ its judgement, dated 20.9.94 clearly stated that already paid amount of S.D.A. would not be recovered from the application ~~cants~~ .

06. That ~~the~~ under the circumstances the proposed S.D.A. recovery with retrospective effect has caused ~~xxx~~ mental agony anxiety to the entire family as a whole affecting the monthly budget since the S.D.A. already received till date, has already been spent.

PRAYER

01. I humbly request that the order of the Hon'ble Supreme Court, dated 20.9.94 may please be implemented in true spirit and no recovery to be made .

02. Since, I was posted in N.E.R. from outside the region the S.D.A. payment as admissible under the existing rules may be continued .

Yours faithfully,

( R. PRASAD )

Dated -----Sept.1996.

Administrative Officer,  
G.S.I. , N.E.R. Shillong.

Always on

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9  
ANNEXURE -5 (Contd.)

From : Saibal Ghosh .  
Geologist (Jr.)  
Engineering Geology Division,  
Geological Survey of India, NER  
Shillong- 793 011 .

To,  
The Dy. Director  
General.  
Geological Survey of  
India , NER,  
Shillong - 793 003.

Sub :- S.D.A.

Ref :- Your Office Order No. /56/CIR(SDA)/  
NER/ AC-1/83 Dated The Sept. 1996 .

Through Proper Channel .

Sir,

In connection to the subject, I supplicate the followings for your kind perusal and consideration .

1. I have joined the Geological Survey of India as Geologist (Jr) on 14.06.94 (forenoon) and was posted at North Eastern Region, Shillong in reference to my acceptance of the appointment offer issued to me vide office letter no. 42IR/A- 19011 (i-SG)91/19A dated 13.04.94 .
2. The above appointment was made on the acceptance of the recommendation of the UPSC by the President of India prepared on the basis of UPSC Examination 1991.
3. Prior to joining G.S.I. I was working as a DY. Magistrate & Dy. Collector (On Probation) in the West Bengal Civil Services (Executive) cadre under the Deptt of Home (P&AR) Govt. of West Bengal . After obtaining proper release on 13-06-94 (afternoon). I joined G.S.I. at Shillong on 14-06-94 (forenoon) Prayer for considering the continuation of my such services as a "Government Servant " under Govt of West Bengal has already been submitted to you . And accordingly my services under G.S.I. in N.E.R. should not be considered as my first posting as a "Government Servant".
4. As per the appointment conditions stated in the appointment offer of G.S.I. my appointment as a Group- A officer under the Govt. of India carries in trust sense "the all India transfer liability" and not the condition of "merely all India transfer liability" as applicable to others. In reference to this kindly refer to para (6) of the O.M. of the Ministry of Finance attached with your letter where it has clearly been mentioned that .."the Hon'ble Supreme Court in their judgement delivered on 20.09.94 (in civil appeal no. 3251 of 1993) upheld the submissions of the Govt. of India that Central Government

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ANNEXURE - 5 (Contd..)

Civilian Employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the NE Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to all India transfer liability.

Thus it is understood that on the basis of the above ruling of Hon'ble Supreme court, I am eligible to get the SDA .

5. It has also been understood from your above letter that the Ministry/Department has taken almost two years to communicate it's decision regarding SDA after getting the ruling from the Hon'ble Supreme Court . And in the same judge judgement the ruling clearly states that .." Whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned." So the question of recovery does not arise at all .

Considering all of my above submissions most respectfully I supplicate that I should be considered eligible for SDA and no recovery on that matter be made on my account.

Thanking You,

Yours faithfully,

( SAIBAL GHOSH )  
Geologist (Jr.)

Pluse on

From:

R. C. Singh,  
Geophysicist (Sr)(Insttn.)  
Geophysics Division,  
GSI, NER, SHILLONG.

To,

The Dy. Director General,  
Geological Survey of India,  
N.E. Region, SHILLONG

( Through :- The Proper Channel )

Subject :- Request to kindly declare me eligible  
to receive S.D.A.

Reference :- Your letter No. 1275/4/56/CIR(SDA)/NER/AC-i/83  
dated 11.9.1996 .

