

100

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 86/96.....

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

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

1. Orders Sheet. OA-86/96.....Pg. 1.....to 2.....
2. Judgment/Order dtd. 21/8/1996.....Pg. 1.....to 7..... Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....86/96.....Pg. 1.....to 49.....
5. E.P/M.P.....NIL.....Pg.....to.....
6. R.A/C.P.....NIL.....Pg.....to.....
7. W.S.....Pg. 1.....to 31.....
8. Rejoinder.....Pg. 1.....to 16.....
9. Reply.....Pg. 1.....to 27.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

OFFICE NOTE

DATE

COURT'S ORDER

31.7.96

Learned counsel Mr. M.Chanda for the applicant.

Learned Addl. C.G.S.C. Mr. G.Sarma for the respondents.

Mr. Chanda completes his submission. Mr. G.Sarma makes his submission in part and seeks adjournment for instructions. Part heard. Hearing adjourned to 8.8.1996.

6/8
Member

nkm

8.8.96

Mr M.Chanda for the applicant. Mr G.Sarma, Addl.C.G.S.C for the respondent with Mr L.C.Bhattacharjee, Sr.Accountant. Mr Sarma submits reply to the rejection. A copy of which has been served on Mr Chanda. This reply has been discussed and heard. Counsel of both sides have completed their submissions. Hearing concluded. Judgment reserved.

6/8
Member

pg

m
8/8

Notice duly served on
respdt no. 1.
D/statement and Reply under
has been b'nd.

7/8

O.A. 86/96

21-8-96

Learned counsel Mr. J. L. Sarkar
for the applicant. Judgment and order
pronounced. Application is disposed of
in terms of order. No order as to costs.


Member

21.8.96

Copy of the judgment
issued to the parties
vide D.No - 2695 of
2709 to 2712 of 21.8.96
on 22.8.96

lm
m
21/8

kh
21/8

21/8/96
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 86 of 1996.
T.A. NO.

DATE OF DECISION 21-8-1996.

Sri Tridib Ranjan Dey

(PETITIONER(S))

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

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri G.Sarka, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE **SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.**
THE HON'BLE

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

Judgment delivered by Hon'ble **ADMINISTRATIVE MEMBER.**

[Signature]
21.8.96

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 86 of 1996.

Date of Order : This the 21st Day of August, 1996.

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

Sri Tridib Ranjan Dey,
son of late Tarini Moran Dey,
Udalbakhra, Kahilipara,
Guwahati - 34. . . . Applicant

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

- Versus -

1. Union of India
through the Comptroller & Auditor General,
New Delhi.
2. Accountant General (A&E)
Assam, Shillong.
3. Accountant General (A&E)
Nagaland, Kohima.
4. The Deputy Accountant General,
Administration,
Office of the A.G.(A&E), Guwahati,
Christian Basti, Guwahati-5. . . . Respondents.

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

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

Each of the 7 States of the North Eastern Region has its own Accountant General. Each of the individual Accountants General is a cadre controlling authority in respect of staff upto the level of Supervisors. Section Officers as well as Assistant Accounts Officers have common respective cadres for all 7 States and the Accountant General (A&E) Assam, Shillong is the cadre controlling authority of these two cadres.

contd. 2...

21.8.96

2. The applicant was initially appointed as a Stenographer in the office of the Accountant General (A&E) Nagaland, Kohima. He was promoted to Section Officer on 23.5.90 and he was posted in the same office, namely, Accountant General(A&E) Kohima. It is understood during the course of hearing that the post of Section Officer is a non-gazetted post. The applicant was transferred to Guwahati in the office of the Accountant General(A&E), Assam on compassionate ground on 3.1.92 as Section Officer. While he was serving in that office in Guwahati he was promoted to the gazetted post of Assistant Accounts Officer (AAO for short) on 4.2.94. He continued in the post till he was transferred to the office of the Accountant General (A&E) Nagaland, Kohima vide the impugned order dated 31.5.96. By virtue of the interim order in this O.A. he has not yet been relieved.

3. According to the respondents since the applicant has already stayed at Guwahati for more than four years he was transferred back to his base office in Nagaland where a vacancy was available. Further according to them, the applicant was due for such transfer as he was a seniormost among the Section Officers and AAOs transferred to Guwahati from Nagaland office reckoning with reference to their dates of joining at Guwahati. According to the applicant the nomenclature "base office" used by the respondents in the written statement is misleading and it has been intended only to frustrate the fair policy of transfer and posting. He contends that the post of AAO carries an all North Eastern Region transfer liability as evident from

contd. 3...

21-8-96

para 3 of his appointment letter dated 4.2.94 and, therefore, the question of sending him back to base office as claimed by the respondents does not arise. Further, he claims that this concept of base office as far as it relates to the AAO was raised only in order to discriminate against him. I find that the contention of the respondents regarding 'base office' is based on the letter No.108-N.2/127-88 dated 28.2.90 from the Comptroller and Auditor General of India to the Accountant General(A&E), Assam. This letter reads as below :

"Subject: Posting of Section Officers/Assistant Accounts Officer to the office of the Accountant General(A&E) Tripura, Agartala.

Sir,

I am directed to refer Shri S.K. Chakraborty, Accountant General(A&E), Tripura d.o. letter No.Estt/Restruct 1-1/1983/Vol.II/2665 dated 26.12.1989 addressed to you on the subject mentioned above and to request that as far as possible the Section Officer Grade Examination passed staff of Accounts and Entitlement offices in North Eastern region on their promotion as Section Officers may be posted in the offices from which they passed the above examination."

At the time of issue of the impugned transfer order the applicant is an AAO. I therefore find that this instruction contained in the letter quoted above cannot apply to him. Apparently, initially reference was made with regard to the posting of Section Officers and AAOs to the office of the Accountant General(A&E), Tripura, Agartala. But the effective decision of the Comptroller and Auditor General of India is only in respect of Section Officers of North Eastern Region and these instructions relate particularly to the posting

contd. 4...

1
1.8.96

of the staff on their first promotion to the post of Section Officer. The contention of base office raised by the respondents in respect of posting and transfer of AAO is therefore unfounded. No other transfer policy has been shown by the respondents apart from the above. Further the appointment letter of the applicant also does not show that the AAOs are compulsorily liable to be transferred to their 'base office'. On the other hand, they have all North Eastern Region transfer liability.

4. The applicant is of the view that fair policy of transfer and posting of AAOs had not been adopted by the respondents. When the AAOs have all North Eastern Region transfer liability fairness demands that the longest stayee officer should be transferred to hard stations like Kohima but in actual facts, at the choice of the dealing officers concerned, several officers have the privilege of remaining at the same stations such as Shillong and Guwahati and they have never been posted out. He has cited examples of officers both junior and senior to him who were after promotion retained in the same stations and have never been transferred or posted to hard stations such as Kohima. The respondents refuted by stating that there were vacancies in the respective base offices of those officers to accommodate them and therefore the question of transferring them to other stations does not arise. They also submitted list of officers as per Annexure-G to the written statement. During the course of hearing the applicant pointed out to the remarks 'posted in his base office' made by the respondents in column 7 of the list against serial No.2.

Shri Dibakar Choudhury and No.3, Shri Kali Sadhak Bhatta-
charjee and submitted that wrong statement has been made
by the respondents as these officers have not yet been
posted out of Guwahati though they have stayed longer than
him in Guwahati office. Learned counsel for the respondents
could not furnish supporting transfer orders of the two
AAOs. The applicant claims that this is a clear case of
discrimination against him. It is also his contention that
AAOs in the cadre should be posted by rotation on the
longest stayee basis. I am not convinced by the contention
of the applicant that he has been discriminated against
while he was transferred to Kohima by the impugned order.
The respondents had issued a Circular No.DAG(A)/1-3/94-95/3
dated 2.9.94 calling for options to be exercised by various
categories of officers. The applicant exercised his option
dated 17.9.1994 in respect thereto and his choice is
Accountant General(A&E) Assam as first preference and
Accountant General(A&E), Nagaland, Kohima as second prefe-
rence. In other words it is a clear indication that he
wants to remain in Guwahati failing which he has no objection
to be transferred to Kohima. He has therefore no case to
resist his transfer to Kohima. The next question is when
Guwahati is his first choice why the applicant could not
be retained in Guwahati. Going by the contentions of the
respondents in this O.A. it appears that this was not due
to discrimination but it is a result of misconception of
the aforesaid "base office" transfer policy which is not
applicable to the transfers and postings of AAOs.

contd. 6...

R
21-8-96

5. Another contention of the respondents is that the application is liable to be dismissed as the applicant had approached this Tribunal without submitting any representation to the competent authority against the impugned order and therefore he had not exhausted the official remedies. The contention of the applicant is that he had no time for filing representation or opportunity to approach the competent authority as he had received the impugned order on 6.6.96 directing his release with effect from the afternoon of 7.6.96. Thus it is seen that it is true that the applicant had not given any opportunity to the respondents to re-consider the case of his transfer.

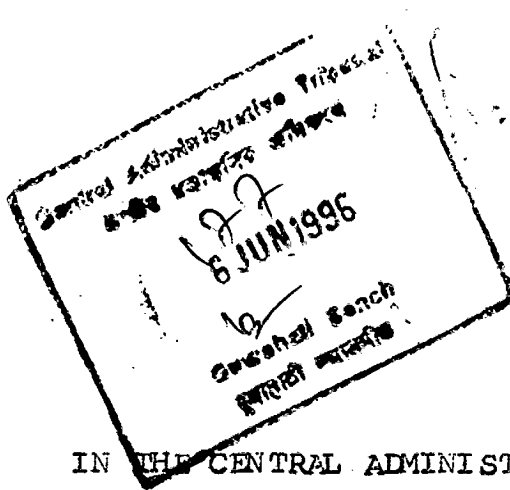
6. Other contentions of the applicant relate to his personal problems such as construction of his house and illness of his mother. These are best left to be considered by the respondents.

7. The respondents have submitted that the options received in response to the Circular dated 2.9.94 have not yet been acted upon. I have held as above that the 'base office' transfer policy is not applicable to the AAOs but it pertains to the posting of the newly promoted Section Officers. In the light of the above I consider that it will be fair and reasonable for the respondents to re-consider on merit the case of transfer of the applicant and they are accordingly directed hereby. For this purpose the applicant may submit a representation to the competent authority of the respondents within seven days from today. Further the respondents are directed to dispose of the

representation of the applicant, if any, within three weeks from the date of its receipt. The operation of the impugned order is stayed till disposal of the representation and will stand automatically vacated after the disposal of the representation. Further, it is made clear that if the applicant fails to submit the representation within the stipulated time mentioned above, the respondents are at liberty to enforce the operation of the impugned order.

The application is disposed of with the directions mentioned above. No order as to costs.


(G.L.SANGLIYINE)
ADMINISTRATIVE MEMBER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH,
GUWAHATI.

O.A. 86 /96.

Shri Tridib Ranjan Dey.

..... Applicant.

-Versus-

Union of India & Ors.

..... Respondents.

I N D E X.

<u>Sl.No.</u>	<u>Annexure.</u>	<u>Particulars.</u>	<u>Page.</u>
1.	-	Application.	1 - 10.
2.	-	Verification.	11.
3.	1	Representation dated 27.9.91.	12 - 13.
4.	2	Impugned order of transfer dt. 31.5.96.	14 - 16.

Copy in marked over.
to Smr. A. Sharma.
ptv.

Chhula
ADW
6.6.96.

Filed by -

Advocate.

Filed by the applicant
Mr. A. Sharma
6.6.96.

1. Particulars of the applicant.

Sri Tridib Ranjan Dey,
son of late Tarini Moran Dey,
Udalbakhra, Kahilipara,
Gauhati - 34.

2. Particulars of Respondents :-

1. Union of India,
through Comptroller of & Auditor General,
New Delhi.
2. Accountant General (A & E),
Assam, Shillong.
3. Accountant General (A & E),
Nagaland, Kohima,
P.O. - Kohima, Nagaland.
4. The Deputy Accountant General,
Administration,
O/O. the A.G. (A & E), Guwahati,
Christian Basti, Guwahati.

3. Particulars for which application is made.

This application is made against the transfer and posting order issued under letter No. Admn. I, Order No. 29 dated 31.5.96 whereby the applicant is transferred, and posted at Kohima, under the Accountant General (A & E) Kohima, in the same capacity as Assistant Accountant Officer, the transfer and posting order is challenged on the ground of mala fide and discrimination.

4. Limitation :

The applicant declares that the application is within limitation as per Administrative Tribunal Act, 1985.

5. Jurisdiction :-

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case :-

1. That the applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant is presently serving as Assistant Accounts Officer (in short A.A.O.) under the Accountant General (A & E), Assam, Guwahati.

2. That your applicant initially appointed, as Stenographer in the year 1983 and posted at Kohima, under the Accountant General, (A & E), Nagaland, thereafter serving continuously thereat at Kohima, as Stenographer, he appeared in the departmental Examination in the year 1989, and after declared successful in the examination, the applicant was promoted as section officer, in the same Establishment of Accountant General, Kohima, w.e.f. May '1990, and the applicant served there as Section Officer, nearly 2 years (i.e. 18 months) in the same Establishment of Accountant General, Nagaland, Kohima.

3. That your applicant thereafter approached the Accountant General (A & E), Assam, Shillong, for his transfer at Guwahati on the ground of his widow mother's medical treatment and also on the ground of education problems of his brother & sister, the Authorities on receipt of his representation dated 27.9.91 considered his case for transfer and posting at Guwahati, and the applicant thereafter posted at Guwahati as Assistant Accounts Officer, in the month of December, '91 and joined on 3.1.92 under the office of the Accountant General, (A & E), Assam, Guwahati, since then the applicant is working at Guwahati.

A copy of representation dated 27.9.91 is enclosed as Annexure - I.

4. That most surprisingly, the Authorities on completion of 3 years of service here at Guwahati in the Office of the A.G. (A & E), Guwahati, again issued the imputed transfer order, whereby the applicant is now sought to be transferred and posted at Kohima, again under the A.G. (A & E) Nagaland, arbitrarily and in total violation of the fair policy guideline, of transfer and posting. Be it stated that the A.G. (A & E) Assam is the cadre controlling Authority of the Assistant Accounts Officer/ Section Officer and therefore required

to be.....

to be adopted a fair policy of transfer and posting. In this connection it may be stated that there are number of senior and junior officers serving in the same Establishment of A.G. (A & E) Assam, Meghalaya, who were initially posted either at Shillong or Guwahati and they were promoted in the same station and also after promotion retained in the same station either at Guwahati or Shillong, and never transferred or posted to the Head Station at Kohima. The names of the officers who retained for very long period at Guwahati or Shillong, are furnished below :

Senior to the applicants posted at Guwahati.

- | | | |
|--------------------------------------|---|--------------------|
| 1. Sri B. Bikash Bhattacharjee, AAO. |) | |
| 2. Dibakar Choudhury, AAO. |) | All belongs to |
| 3. Kali Sadhak Bhattacharjee, AAO. |) | the o/o. the A.G. |
| 4. J.M. Aditya, AAO. |) | (A & E), Guwahati. |

Juniors to the Applicants posted at Guwahati/Shillong.

1. Sri Gogon Chandra Goswami, AAO, Guwahati.
2. Ses Kanta Joshi, AAO - Shillong.
3. Lokapriya Das, AAO. "
4. Dilip Kr. Das, AAO, Guwahati.
5. Sarbananda Talukdar. "
6. Skidheswar Barua, AAO. "
7. Abul Hashan Sheikh, AAO. "
8. Ram Ayodha Prasad, SO. "
9. Debashish Deb Purkayastha, SO, "

T.R. Dey

10. Kamalendu Bhattacharjee, S.O., Guwahati.
11. Gurupada Roy, SO. Guwahati,
12. Sudip Roy, S.O. "
13. N.Mishra, S.O. "
14. Debananda Bora, SO. "
15. Nihar Loch, S.O. "
16. Purnendu Barman, S.O. "

All the abovenamed officers are serving for a very long period, either in the o/o. the A.G. (A & E) Assam and Meghalaya, and posted at Guwahati/Shillong.

Therefore fairness demands that the longest stayee officer should be transferred in the hard station like Kohima on priority basis and the applicant who spent nearly 8 years at Kohima, be allowed to retain here at Guwahati and the impugned order of transfer and posting issued vide establishment order No. Admn. I Order No. 29 dated 31.5.96, be set aside and squashed in respect of the applicant only.

A copy of the transfer order, sent through Fax Message, issued under office order dated 31.5.96, by the A.G. (A & E), Assam, Shillong is enclosed, as Annexure-2.

5. That your applicant begs to state that during his stay at Guwahati, he had purchased a plot of land at Udalbakhra, Guwahati and obtained an amount of Rs. 1 lakh as house building advance from the office of the Accountant

General.....

General (A & E), Assam, but the Construction of the building is yet to be completed, therefore his stay ~~have~~ here at Guwahati is necessary for completion of the building. Moreover, the mother of the applicant who ~~went~~ through surgical operation is still suffering from different Chronic old age disease, and required constant medical check up, therefore in the circumstances, the present of the applicant here at Guwahati is very much required.

6. That your applicant begs to state that the A. G. (A & E) never adopted a fair policy regarding transfer and posting of the officer in the ~~hard~~ station like Kohima, but a section of the officers who deals with the transfer and posting of the officers, in the North Eastern Region, are used to prepare the list of transfer and posting on the basis of their choice and the respondents now again sought to transfer the applicant in the hard station at Kohima, the arbitrary order of transfer in respect of applicant is liable to be set aside and squashed.