Sir,

With reference to your letter quoted above, most  
respectfully I have to say the following few lines for  
your kind consideration :-

1. that I am in continuous Central Govt. Service since  
28.7.1969 (the date of joining IB, MHA, Govt. of India)
2. that I was holding the permanent post of Assistant  
Central Intelligence Officer, Grade- I(WT), in the  
Intelligence Bureau and posted at SIB office, Gangtok  
(SIKKIM), till October. 1986 .
3. that, consequent upon my appointment to the post of  
Geophysicist (Jr) (Instn) by the UPSC, I was relieved  
by SIB Gangtok with all the transfer benefits and I  
joined GSI, NER, Shillong on 30.10.1986. (My entire  
previous-service was transferred to the GSI).
4. that I requested GSI for reversion to my parent depart-  
ment I.B. Accordingly I was relieved from GSI, NER,  
Shillong and I joined SIB Office, Laban, Shillong on  
13.11.1987 (AN).
5. that, consequent upon my appointment to the post of  
Geophysicist (sr.) (Insttn) by the UPSC, I was relieved  
by SIB Shillong and I joined GSI, NER, Shillong on  
30.11.1989.
6. that all the posts held by me have all India transfer  
liability .
7. that para-6 of the letter No. 11(3)/95-E, II(B), dated  
12.1.1996 of Min. of Finance, Deptt. of Expenditure ,  
( a copy of which was circulated alongwith your above  
quoted letter), states that "The Hon'ble Supreme Court  
in their judgement delivered on 20.9.94 (in Civil  
Appeal No. 3251 of 1993) upheld the submissions of the  
Govt. of India that Central Govt. civilian employees  
who have all India transfer liability are entitled to  
the grant of SDA, on being posted to any station in the  
NE Region from outside the region and SDA should not

Contd...

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// 15 //

be payable merely because of the clause in the appointment order relating to All India Transfer Liability ".

In view of my statements under para - 1 to 6, it is quite clear that :-

(a) I am holding a post having all India transfer liability, and

(b) I was transferred to the NE Region from outside the NE Region.

Hence, I am entitled to draw SDA, as I fulfil the conditions required under para - 7.

It is , therefore, requested that I may kindly be declared eligible to receive S.D.A. with effect from 30.10.1996 (the date of my joining NE Region on transfer from Gangtok ).

Thanking you, Sir.

Yours faithfully,

Shillong,  
Dtd. 16.9.96.

( R.C. SINGH)  
Geophysicist (Sr) (Insttn)

Aw  
7/9/96



43-  
// 16 //

ANNEXURE - 5 (Contd..)

No.

Dt. Sept. 1996 .

To,

The Dy. Director General  
Geological Survey of India,  
North Eastern Region,  
Shillong.

Sub :- Recovery of the amount of S.D.A. from 20.9.94.

Sir,

With reference to the office Order No. 1276/4/56 (SDA)/NER/AC. I-83, dated 11.9.96. most respectfully, beg to submit the following for your sympathetic consideration:

1. That prior joining G.S.I., I was in State government service and posted at New Delhi. I received the appointment letter at Delhi and joined G.S.I. with proper release order from the State Government. I had my lien retained in State service is confirmed by G.S.I. Service is also counted for all purpose and the service from the previous Department was transferred to G.S.I. This was also reflected in the Seniority List of A.O. & S.A.O. circulated by the Department from time to time. It is therefore, clear that I was posted from out side N.E.R.
2. That as per original O.M. dated 14.12.83 and subsequent clarifications till issuance of O.M. dated 12.1.96, the Deptt on being satisfied of the eligibility criteria had granted the amount of S.D.A. alongwith a monthly salary as per existing rules till 31.8.96 .
3. That consequence upon issuance of clarifications vide O.M. dated 12.1.96, the Department declared ineligible to received SDA merely on being appointment through U.P.S.C. without taking in to consideration continuity of Service in previous Deptt. and exact place of posting before joining the post in N.E.R.
4. That the Ministry of Finance took more than two years to issue clarification and to implement the order of the Hon'ble Supreme Court, dated 20.9.94. To cover up its own in action in time, directions

Always on

were given to make recovery the amount of S.D.A. paid after 20.9.94. The Ministry of Finance took timely action of the directions of the Hon'ble Supreme Court delivered on 20.9.94, there would be no over payment of account of S.D.A.

5. That the Hon'ble Supreme Court was aware of the fact that the Local authorities would take some time to receive and implement the directions issued that is why it had made it clear in para 6, lines 14 to 16, quote, "The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned."