7. That the Hon'ble Tribunal be pleased to direct the respondents to furnish the period of stay of the officer, mentioned in paragraph 4 for perusal of the Hon'ble Tribunal and also for the ends of justice.

8. That it is a settled law laid down by the apex Court, that departmental Authorities being model employer, required to adopt a fair and just policy of transfer guideline for smooth and fair functioning of the Administrative Authorities but in the instant case there is a clear ~~departure~~ departure of fair policy regarding transfer posting, inasmuch as the applicant's case is concerned.

The transfer of the applicant at Kohima at this stage is mala fide and the order in respect of applicant is being issued to accommodate other officers, who are longer stayee in the present place of posting - at Guwahati or Shillong, therefore the order dated 31.5.96 issued in respect of applicant is liable to be set aside and quashed.

9. That your applicant begs to state that as per order dated 31.5.96 the applicant is going to be relieved on 7.5.96, therefore interference of the Hon'ble Tribunal in the circumstances stated above is highly required and it is a fit case, where the Hon'ble Tribunal should interfere, and protect the right and interest of the applicant.

10. That this application is made bona fide and for the ends of justice.

7. Reliefs sought for :

In the circumstances stated above, the applicant prays for the following reliefs :

- 1) That the order of transfer and posting issued under Establishment order No. Admn. I order No. 29 dated 31.5.96 be set aside and quashed in respect of applicant only.
- 2) That the respondents be directed to retain the applicant in the present place of posting at Guwahati.
- 3) ~~To~~ Pass any other order/orders as deemed fit and proper under the facts and circumstances stated above.

The above reliefs is prayed on the following amongst other -

- G R O U N D S -

1. For that the applicant had already spent more than 8 years at Kohima, under o/o. the A.G. (A & E) Nagaland, Kohima.
2. For that there are numbers of senior and junior officers, who are staying in the same station at Guwahati or Shillong since their initial joining.
3. For that the transfer order dated 31.5.96 issued in respect of the applicant without following any fair policy or transfer guideline.

T. R. Dey

4. For that the action of the respondents as regard issuing of transfer order dated 31.5.96, in respect of applicant is mala fide, arbitrary, and unfair.

5. For that the transfer order dated 31.5.96, in respect of applicant is discriminatory and violative of Article 14 of the Constitution of India inasmuch as, a large number of officers are retained either at Guwahati or Shildong since their initial joining and promotion to the grade of Assistant Accounts officers/section officers.

6. For that the applicant's stay at Guwahati is necessary for completion of the construction of House building for which House building advance is obtained and for regular medical check up of his old aged mother and also for facilitating the education of sister.

7. For that the applicant opted for retention at A. G. (A & E), Guwahati, ~~to exercise~~ in pursuance to Circular DAG(A)/1-3/94-95/373 dated 31.8.94 read with circular dated 2.9.94.

8. Interim relief prayed for :

During the pendency of the case the applicant prays for the following interim relief :

1)

T. R. Dey

- 1) That the order of transfer issued under Establishment order No. Admn. I No. 29 dated 31.5.96, in respect of applicant be stayed till final disposal of this application and further be allowed to continue in the same capacity in the present place of posting at Guwahati.

The above interim prayer is made in the grounds explained in para 7 of this application, and the applicant shall suffer irreparable loss if the interim order is not granted in favour of the applicant.

9. Details of remedy exhausted.

There is no scope of any other remedy except the application before this Tribunal.

10. Matter not pending in any other Court/Tribunal.

11. Particulars of the postal order :

Postal Order No.	- 346190
Date	- 6/6/96
Issued from	- GPO Guwahati
Payable at	- Guwahati.

12. Details of Index.

An Index showing the particulars of documents is enclosed.

13. List of enclosures.

As per Index.

Verification.....

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

I, Shri Tridib Ranjan Dey, son of late Tarini Mohan Dey, resident of Udalbakhra, Kahilipara, Guwahati-34, do hereby verify that the above statement made in ^{para 1 to 13} this petition are true to the best of my knowledge, information and belief.

And I sign this verification on this day of 6th June, 1996.

Place - Gauhati

Date - 6/6/96

T.R. Dey
Signature.

(TRIDIB RANJAN DEY)

Annexure - 1.

To

The Accountant General, (A&E),
Assam, Shillong.

(Through Accountant General, Nagaland, Kohima).

Sub:- Transfer to the Office of the Accountant
General (A&E) Assam, Guwahati.

Sir,

With due respect, I have to honour to submit the following few lines for favour of your sympathetic consideration and kind necessary orders.

That Sir, I have joined in Kohima office as Stenographer on 9th May, 1983 and have been serving as Section Officer (Accounts) since 23rd May, 1990. My service tenure is 10 months in Nagaland Office is nearing completion.

Sir, I have been serving in Kohima for last 8 (eight) years leaving my old ailing mother and younger brother & sisters at my native village 'Bhairabnagar' - a remote village in Karimganj district of Assam having no direct rail communication and no direct bus services from nearby cities and nearest rail head. I cannot keep my family here in Kohima as a hill station will not at all be suitable for my mother.

That Sir, my mother has been suffering from Gastro-enterities (P. U. S.) and other chronic old age

diseases.....

T. Q. Day
A. H. L. ed
Chh. L. ed
A. H. L. ed

diseases since 1985. She had to be admitted in Cachar Medical College Hospital and Karimganj Civil Hospital several times. As per doctor's opinion she require regular medical check-up and continuous treatment for long period. As such, she has been advised to stay nearer to Medical College Hospital etc. Though Silchar Medical College is not too far from our village yet communication difficulties are there. Besides, I living away from my home, have to face much difficulties in attending my mother in case of urgency.

Further, there is no educational facilities in my village. Even for college education my brother & sisters have to make to and fro journey of 19 Kms. daily. Though I remain always anxious for my mother's illness and for sisters, I cannot keep regular communication as a letter takes nearly a month to reach by post.

Sir, in view of all the problems, I have decided to shift my family in Guwahati for better medical and educational facilities. As such, my presence at Guwahati will be very much needed. Moreover, I have been facing financial hardship in maintaining two establishment.

I, therefore, request your goodself kindly to transfer me in the Office of the Accountant General, (A & E) Assam, Guwahati, for which act of your kindness myself and my family shall remain ever grateful.

Dt. Kohima, the
27th Sept. '91.

Yours faithfully,

Sd/- Illegible.
(Tridib Ranjan Dey)

SECTION OFFICER.

T. R. Dey
Accepted
Tridib Ranjan Dey

Annexure - 2.

OFFICE OF THE ACCOUNTANT GENERAL (A_E) ASSAM: SHILLONG.

Admn. 1 Order No. 39.

Dt. 31.8.96.

The following Asstt. Accounts Officers/Section Officers are transferred and posted in the same capacity in the offices shown against their names.

Sl.No. (1)	Name S/Shro/Smti. (2)	From. (3)	To (4)
1)	Md. Abdul Jali.	A. G. (A&E) Assam, Guwahati.	A. G. (A&E) Tripura. Agartala, vice Smti. Kalpana Maz S.O. transferred the A. G. (A&E) Assam Guwahati.
2)	Bishnu Pada Saha, S.O.	A. G. (A&E) Assam, Shillong.	A. G. (A&E) Tripura Agartala, vice Sri Rathindra Ch. Dh A. A.O. transferred to the A. G. (A&E) Assam, Shillong.
3)	Madhusudan Saha, S.O.	-do-	A. G. (A&E) Tripura Agartala, vice Prasanta Dutta, Transferred to A. G. (A&E) Assam, Shillong.
4)	Nirmalendu Bhattacharjee, S.O.	A. G. (A&E), Meghalaya etc. Shillong.	A. G. (A&E) Tripura, Agartala vice Swapan Kr. transferred to A. G. (A&E) Meghalaya etc. Shillong.
5)	Tridib Rn. Roy, A. A.O.	A. G. (A&E), Assam, Guwahati.	A. G. (A&E) Nagaland, Kohima vice Shri L. C. Roy, promoted to A.O.

The.....

*Accepted
Chandra
Ady*

T. R. Roy

Annx. 2.

The officers mentioned at Sl. No. 2 to 4 will stand frlm teh office of the A.G. (A&E) Assam, Meghalaya etc. shillong the afternoon of 3rd June, 1996.

Further, the officers mentioned at Sl. No. 1 and 5 will also stand released from the offices of the A.G. (A&E) Assam, Guwahati on the afternoon of 7th June, 1996.

The above transfer is in public interest.

kr

(Authority :- A.G.'s order at P/82 of file No. Admn.I/7-8/93-94.

Sd/-

DEPUTY ACCOUNTANT GENERAL (Admn.).

Memo. No. Admn.I/7-8/93-94/523-47. Dt. 31.5.96.