5.1 That the order of recovery made in para 7 (11) of the O.M. No. 11(3)/95-E(B), dated 12.1.96 on the amount already paid was irregular and against of the directions of the Hon'ble Supreme Court.

5.2 That the amount paid on account of S.D.A. up to 31.8.96 may be waived as per directions of the Apex Court.

5.3 That the individual was not at fault for the delayed action to issue clarification.

5.4 That pending issue of clarifications and implementations by Ministry and local authorities, the - notes -, we were eligible to receive S.D.A. as pointed out in para 2 above.

5.5 That none of the affected persons were included in the cases decided as referred in the O.M. dated 12.1.96. The action to recover with retrospective effect, i.e., 20.9.94 was discriminatory and against the directions passed by the Apex Court 20.9.94 and 9.7.95.

REQUEST

6. I humbly request that the order of Supreme Court referred in the O.M., dated 12.1.96 may be implemented in true spirit and that the recovery made of what has already been paid up to 31.8.96.

6.1 That the amount recovered alongwith salary inc. already been spent and if recovered it will adversely affect.

Pls on

6.2 That the Ministry concerned may kindly be approached for waiving of the amount already paid on account of S.D.A. up to 31.8.96 in compliance of the Apex Court's directives mentioned in Para 6, line 14 to 18 of O.A. dated 12.1.96 and subsequent order, dated 9.7.95.

6.3 That pending disposal of the representation, recovery should not be made.

Yours faithfully,

*[Signature]*  
(D. T. SHENAI)  
Sec. Administrative Officer  
C.S.I. M.H. Shillong  
\*\*\*\*\*

*Over on*

46  
( COPY )

Immediate

No. 14017/21/83-VIS. II  
Government of India  
Ministry of Home Affairs.  
Department of Personnel & P.R.

Dated, New Delhi, 3 February, 1984.

To

- (1) The Chief Secretary to the Government of Assam, Dispur.
- (2) The Chief Secretary to the Government of Meghalaya, Shillong.
- (3) The Chief Secretary to the Government of Manipur, Imphal.
- (4) The Chief Secretary to the Govt. of Tripura, Agartala.
- (5) The Chief Secretary to the Govt. of Nagaland, Kohima.

Subject : Allowances and facilities for members of the All India Services serving in the States and Union Territories of North Eastern Region - Improvement thereof.

Sir,

I am directed to say that the Ministry of Finance (Department of Expenditure) have issued orders revising the existing allowances and facilities admissible to the various categories of Central Government employees serving in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Tripura, Nagaland and the Union Territories of Arunachal Pradesh and Mizoram vide their Office Memorandum No. 20014/3/83-F. IV dated the 14th December, 1983. A copy of the Office Memorandum is enclosed.

2. The Central Government are of the view that the difficult conditions in which the members of the All India Services have to serve in the North Eastern Region are similar to those in the case of Central Government employees posted there. While most of the Central Government employees are posted in the region on a tenure basis, members of the All India Services allocated to the cadres of the States in the region have to serve in the region for a longer period. In fact most of them have to serve in these areas for their entire service period except when some of them may be on central deputation outside the North

contd..2

*Handwritten signature*

Eastern region. Obviously the need for improving the service conditions of members of the All India Services serving in the Region cannot be overlooked and if anything these should be better than those who are deputed for only short tenures of 3 years.

3. I am, therefore, to request the State Government to extend the orders contained in the Ministry of Finance, Department of Expenditure, Office Memorandum No. 20014/3/33-E. IV, dated the 14th December, 1933 to members of the All India Services serving in connection with the affairs of the State Government with effect from the dates these have been applied to Central Government employees.

Yours faithfully,

S/-

(Smt. Alka Kalia)

Copy to:

Deputy Secretary to the Government of India.

1. Ministry of Home Affairs (C. Division - Sri Baldev Raj, DS(CPS) - along with a copy of the Ministry of Finance O.M. No. 20014/3/33-E. IV, dated the 14th December, 1933. It is requested that orders contained in the above referred O.M. may be adopted in the case of members of All India Services serving in connection with the affairs of the Union Territories in Jammu and Kashmir, Mizoram and Andaman and Nicobar Islands.
2. Office of the Registrar General of India, New Delhi.
3. Chief Secretaries to the Government of all States (except Assam, Meghalaya, Manipur, Tripura and Nagaland).
4. Office of the Comptroller and Auditor General of India.
5. Accountant General of all States.
6. The Director of Audit, Central Revenue, New Delhi.
7. Ministry of Finance, Deptt. of Expenditure, E. IV Branch.
8. Ministry of Agriculture and Irrigation, Deptt. of Agriculture (IFS Section).
9. Ministry of Home Affairs (IPS Section).