Copy forwarded to :-

- Regd. 1. The Deputy Accountant General (A&D) Tripura, Agartala. He is requested to intimate the date of joining of the official transferred to the A.G. (A&E) Tripura, Agartala with a request to release immediately the four officers mentioned at Sl. No. 1 to 4 in Column (4) of this order.
- Regs. 2. The Account General (A&E) Nagaland, Kohima. He is requested to intimate the date of joining of Sri Tridib Rn. Dey, A2A.O.
3. The Deputy Accountant General (Admn.) o/o. the A.G. (A&E) Assam, Christian Basti, Guwahati-5. He is requested to intimate the date of joining of Shri. Kalpana Mazumdar, S.O. of A.G. (A&E) Tripura, Agartala.

4.....

A H - tel
Mhale

4. The Secretary to the A.G. (A&E) Meghalaya, etc. Shillong.
5. The Deputy Accountant General (Admn.) Meghalaya. He is requested to release Sri N. Bhattacharjee, S.O. on 3.6.96 (AN).
6. The Sr. P.A. to the A.G. (A&E) Meghalaya etc. Shillong.
7. The Sr. P.A. to the A.G. (A&E) Assam, Gauhati.
8. Shri Md. Abdul Jalil, A.A.O. O/O. the A.G. (A&E) Assam, Gauhati.
9. Shri Bishnu Pada Saha, S.O.
10. Shri Madhusudan Saha, S.O.
11. Shri Nimalendu Bhattacharjee, S.O.
- Regd. 12. Shri Tridib Rn. Dey, A.A.O. O/O. the A.G. (A&E) Assam, Guwahati.
- Regd. 13. Smti. Kalpana Mazumdar, S.O. O/O. the A.G. (A&E) Tripura Agartala.
- Regd. 14. Shri Rathindra Ch. Dhar, A.A.O. O/O. the A.G. (A&E) Tripura, Agartala.
- Regd. 15. Shri Prasanta Dutta, A.A.O. O/O. the A.G. (A&E) Tripura, Agartala.
- Regd. 16. Shri Swapan Kr. Nath, A.A.O. O/O. the A.G. (A&E) Tripura, Agartala.
17. Sr. Accounts Officer/i/c. TM.Co-ordn. Section.
18. Asstt. Accounts Officer/Esstt (M) section.
19. Admn. I Order Book.
20. G.L. Group.
21. Budget Group.
22. Section Officer/Admn. 2.
23. Section Officer /Esstt.-2(M).
24. Hindi Cell.

Sd/- Illegible.

ESTABLISHMENT OFFICER (A).

Attested
Chakraborty

Handwritten: File No. 14017(1)/88-3(13A)

Handwritten: -27-

Handwritten: ANNEXURE A 8



Handwritten: 17-11-87

Government of India
Geological Survey of India
4, Charing Cross Lane
Calcutta-16.

No. 14017(1)/88-3(13A)

Dated the 26/12/87

Sub:- House Rent Allowance circular

Handwritten: Skn(4)

A copy of the Ministry of Finance Deptt. of Expenditure O.M.No. (1) 11015/41/86-3.11(1)/87 dt. 13.11.87, received from the Ministry of Steel and Mines, Department of Mines, New Delhi under their letter No. 21/17/87-1 F dt. 1st January 88 is forwarded for information and necessary action.

Handwritten: 6/1/88
(K. J. Singh)
Administrative Officer
for Director (Administration)

Dy.No. 51/3/88

The undersigned is directed to refer to para 1 of his Ministry, Office Memorandum of even number dated 19.2.87 regarding central Government employees belonging to Groups 'B' 'C' and 'D' and also para 1 of O.M. of even number dated 22.5.1987 regarding central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under central Government all over the country vide Ministry of Urban Development (Directorate of Estate) O.M.No. 12035/(1)/65-Pol.11(1) dated 7.8.1987, the President is pleased to decide that central Government employees belonging to Groups 'A' 'B' 'C' and 'D' working in various classified cities and unclassified places will be entitled to receive rent in lieu of Rent Free Accommodation as under:-

- (i) Amount charged as licence for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estate)'s above mentioned O.M. dated 7.8.1987 and
- (ii) House Rent Allowance admissible to corresponding employees in that classified city/unclassified place in terms of para 1 of this Ministry's O.M. No. 11013/2/86-E-II(B) dated 23.9.1986 for central Government employees belonging to Groups 'B' 'C' and 'D' and para 1 of O.M.No. 11013/2/36-E-II(E) dated 19.2.87 for Central Government employees belonging to Group 'A'.
2. Other terms and conditions for admissibility of compensation in lieu of rent free accommodation indicated in this Ministry's office Memorandum dated 19.2.87 and 22.5.87 remain the same.
3. These orders shall take effect from 1.7.87.
4. So far as persons serving in the Indian Audit and Accounts Deptt. are concerned, these orders issue after consultation with controller and Auditor General of India.

tkk/-

Sd/-A.N. Sinha
Director

Handwritten: Attested
Full &
Advocate

ORIGINAL ADHOCERATIVE PROCEEDING : SUBORDINATE

Original Application No. 48 of 1991

Date of order : This the 26th day of November 1993.

Shri S. Haque, Vice-Chairman

Shri S.L. Sanglyino, Member (Administrative)

Shri H. Lopdon Ao and fortysix(46) others,
Group 'C' & 'D' employees posted in the
Office of the Director,
Geological Survey of India,
Operation Manipur-Nagaland, Dimapur,
District Kohima, Nagaland

.... Applicants

By Advocate Shri M.H. Tripathi

- Versus -

1. Union of India, through the Secretary
to the Government of India,
Ministry of Steel and Mines,
Department of Mines, New Delhi
2. The Director General, Geological Survey
of India, 27, Jawaharlal Nehru Road,
Calcutta: 700 013.
3. The Deputy Director General, Geological
Survey of India, North East Region,
Asha Kutir, Laitumkhrah, Shillong-793 003
4. The Director, Geological Survey of India,
Operation Manipur-Nagaland, Dimapur. Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C. and
Shri K.K. Choudhury, Addl. C.G.S.C.

.....

14
16/11
Attested
Advocate

(P)

31

HARJUN J.

The applicants numbering 47 (fortyseven) are Group 'C' and 'D' employees under the Director, Geological Survey of India, Operation Manipal-Nagaland, at Dimapur, Nagaland. This application by them under Section 19 of the Administrative Financials Act 1985 claiming House Rent Allowance (HRA) at the rate applicable to 'B' class cities, i.e. at the rate of 15% of their pay and also claim compensation at the rate of 10% in lieu of Rent Free Accommodation (RFA). They claim that Nagaland falls within 'B' class cities for the purpose of HRA and compensation in lieu of RFA.

2. It is an admitted fact that the employees of the respondent Directorate are entitled to rent free accommodation in Nagaland, but they were not given free government accommodation.

3. ✓ Learned counsel Mr H.N. Trikha for the applicants submits that it was established vide judgment dated 31.10.1990 in L.A.No.42(C)/89 of this bench and duly confirmed by the Supreme Court vide order dated 18.2.1993 in Civil Appeal No.2705/91 that Nagaland in general is 'B' class city and the Central Government employees there are entitled for benefits of 'B' class cities granted by various circulars and office memoranda.

Mr Trikha read out the relevant Office Memoranda. Those submissions are not disputed by learned Sr. C.G.S.C. Mr S. Ali. We have perused the judgments and orders referred to by Mr Trikha. Nagaland has been recognised

Attested
Advocate

an 'B' class cities in general vide our judgment and order dated 31.10.1989 in J.A.No.42(C)/89 along with the Supreme Court order dated 10.2.1993 in Civil Appeal No.2795 of 1991. This being the established position, we hold that the applicants were entitled to HRA at the rate of 15% on their pay from 1974 to September 1986; and thereafter, on flat rate basis group wise with effect from 1.10.1986 pursuant to Office Memorandum No.11013/2/86-C-11(B) dated New Delhi the 23rd September 1986 issued by the Ministry of Finance, Government of India (Annexure A/7).

4. After the fixation of the HRA on flat rate basis groupwise the Government of India further granted compensation to Group A, B, C and D employees in lieu of rent free accommodation with effect from 1.7.1987 vide Government of India, Ministry of Finance, Department of Expenditure O.M. No.11015/4/86-C.11(B)/87 dated 13.11.1987 which reads as follows:-

" The undersigned is directed to refer to para 1 of this Ministry's Office Memorandum of even number, dated 19.2.1987, regarding Central Government employees belonging to Groups 'B', 'C' and 'D' and also para 1 of O.M. of even number, dated 27.5.1987, regarding Central Government employees belonging to Group 'A' on the subject noted above and to say that consequent upon fixation of flat rate of licence fee for residential accommodation under Central Government all over the country vide Ministry of Urban Development (Directorate of Estates)'s O.M.No.12235/(1)/85-Pol.II(Vol.III) (i), dated 7.8.1987, the President is pleased to decide that Central Government employees belonging to Groups 'A', 'B', 'C' and 'D' working in various classified cities and unclassified places will be entitled to compensation in lieu of Rent-free Accommodation as under -

- (i) Amount charged as licence fee for Government Accommodation as fixed in terms of Ministry of Urban Development (Directorate of Estates)'s above mentioned O.M. dated 7.8.1987; and

Attested
Sd/-
Shri

monthly emoluments calculation with reference to the pay of respective applicants with effect from 1.12.1987 besides MRA. The respondents shall realize 10% of pay of the applicants paid in excess with salary for the month of November 1979.