Sd/- Smt. Alka Kalia

Deputy Secretary to the Government of India

Internal Distribution:

EO (CH), EO (F), EO (PM), A.S. I, A.S. III and A.S. IV Sections.

*Alka Kalia*

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Annexure V

ANNEXURE-7

No. 14017/1/83-AIS(II)  
Government of India/Bharat Sarkar  
Ministry of Personnel, Pub. Grievances & Pensions  
(Department of Personnel & Training)

New Delhi, the 25 January, 89.

To

The Chief Secretary to  
Governments of Assam-Dibrugarh,  
Meghalaya-Shillong,  
Tripura-Agartala,  
Nagaland-Kohima,  
Mizoram-Aizwal,  
Arunachal Pradesh-Itanagar.

Subject: Improvement in allowances and facilities for  
members of All India Services serving in the  
North-Eastern States and Andaman and Nicobar  
Islands and Lakshadweep.

Sir,

I am directed to refer to this Department's letter  
No. 14017/21/83-AIS(II) dated 3rd February, 1984, wherein the  
State Governments were requested to extend the orders con-  
tained in Ministry of Finance, Department of Expenditure  
O.M. No. 20014/3/83-E.IV dated 14th September, 1983, regarding  
improvement in allowances and facilities for Civilian em-  
ployees of the Central Government serving in the North  
Eastern States to members of All India Services serving in  
connection with the affairs of the State Government.

2. The Ministry of Finance, Department of Expenditure have  
now issued orders vide their O.M. No. 20014/16/88-E.IV-ElB  
dated 1st December, 1988, making improvements in the allow-  
ances and facilities to the Central Government employees  
posted in the North Eastern Region. A copy of the O.M. is  
enclosed.

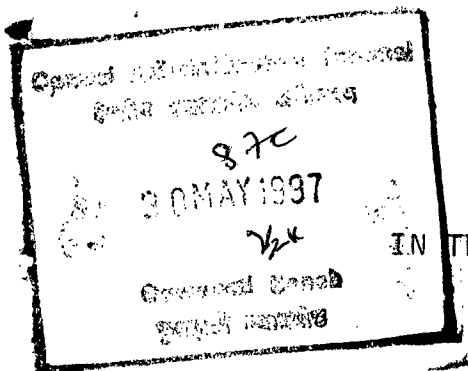
3. It is requested that the orders contained in the Min.  
of Finance, Deptt. of Expenditure O.M. dated 1.12.88 may be  
extended to members of All India Services serving in connec-  
tion with the affairs of the State Government w.e.f. the  
dates they have been applied to Central Govt. employees.

Yours faithfully,

(Smt. Valsala Vairiathan)  
Desk Officer.

Copy to MLA, UTS.

Alwar



13  
Filed by  
H. Chandra  
30/5/97  
Addl. Central Govt.  
Standing Counsel

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

In the matter of :-

O.A. No.209 of 1996

U.K. Mishra & others ..Applicants

-Versus-

Union of India & Ors..

... Respondents.

Written statement for and on behalf of the  
Respondent No.1 and 2.

I, Sri R.P. Sharma, Geologist (Sr) and Controlling  
Officer ( A & B ), Geological Survey of India, N.E.  
Region, Shillong, do hereby solemnly affirm and say  
as follows :-

1) That I am the Geologist(Sr.) and Controlling Officer  
(A & B), Geological Survey of India, N.E. Region, Shillong  
and am acquainted with the facts and circumstances of the  
case. I have gone through a copy of the application and have  
understood the contents thereof. Save and except whatever  
is specifically admitted in this written statement the other  
contentions and statements made in the application may be  
deemed to have been denied. I am authorised to file this  
written statements on behalf of the respondents No.1(a) & 2

2) That the Respondents beg to state that the statements  
made in paragraphs 1,2,3, 4.1, 4.2, 4.3, 4.4 and 4.6 are  
admitted being matter of record.

3) That with reference to paragraph 4.5 of the application  
the respondents beg to state that while admitting that the  
statements herein are matter of record, with regard to the  
service background of the petitioners, it is additionally  
submitted that (a) The petitioners at Sl.No.1 to 13,17,19,24,  
27 and 40 had joined service in G.S.I. Directly in Gr.A posts  
by selection through the U.P.S.C. and were posted directly  
in the N.E. REGION.