7. The respondents shall implement the above directions and pay all arrears within three months (90 days) from the date of receipt of copy of the order.

8. Intimate all concerned immediately.

S/- S. K. Singh
VICE CHAIRMAN
S/- S. L. Singh
MEMBER (ADMS)

TRUE COPY

(571052) 11-1983

Section Officer (Judicial)
Central Administrative Tribunal
Government of India, New Delhi

Attested
Sd/- Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.124 of 1995

With

Original Application No.125 of 1995

Date of decision: This the 24th day of August 1995
(AT KONGLA)

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

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

O.A.No.124/95

Shri Utsav Sinha and 116 others

All are serving in the Office of the Garrison Engineer,
866 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by
The Secretary, Defence,
Government of India, New Delhi.
2. The Garrison Engineer,
866 EWS C/o 99 APO.
3. The Garrison Engineer,
869 EWS, C/o 99 APO.

.....Respondents

O.A.No.125/95

Shri N. Limbu and 14 others

All are serving in the Office of the Garrison Engineer,
868 EWS C/o 99 APO.

.....Applicants

- versus -

1. Union of India represented by
The Secretary, Defence,
Government of India, New Delhi.
2. The Garrison Engineer,
868 EWS, C/o 99 APO.

.....Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed

For the respondents in both the cases : By Advocate Shri S. Ali, Sr. C.G.S.C.

.....



lull

*Attested
Advocate*

- 24 -

ORDER

CHAUDHARI.J. V.C.

Mr A. Ahmed for the applicants.

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

Both these cases involve same question and therefore are being disposed of by this common order.

Facts of O.A.No.124 of 1995:

The applicants belong to Group "C" serving in the Defence Department as civilian employees. The application is restricted to applicants at serial No. 1 to 117. These applicants are from inside North Eastern Region and are serving in different capacities as Central Government employees in Nagaland under GE 868 EWS 99 APO. Their grievance is that they are being denied the payment of:

- i) Special (Duty) Allowance (SDA) payable under Memo No.20014/3/83-E-IV of the Government of India, Ministry of Defence dated 14.12.1983 read with O.M.No.4(19)/83/D, Civil-I dated 11.1.1984
- ii) House Rent Allowance (HRA) as per the circular No.11013/2/86-E-II(B) dated 23.9.1986 issued by the Government of India, Ministry of Finance
- iii) Special Compensatory (Remote Locality) Allowance SCA(R) under the Ministry of Defence letters No.16037/E/A2 HQ 3 Corps (A) C/o 99 APO and No.B/37269/AG/PS3(a)/165/D/(Pay)/Service dated 31.1.1995
- iv) Field Service Concession (FSC) vide letter No.16729/GG4 (clv)(d) dated 25.4.1994 of Army Headquarter, New Delhi, although they are entitled to get these concessions.

2.

Although no written statement has been filed, Mr S. Ali, Sr. C.G.S.C., fairly states that we may decide the matter.



- 25 -

In the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

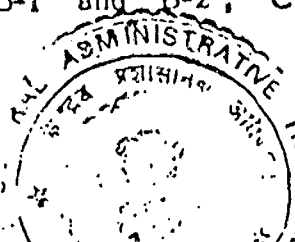
Facts of O.A.No.125 of 1995:

3. The applicant Nos.1 to 15 (other applicants already deleted) who belong to Group "A", "B", "C" and "D" employed in the Defence Department as civilian employees and posted in Nagaland make a grievance that the respondents are denying them the benefit of SDA, HRA, SCA(RL) and FSC although they are entitled to get these concessions.

4. The respondents have not filed any written statement. However, Mr S. All, learned Sr. C.G.S.C., fairly states that we may decide the matter in the light of earlier decisions on the point although he has instructions to say on behalf of the respondents that they oppose the claim.

REASONS (common to both the cases) :

5. The applicants place reliance upon the O.M. dated 14.12.1983 which provides that Central Government civilian employees who have All India Transfer Liability will be granted SDA at the rate prescribed thereunder per month on posting to any station in the North Eastern Region. Likewise, the letter of Ministry of Defence dated 31.1.1995 provides that the Defence Civilian Employees serving in the newly defined Field Areas and Modified Field Areas will be entitled to payment of SCA(RL) together with other allowances as may be admissible. The O.M.dated 23.9.1986 Issued by the Ministry of Finance, (Department of Expenditure) provides that on the recommendation of the 4th Pay Commission it has been decided that the Central Government employees shall be entitled to HRA, on a slab basis related to their pay and separately prescribed for "A", "B-1" and "B-2", "C" class and "Unclassified" cities with effect



Attested
Addl Secy
Advocate
from.....

from 1.10.1986. It is further provided that HRA at the rates prescribed shall be paid to all employees (other than those provided with Government home/hired accommodation) without requiring them to produce rent receipts, but on compliance with the prescribed procedure thereunder. It also provides that where HRA at 15% has been allowed under special orders the same shall be given as admissible in "A", "B-1" and "B-2" class cities and it shall be admissible at the rates in "C" class cities in other areas. The memorandum issued by the Army Headquarter - Org 4(civil)(d) dated 25.4.1994 bearing No.16729/ GG4(Civ)(d) on the subject of FSC to civilians paid from Defence Service Estimates including civilians employed in lieu of combatants and NCSE (both posted and locally recruited) provides that it is proposed to extend the same concessions to Defence civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas and the same shall be paid at the rates prescribed under the said memorandum. It has, however, been provided that SCA such as bad climate allowance etc. shall not be in addition to these allowances.

6. The applicants have based their respective claims on these memorandums.

7. It appears that the applicants in both the cases had filed a Civil Suit in the court of DC(Judicial), Dimapur, Nagaland, being Civil Suit No.255/89 making the same claims. The civil court by judgment and decree dated 19.12.1994 has allowed the claims and directed the respondents to make the payment accordingly. The civil court relied upon the decision of this Tribunal in O.A.Nos.48, 49 and 50 of 1989 of the Central Administrative Tribunal, Guwahati Bench. The decree has not been complied with, but the applicants have now stated in the applications that they would not proceed with the execution of the decree as they have now realised that they had obtained the decree from the court which lacked inherent

jurisdiction.....



Handwritten signature/initials

-27-

jurisdiction to entertain and try the suit in view of the bar of jurisdiction arising under the provisions of the Administrative Tribunals Act and, therefore, they have approached this Tribunal for relief by these applications. Since the applicants were agitating the claim in respect of SDA and HRA in a wrong forum it is just and proper to give them the benefit of exclusion of the period of pendency of the civil suit for the purpose of holding the said claims within limitation in these applications. The relief sought in respect of the other two claims is within jurisdiction.

8. The question of entitlement for all these claims in respect of Defence civilian employees have^{been} exhaustively examined by us in the decision in the case of S.C. Omar, Assistant Executive Engineer, -vs- Garrison Engineer and another (O.A.No.174 of 1993) reported in SLJ 1995(1) CAT (Guwahati Bench)^{p.74}. We have held in that case that SDA and SCA(RL) are payable to civilians with All India transfer liability posted in Nagaland even if they get Field Service Concessions. We have not accepted the plea that admissibility of Field Service Concession deprives them of these benefits. In view of this conclusion since facts are identical and as we had also referred to the earlier decisions in O.A.No.48/89 and O.A.No.49/89 dated 29.3.1994 in support, we are satisfied that the relief claimed by the applicants in the instant applications relating to SDA and SCA(RL) must be allowed. We, therefore, declare that the applicants in the respective applications are entitled to be paid SDA with effect from 1.12.1988 or from the actual date of posting

as.....



Attested
 [Signature]
 [Signature]

as the case may be. We further declare that the applicants in the respective applications are entitled, to be paid SCA(RL) also, with effect from 1.10.1986. For specifying these dates in respect of these two reliefs we rely upon O.M.No.20014/16/86/E-IV/E-II(B) dated 1.12.1988. This is consistent with the decision in S.C. Omar's case (Supra). It is, however, made clear that this applies only to such of the applicants who are appointed outside N.E. Region, but are posted in N.E. Region on tenure basis.

9. Consistently with the view we have taken in Omar's case on the nature of FSC and with the view taken that SDA and SCA(RL) are payable independently of FSC we hold that on the subject the applicants in the respective applications are entitled to draw the same as provided in the letter of the Government of India No.37269/AG/PS 3(a)/D(Pay & Services) dated 13.1.1994 with effect from 1.4.1993 subject to fulfilment of other conditions prescribed therein.

10. Lastly, in so far as the claim for HRA is concerned we follow our decision in O.A.No.48/91 dated 22.8.1995 and hold that under the O.M. dated 23.9.1986 the applicants are entitled to draw the HRA prescribed for B class cities with effect from 1.10.1986 at the rates prescribed from time to time since 1.10.1986 whether on percentage basis or flat rate or slab basis till 28.2.1993 and thereafter to be regulated in accordance with the O.M.No.2(2)93-E-2(B) dated 14.5.1993 with effect from 1.3.1991 and continued to be paid.

11. For the purpose of the aforesaid order it is made clear that as now held by the Hon'ble Supreme Court the benefit of SDA is admissible only to those employees who are appointed outside the North Eastern Region and

Attested
Full &
Advocate



7
-30-

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below.

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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



to the respondents to ascertain the case of each applicant for that purpose if necessary. Further it is made clear that this order has been passed on the footing that all the applicants in the two cases are posted in Nagaland.

12. For the aforesaid reasons following order is passed:

(A) O.A.No.124/95:

i). It is declared that LDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.



[Handwritten signature]

Attested
[Handwritten signature]
Advocate

-31-

(B) O.A.No.125/95:

i) It is declared that SDA is payable from 1.12.1988.

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986.

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date

and.....



[Handwritten signature]

[Handwritten signature]
Advocate

-32-

and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

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



Sd/- CHAIRMAN

Sc/- MEMBER (A)

Certified to be true copy

प्रमाणित प्रतिलिपि

COUNT OFFICER

Central Administrative Tribunal

22/09/95
AC B/M

HQ 3 Corps (A)
C/O-99 AFC

06 Mar 95

057/R/A2

At A, B, C, E & F

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

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

Deepak Khurana
(D Obhral)
Major
DAAG
for COS

Mr/_____
Copy of above quoted letter.

AS ABOVE

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

(i) Defence Civilian employees serving in the newly defined
Field Areas will continue to be extended the concessions
enumerated in Annexure 'C' to Govt letter No A/22534/AG/PS 3
(a)/97-S/D(Pay/Services) dated 25.1.1964. Defence Civilian
employees serving in newly defined Modified Field Areas will
continue to be extended the concessions enumerated in Appx B
to Govt letter No A/25761/AG/PS 3(b)/146-S/2/D (Pay/Services)
dated 2nd March 1968.

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

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

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

Yours faithfully,

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

Under Secretary, to the Govt of India

Attested
bl
Advocate

OFFICE OF THE C.D.I. UDAYAN VIHAR, FARUKI, GUWATI-171
Part.I.OO. No. 21 Dated 9.5.95.

Sub:- Field Service Concessions to Defence Civilians
 serving in the newly defined Field Areas.

Govt. of India, Ministry of Defence New Delhi letter
 Nos.B/37269/AG/PS3(a)/165/D/(Pay)/Services) dated 31.1.95 and
 B/37269/AG/PS3(a)/730/D(Pay/Services) dated 17.4.95 are
 reproduced below for information and necessary action.

Please acknowledge receipt.

No.Pay/01/IX
 Dated: 26/5/95

Sr..O. (Pay)

Distribution:-

- a) All sub-offices :- As per standard List.
- B). All section in M.O.
- c) Spare

Sr..AO.(Pay)

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

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

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

2. These orders will come into force w.e.f. 1st April, 93.

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

Sd/-

(L.T. Tluanga)

Under Secretary to the Government
 of India.

Attended
Self
Advocate

RESTRICTED

No. B/37269/AG/PS3(a)/730/D(Pay/Service)
Government of India
Ministry of Defence

New Delhi, the 17th April, 1995.

CORRIGENDUM

The following amendment is made to this Ministry's letter No. B/37269/AG/PS3(a)/165/D(Pay/Services) dated 31.1.1995, regarding Field Service Concessions to Defence Civilians serving in the newly defined Field Areas:-

Para 1(ii) may be deleted and substituted as under :-

"The Defence Civilian employees, serving in the newly defined modified Field Areas, will continue to be entitled to the Special Compensatory (Remote Locality) Allowance and other allowances as admissible to Defence Civilians, as hitherto, under existing instructions issued by this Ministry from time to time. However, in respect of Defence Civilians employed in the newly defined Field Areas, special compensatory (Remote Locality) Allowance and other allowances are not concurrently admissible along with Field Service.

2. This corrigendum issues with the concurrence of the Finance Division/AG of this Ministry vide their I.D.No. 388/P. dated 5.4.1995.

Yours faithfully

(L.T. Tluanga)

Under Secretary to the Govt. of India
Teke: 3012739)

To

The Chief of the Army Staff
New Delhi

Copy to:-

As per list attached.

Attested
Jyoti K
Advocate

Dated the 13th January 1994

The Chief of the Army Staff *known*

Sub : Field Service concessions to Army personnel
Implementation of the recommendation of the
4th Central Pay Commission.

Sir,

I am directed to say that the 4th Central Pay Commission in Para 28, 98 of their Report, has recommended that the existing classification of areas for the grant of field service concessions and the concessions admissible in field areas to Armed Forces personnel should be reviewed by the Govt. The structure of field service concessions has since been reviewed. I am directed to convey ~~existence~~ the sanction of the President to implementation of the following decisions taken in this regard in so far as the officers and personnel below officer rank of army (including army postal service) are concerned.

1. Classification of Areas. At present field areas are classified into three types, namely, Full Field, Modified Field and Improved Modified Field Areas. The areas in which field service concessions are admissible have been re-defined. Hereafter, field areas will be classified as Field areas and Modified Field areas only.

2. Pre-requisites for classification of an area as Field Area and Modified Field area will be as follows :-

Field Area. Field Area is an area where troops are deployed near the borders for operational requirements and where imminence of hostilities and associated risk of life exists. Troops in such areas are located for reasons of operational considerations alone and are not living in Cantonments.

Modified Field Area. Modified Field area is an area where troops are deployed in support of Combat echelons/troops in an operational support role. Degree of operational readiness is slightly lower than that in Field Area, though sustained surveillance continues.

3. The details of newly defined Field Areas and Modified Field Areas are contained in Appendices A & B respectively.

4. Alternation, if any, the Field/Modified Areas will be notified by the Government of India from time to time.

Contd.....2/-

RESTRICTED

Attested
Sd/-
Advocate

2.8 Areas classified as field areas and modified Field Areas will be reviewed every three years. The review process will commence one year in advance of the completion of three years.

3.1 Concessions.— Monetary Allowance: Personnel serving in Field areas and modified field areas will be eligible to the grant of compensatory field area allowance and compensatory modified area allowance, respectively.

3.2 The rates of the allowances are given below :-

Sl No	Rank.	Rate of compensatory field area allowance	Rate of compensatory modified filed area alicce
		In Rs PM	In Rs PM
1.	Lt Col & above	975	375
2.	Lt Col(TS) & Maj	895	350
3.	Captain	820	325
4.	2 Lt/Lt	780	300
5.	JCOs including Hony Commissioned Offrs	650	225
6.	Havildar	450	175
7.	Sep/Plk including erstwhile NCA (E)	375	150

3.3 The conditions. Governing the grant of compensatory filed Area, alicce and modified field area alicce in the case of Offrs will be as follows :-

Admissibility of compensatory field area alicce and compensatory modified field area alicce will commence from the date on which an Offr arrives in field area/modified field area on being posted to a unit/Formation field area subject to the following exceptions :-

Exceptions. An Offr who is absent from a field area/modified field area in any one or more of the following circumstances shall be eligible for compensatory field area allowance/compensatory modified field area allowance.

(1) For a maximum period of 15 days :-

(a) When placed on the sick list provided that immediately on the expiry of the period on the sick list, he returns to an area at which the allowances is admissible.

(b) When on Casual leave

(c) While on transit from one field area/modified field area to another.

Contd....3/-

Attended
L.H.L.
Advocate

(ii) For a maximum period of 3 months. While on temporary duty subject to the fulfilment of the following conditions :-

(a) The officer continues to be borne on the strength of the Unit/Formation in the field/modified field area.

(b) The officer in the ordinary course returns to duty to a ~~part~~ field/modified field area (not necessary/ the one from which he went) on termination of the temporary duty.

(c) The period of absence is spent wholly on duty.

NOTE : Compensatory field area allowance/compensatory modified field area allowance will not be admissible to officers holding posts elsewhere who proceed on temporary duty from field/modified field area.

3.3.2. Compensatory field area allowances/compensatory modified field area allowances will not be admissible in the following circumstances :-

(a) When an officer is absent from the field area/modified field area on Annual leave or sick leave or any other leave Except casual leave.

(b) When an officer from a peace area is especially appointed to officiate in a vacancy of less than 3 months duration if the permanent incumbent continues to draw the compensatory field area allowance/compensatory modified field area allowance under the exceptions mentioned above.

NOTE : Compensatory field area allowance/compensatory modified field area allowance will not be admissible in addition to ~~to~~ allowance, ~~foreign~~ foreign allowance, compensatory daily allowance for serving ex-India.