Contd.p/2-

(b) The petitioners at Sl.No.14 to 16,21,to 23,25,26, 38 and 39 had joined service in GSI directly in Gr. 'B' posts by selection through the U.P.S.C. and were posted directly in the N.E. Region.

(c) The petitioners at Sl.No.18,20,28, to 37 and 41 to 45 had joined service in the GSI in Gr. 'C' posts and were departmentally promoted to Gr. 'B' and later Gr. 'A' posts while serving in the N.E. Region.

4) That with reference to paragraph 4.7 and 4.8 of the application, the Respondents beg to state that while admitting that the statements herein are matter of record, it is submitted that in pursuance of Govt. policy that Gr. C & D employees are not to be transferred outside the region in which they are employed, such employees of the N.E. Region, G.S.I., ~~was~~ were separately encadred in 1984 and the condition of service regarding "liability to transfer anywhere in India" was replaced by "transfer liability within the North Eastern Region". This was taken up by a set of Gr. 'C' employees of the G.S.I., N.E. Region, to the Hon'ble Tribunal through O.A. 182/90 and 183/90, against the judgement in which the Department had gone in appeal to the Hon'ble Supreme Court. The Apex Court vide its judgement dtd.7-9-95(Civil Appeal No.8208-8213/95) had upheld the Departments contention that All India transfer liability no longer continues in respect of Gr. 'C' and 'D' employees". In view of this finding by the Apex Court, the employees of category (C) of our submission under para 4.5 above who were serving in Gr. 'C' posts in the G.S.I., N.E. Region were not having all India transfer liability prior to their promotion to Gr. 'B' posts. They acquired all India transfer liability on promotion to Gr. 'B' posts, but on such promotion, since they continued to serve in the N.E. Region and were not posted/transferred from outside the N.E. Region, they are not eligible for grant of S.D.A. as per para(iii) of the Ministry of Finance O.M. No.20014/2/83-E IV dtd.14-12-83 (Annexure-I of the petition).

5) That with reference to paragraph 4.9 of the application the Respondents beg to state that while admitting that the petitioners do have all India transfer liability, the claim



regarding entitlement to S.D.A. is denied, since as per the O.M. dtd. 14-12-83 all India transfer liability is only one of the conditions for such entitlement. All India transfer liability is a condition necessary for grant of SDA but not sufficient by itself alone in terms of para 6 of O.M. dtd. 12-1-96 where the S.C. has brought the concept of being posted from outside which has been further clarified as transfer from outside to N.E. Region.

6) That with reference to paragraph 4.10 and 4.11 of the application, the Respondents beg to state that the order No. 4/56/CIR/SDA/NER/AC-I/83, dtd. 11-9-96 was issued by the Deputy Director General, G.S.I., N.E. Region in compliance of the directives of Ministry of Finance, Deptt. of Expenditure, conveyed vide O.M. No. 11(3)95 E-II (B), dtd. 12-1-96. The applicants, though having the "All India Transfer Liability" in recruitment and promotion zone etc. were either directly appointed to N.E. Region through U.P.S.C. (those under Category (a) and (b) of our submission under para 3 above) or some of them were promoted from Gr. 'C' while serving in N.E. REGION and have continued in N.E. Region (those under category (c) of our submission under para 3 above) and were found ineligible for the payment of SDA pursuant to clarification vide O.M. 11(3)/95 E-II (B), dtd. 12-1-96.

It is added that in terms of para 7 of the O.M. dtd. 12-1-96 the eligibility to SDA of all the personnel serving in N.E. Region was examined applying the criteria listed in para 6 of the said O.M. alongwith the existing orders/clarifications earlier issued on this subject by the Govt. of India.

7) That with reference to paragraph 4.12 of the application the respondents beg to state that it is submitted that those applicants listed at Sl. No. 1 to 43 of the order dtd. 11-9-96 (Annexure-III of the petition) were appointed through U.P.S.C. and joined service in N.E. Region directly in Gr. A/B posts. Those at Sl. No. 44 to Sl. No. 61 were promoted from Gr. 'C' while serving in ~~MMX~~ N.E. Region. In terms of para 6 of the Finance Ministry O.M. dtd. 12-1-96 Central Government employees with all India transfer liability become entitled to the grant of

( 4 )

S.D.A. on being posted to N.E.Region from outside the Region. It is further stated that the Apex Court had also found that such grant only to those officers transferred from outside the Region is not violative of the provisions of Article-14 of the Constitution. Hence, it is obvious that apart from the All India transfer liability (which the petitioners have) the other criterion for entitlement of S.D.A. so far the officer (a) to have been transferred to N.E.Region from outside the Region.