3.4 The conditions for the drawal of compensatory field area allowance and modified field area allowance in the case of JCOs/OR including JEs(S) will be the same as given in Para 1 of annexure A to this Ministry's letter No A/02304/AG/PS3(a)/97-S/D(Pay/services) dated 25-1-64 as amended.

4.1 Admissibility. Those rates of allowances will be admissible to :-

(a) Personnel serving in detachments, Units and Fms in areas mentioned in Appendices A & B.

(b) Personnel of Defence Security, Corps employed with Unit whose personnel are eligible for the grant of those concessions.

4.2 Lists of Fms/Units which are in field area of modified field area and are eligible to field service concessions will be notified by the Corps Commander to PAOs concerned quarterly i.e. for the QE May, Aug Nov and Feb every year by the 10th of the month subsequent to the close of the quarter.

Contd....4/-

RESTRICTED

Attested
[Signature]
Advocate

4.3 Other concessions : Other concessions in kind at present admissible in full field areas as per details given in Annexure A to the Ministry's letter No A/02584/AG/PS3(a)/97/S/D(Pay/Services) dated 25-1-64, as amended will continue to be admissible in the newly defined field areas as given in Appx A to this letter. Similarly, the concessions admissible in Modified field areas as per details given in Appendix A to this Ministry's letter No A/25761/AG/PS3(b)/146-S/2/D(Pay/Services) dated 2.3.65 a. amended will be admissible in the modified field areas as per appendix B to this letter.

5. Three allowances will, however, not be admissible to :-
- Static formations/Units eg. Military Farms, MES, Recruiting Office, Training Centres & Establishments.
 - NCC Directorates and Units.
 - IA Units unless embodied.
 - Record Offices and similar Establishments.

5.1 High altitude/Uncongenial Climate Allowance. Personnel serving in Field areas which are situated at a height of 9000ft and above including uncongenial climate areas below height of 9000 ft will be entitled to High Altitude/Uncongenial climate allowances. A lower rate would be applicable for areas at with an altitude of 9000 ft to 15,000 ft and higher rate for areas above 15,000 ft (excluding Siachen). The details of these areas are given in Appx C. The rates of High Altitude/Uncongenial climate allow are given as under :-

Sl No	Rank	Cat-I (Height from 9000 ft to 15000 ft incl uncongenial climate areas below heights of 9000 ft)	Cat II (Heights above 15000 ft (excluding Siachen))
1.	Lt Col & above	400	600
2.	Lt Col (TS) & Maj	350	525
3.	Captain	250	375
4.	2Lt/Lt	225 200	225 300
5.	JCs incl Hon'y commissioned offrs	180	270
6.	Havildar	140	210
7.	Sep/Nk Including erstwhile NC(E)	100	150

5.2 High Altitude/Uncongenial climate allowance will be admissible in addition to the compensatory field area allow and other concessions in kind

Contd....3/-

RESTRICTED

Attested
Sd/-
Advocate

The other conditions governing the grant of high altitude/uncongenial climate allowance as given in this Ministry's letter No. 69/3/75/D(Pay/Services) dated 28.2.75, as amended shall continue to be applicable.

Siachen Allowance. Personnel serving in Siachen Glacier area will be eligible to the grant of Siachen Allowance at the following concessional rates :-

- (a) Officers - Rs. 1,200/- PM
- (b) JCOs/OR - Rs. 800/- PM

Siachen allowances will be admissible in addition to compensatory field area allowances but not with high altitude Uncongenial climate allowance. Other conditions governing grant of Siachen allowance as contained in this Ministry's letter No. 1(2)/91/D (Pay/Services) dated 01 May 91 will continue to be applicable.

Consequential Effects : Oftrs/JCOs/OR who have been allowed to retain family accommodation at the last duty station as on the date of issue of these orders and who on issue of these orders will continue to be entitled to retain such accommodation may continue to retain the accommodation till such time as married accommodation at present duty station is made available. Alternatively, their families may be allowed to move to a selected place of residence/quarter at Government expense, if they so choose, in accordance with existing instructions.

Personnel of formations/Units who will not be eligible to the grant of field service concessions, consequent upon the formation/Unit being outside the newly defined concessional areas will be governed by normal conditions applicable in peace area for all purposes.

Concessions on Attachment

(a) Individuals/Attachments from Form/Units not served by these orders but who are attached for operational purposes to formations or units deriving the field service concessions will, if the attachment is for less than two weeks, be entitled to the concessions at present admissible under para 6 of Annexure A to this Ministry's letter No. 402594/AG/PS3(a)/97-6, S/D (Pay/Services) dt 25.1.64 as amended.

(b) If the attachment is for two weeks or more, the allowance; compensatory field area allowance/compensatory modified field area allowance under these orders as also the concessions as applicable as per orders referred to in para 3 (a) above be admissible.

(c) No cash TA/DA will be admissible in either case.

1. Date of Effect These orders will come into force with effect from 1st April 1993.

Contd.....6/-

*Attested
by SP
A. Wrote*

9.2. Consequent upon the coming into force of the revised orders, the following monetary allowances will stand withdrawn from 1.4.93 except in cases referred to in para 11.2. below:-

- (a) Special adhoc allowance of Rs. 70/- PM admissible for officers.
- (b) Separation allowance of Rs. 140/- PM admissible for Offrs.
- (c) Special compensatory (field) allowance ranging from Rs. 53 to Rs. 23 PM admissible for JCOs/OR incl MC(E).

10. Special compensatory (A-note Locality) allowance. This allowance which is at present admissible in modified field areas/peace areas on the civilian pattern will also stand withdrawn but w/e 1st Feb 1994.

11.1. Adjustments : The allowances mentioned in para 9.2 above drawn by the individuals concerned after 1st April, 1993 will be adjusted against the compensatory field area allowance and compensatory modified field area allowance, if admissible, under these orders.

11.2. Where, however, an individual has become disentitled to any monetary allowance consequent upon change in the classification of area, no recovery will be made of the monetary allowance already availed of by an individual under the existing orders upto the date of issue of this letter.

12. The existing orders on the subject of field service concessions will stand modified to the extent indicated above.

13. The concessions to be admissible to defence civilians serving in the newly defined field areas will be notified separately.

14. Suitable administrative instructions for implementation of these orders will be issued by the Army HQs, in consultation with CGDA.

15. The issues with the concurrence of Finance Division of this Ministry's vide letter HC No 5(1)/80-44(8-PA) dated 12.1.94.

Yours faithfully,

SG/- x x x x x
(IA Khan)

(Under Secy to the Govt of India)

RESTRICTED

Attested
Sd/-
Advent

30. 31 -42-
Appendix 'A' to Govt of India
Ministry of Defence letter No
37266/VG/PS 1(a)/90/D(Pay/Services)
dated 13 Jan 94
(Refers to Para 2.3)

LIST OF FIELD AREAS

1. EASTERN COMMAND

(a) Arunachal Pradesh

(1) Tirap and Changlang Districts.

(11) All areas North of line joining point 4448 in
LZ 4179-Nukme Dong MS 3272-Sepia MT 2969-Palin MO
9213 Daparijo MR 5841 Along NL-1273-Hunli NM 0170
Tawaken MT 8136-Champai Bun NM 8814 all inclusive.

✓(b) Manipur and Nagaland States.

(c) Sikkim : All areas North and NE of line joining Phalut
LV 4750-Gezing LV 7059-Manikha LV 6160-Penlang La LW 0666
Rungli LW 1448-BP 1 in LW 453 on Indo-Bhutan Border - all
inclusive.

2. WESTERN COMMAND

Himachal Pradesh : All areas East of line joining Umasila
NV 3951 Udaipur NY 8663 Mani Karan SB 2300 - Pir Parbat
Pass TA 1439 - Taranda TA 2335 - Barasua Pass TA 8801 all
inclusive.

3. CENTRAL COMMAND

Uttar Pradesh : All area North and NE of line joining
Barasua Pass Gangnani TG 1362- Govind Chat TG 0937-Tapevan
TH-1822-Munsiari TH 3982-Relaged TO 2466 all inclusive.

4. NORTHERN COMMAND

(a) Ladakh Sector : Areas North and East of line joining
Zojila MU 3036 Baralachala NE 6672, along the great Himala-
yan Range all inclusive.

(b) Valley Sector : All areas west of line joining point
1356 in LR 5470 Gulmarg MT 3105 Naushara MY 3105 Rn Ringapat
MT 2133 Handwara MT 2043 Laingyal MT 2339 Point 8405 in NG
4365 North of line joining point 3403 Bunakut MT 5453 Razan
NW 2239 Zojila all inclusive.

(c) Jammu-Rajouri Sector : All areas west of line joining
Tip of Chicken Neck RD 7073 Canal Junction RD 6364 Mawa
Baramulla MY 3354 Point 1555 in LR 5470 all inclusive.