Since the applicants were either directly appointed through UPSC or promoted from Gr. 'B' posts in the N.E.Region cadre without S.D.A. entitlement and continued to be posted in N.E.Region, they are not eligible for grant of S.D.A. as clarified by the aforesaid O.M. issued by Finance Ministry.

8) That with reference to paragraph 4.13 and 4.14 of the application, the Respondents beg to state that consequent upon receipt of the Finance Ministry O.M. dtd.12-1-96 payment of SDA for all employees of the G.S.I., N.E.Region had been reviewed and after review, it was found that the applicants. alongwith few others were not eligible for the grant of SDA. This, in compliance of O.M. dtd.12-1-96 the order dated 11-9-96 of (Ministry of Finance) (Annexure-III of the petition) was issued for the recovery of amounts paid as SDA from 20th Sept/1994 onwards alongwith waiver of the amounts paid prior to the same.

It is also submitted that on issuance of the order dated 11-9-96 declaring the petitioners as ineligible for & drawal of SDA, many of the affected officers have submitted representation against the said order. It may kindly be noted that those of such representations includes in Annexure-5 are dated 16th to 21st Sept/96 and are from Shillong - based officers. Since officials in the various offices of G.S.I., N.E.Region are located also at Agartala, Dimpapur, Guwahati and Itanagar and some of the affected officers have been transferred out of N.E.Region, representations against the said order are continuing to come, while these are being considered individually, it is submitted that the petitioners have filed the present petition within a week of submitting their representations, without giving adequate time to the

Contd.p/5-

Department to consider it. It is assured that the Respondents have noted the Hon'ble Tribunal's advice to dispose of their representations and are doing so with all expedition.

Regarding the recovery of the overpaid SDA amount, mentioned in para 4.14 of the petition it is submitted that as per para 3 of the order dtd. 11-9-96 (Annexure-III to the petition) recovery is being effected from Sept., 1996 at the same monthly rate at which SDA was paid in the last month, in consideration of hardships the officials would have been put to if the whole overpaid amount were to be recovered in a single or a part instalments.

9) That with reference to paragraph 4.15, 4.16 and 4.17 of the application, the respondents beg to state that the working conditions of AIS officers posted to various State Cadres are not identical to that of the Gr. 'A' & 'B' Officers of G.S.I. posted in the North Eastern Region and hence there is no justification to grant SDA to Gr. 'A' & 'B' officers of G.S.I. posted from outside to N.E. Region on the analogy of this facility to AIS officers posted from outside to N.E. Region.

10) That with reference to paragraph 4.18 of the application the Respondents beg to state that it is submitted that para 6 of O.M. dtd. 12-1-96 clearly States the observation by the Hon'ble Supreme Court that grant of SDA only to those officers transferred from outside the Region to this Region (NER) would not be violative of the provisions contained in Article 14 of the Constitution. Since the applicants listed in Annexure 3 of the application have not come on transfer from outside the Region at the time of their acquiring all India transfer liability, they are not entitled to grant of SDA. The contentions of the applicants that the Respondents have misread and misinterpreted the provisions of O.M. dated 12-1-96 is thus not correct. Actions were taken strictly in compliance of paras 6 and 7 (i) (ii) of the aforesaid O.M.

11) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

( 6 )

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

i R.P. Sharma, Son of Late Shri BRIJ MOHAN  
ears working as Geologist(Sr.) ~~and~~ ~~and~~ in the  
Geological Survey of India, N.E. Region,  
ident of Shillong do hereby verify that the  
de in para 1 to 10 are true to my knowledge,  
para 1 to 4 being matter of record are true  
tion derived therefrom and those made in the  
le submissions before the Hon'ble Tribunal  
t suppressed any material fact.

this verification on this the 29<sup>th</sup> day of  
at Guwahati

DEPONENT

R P Sharma  
(R. P. SHARMA)  
Geologist (Sr)  
G.S.I., SHILLONG