.....
EXTRACTED

Attested
by
Private

-43-
~~RESTRICTED~~ -48-
RESTRICTED

Appendix B

LIST OF QUALIFIED FIELD AREAS

SOUTHERN AND WESTERN COMMAND

(a) Rajasthan and Punjab : Areas West of line joining Jaisal, Barmer, Jaisalmer, Pokharan, Udasar, Mahajan, Raney's, Suratgarh, Lalgoh, Jallin, Alohbar, Govindgarh, Fazilka, Jandiala Guru, Moga, Dholewai, Beas, Sir Sarangwal, Hussainiwala, Dera Baba Nanak, Laisain Bulge upto the International Border all inclusive.

(b) Haryana : Satnad (Hissar)

(c) Himachal Pradesh : Areas North of line joining Narkhanda, Koylong upto field area line/high altitude line.

EASTERN COMMAND

(a) Assam and Arunachal Pradesh :

(i) Cachar and North Cachar Dists of Assam including Silchar.

(ii) All areas of Arunachal Pradesh and Assam North of River Bramaputra less Tejpur, Misamari and field areas.

(b) State of Mizoram and Tripura.

(c) Sikkim and West Bengal : Areas Northwards of line joining Sevoke LV 9112 Burdong LV 9850 Sherwan LV 9453 Bagrakot LW 0113 Dandio LW 1109 New Mal Hasimara QB 7894 Ganga Ram Tea Estate CA 1377 upto the High altitude line/field area line/International border all inclusive.

CENTRAL COMMAND

Areas North of line joining Uttarkashi, Karon Prayag, Gauchar, Joshimath, Chameli, Rudra Prayag, Askote, Charamagad, Dharchula, Kasauli and Narendra Nagar upto International Border all inclusive.

NORTHERN COMMAND

(a) Valley Sector : Areas West of line joining Pattan, Baramulla, Kupwara, Drugmulla, Panges, Mankes, Bunyar, Pantha Chowk, Khanabal, Anantnag, Khundru and Khru upto the existing High Altitude line all inclusive.

(b) Jammu Region : Areas West of line joining DP 19 Brahmana-di-Bari, Jindra, Dhansal, Kitra, Sanjhi Chatt, Satote, Patni Top, Ramban and Banihal upto the existing High altitude line all inclusive.

.....
RESTRICTED

Attested
[Signature]
Advocate

-33-34- 44-
RESTRICTED

A. J. 100/100 to Govt. of India
Min. of Defence No. 17009/100/053
(a)/90/0 (a)/Services) dt 13 Jan 94

(Refers to para 5.1)

LIST OF HIGH ALTITUDE (UNCONVENTIONAL CLIMATE) AREA

1. JAMMU AND KASHMIR - Area along the following line beyond:-

Coast. Fire Line Mullah crossing IN 2180 SOUTH along Mullah to HALA June 1969 SOUTH along Mullah to MICHINAI BAR IN 2043 SOUTH EAST along KASHMIR/LADAKH boundary passing through heights 17573 (NN 73) 19590 (NN 72) 19830 (NN 91) 17672 (NN 80) FARIALE (No 10) SOUTH EAST along boundary to GR NT 2490 SOUTH along boundary to point 21570 (NT 2490) again along boundary to GR NT 2758 EAST AND NORTH EAST along boundary to GR NT 4269 SOUTH EAST along boundary to HAGSHULA (NT 5662) SOUTH EAST along boundary to UMASILA (NT 6850) SOUTH and SOUTH EAST along boundary to KANGLA JOT (NT 9420) KAZALWAN JUREZ REGION, RING PAIN AND RING BALA REGION; TITHRAL AND TANCHAR REGION AND DODA.

2. HIMACHAL PRADESH : Area along the following line and beyond :-

Along foot path and then nullah to point 12380 (NZ 0891) along MIYAR nullah to its junction with CHENAB at NY 8663) SOUTH EAST along R CHENAB to KHOKEAR (NZ 43) to RAHLA (NZ 47) and straight line to MANI KARAN (SE 6486) along ~~XXXXXXXXXXXXXXXXXXXX~~ PARBATI R TO PIR PARBATI.

3. UTTAR PRADESH : Area along the following line and beyond, BARSAN pass (944873) point 20370 (949859) HARSIL (973852) KEDARNATH (TG 5555) LADAKHATH (TG 9053) ~~XXXXXXXXXXXXXXXXXXXX~~ (TH 0739) (excluding town limits) to JUMARAN (TH 1119) KALANKA (TH 5028) MILAM (TH 7423) SELA (TG 2592) CHITIALEKH (TG 4994) and area above 9000 ft in the designated field areas in Annex 'A'.

4. NEFA : Area along the following line and beyond :-

Point 14600 (MS 2881) to SENSE OZONT (MS 2838) MATAN (MS 6777) SALPMG (MT 1379) LARIM (MT 2289) KHAYELA (MT 2853) NYARIN (MO 7523) to 8th mile stone (One ZERO NYARIN Road) 8 th mile stone (on LAPORJO - LIMKING ROAD) poyom ~~XXXXXXXX~~ (MT 9379) 2nd mile stone north of YARE (MP 9375) DOSING (NL 3592) DALHON (NE 16208) AHINKOLIN (NE 8811) KHONLI (NG 2401) GURUDON (NN 4592) LAFON (NM 7579) HAYLIANG (MT 6199) CHORAN (MT 9943) KAMPHU (NZ 0125) point 6490 (MT 1402) VIJAYNAGAR (MT 1150)

5. SIKKIM

North and North East of the line running from point 12795 (IN 96) point 10140 (LT 17) point 10405 (LT 38) point 9010 (LT 24 46) Nala Junction (LT 5373) PAF UTHAN (LT 5751) point 0030 (LT 64)

RESTRICTED

Attested
[Signature]
[Signature]

-45-

Appar Mahanideshalaya Sangathan
Org 4 (Civ) (d)
Adjutant General Shakra
Sana Mukhyalaya
Addl Dir Gen of Org/Org 4 (Civ)(d)
Adjutant General Branch
Army Headquarters
HQ Delhi-110 081

16729/Org 4 (Civ)(d)

25 Apr 94

Headquarters

Southern Command
Eastern Command
Western Command
Central Command
Northern Command

**FIELD SERVICE CONCESSIONS TO CIVILIANS PAID FROM
DEFENCE SERVICES ESTIMATES INCLUDING CIVILIANS
EMPLOYED IN LIEU OF COMBATANTS AND NCs (E) (BOTH-
CST AND LOCALLY RECRUITED)**

1. On the basis of the Fourth Central Pay Commission recommendation, the existing classification of areas for grant of Field service concessions has been revised recently, vide Min of Def letter No 37260/AG/25-3(a)/90/D(Pay/Services) dt 13 Jan 94. Some of the concessions/Compensatory Allowances have also been revised in respect of Service Personnel. As per the field Govt order, field areas will be classified as field areas and modified field areas only. The details of newly defined Field areas and modified field areas contained in Appx 'A' and 'B' respectively to this letter.

2. It is proposed to extend the same concessions to Defence Civilians employed in the field areas as they serve side by side with services personnel under similar conditions in the given areas. They are also required to move in to the border areas and also serve in dense jungles risking their lives for performing duties assigned to them.

3. The following proposals for concessions/allowances to defence civilians posted in these areas have been proposed to Ministry of Defence for consideration :-

(a) Defence Civilians serving in field areas and modified field areas to be eligible to the grant of field area allowances and compensatory modified field area allowances respectively at the following rates :-

	Rate of Comp field area allowance	Rate of Comp modified field area allowance
For pay upto 900/- per month	Rs. 375/-PM	Rs. 150/- PM
For pay exceeding Rs. 900/- but not exceeding Rs. 1500/-PM	Rs. 450/- PM	Rs. 175/-PM
For pay exceeding Rs. 1500/-PM but not exceeding Rs. 2300/-	Rs. 650/-PM	Rs. 225/-PM
For pay exceeding Rs. 2300/-PM but not exceeding Rs. 3000/-PM	Rs. 750/-PM	Rs. 300/-PM
For pay exceeding Rs. 3000/-PM	Rs. 975/-PM	Rs. 325/-PM

Attested
1-11-94
Advocate

(b) The special compensatory allowances, Bad climate allowances etc not to be addition to this allowance.

(c) The other concessions in kind at present admissible in full field areas as per details given in Annexure 'C' to M. Min of D. OM No A 2584/AG/PS-3(a)/97-S/D(Pay/Ser. 1992) dated 25 Jan 64 as amended from time to time to continue admissible in the newly defined Field areas listed at Appx 'B' to this letter.

(d) The above mentioned allowances will not be admissible to :-

(i) Static Formation/Units eg, Military Farms, MES, Recruiting Office, Training Centres and establishments.

(ii) NOC Directorates and Units.

(iii) TA Units unless embodied.

(v) Record Office and similar establishments.

4. High Altitude/Uncongenial Climate Allowance-Civilians serving in field areas which are situated at a height of 9000 ft and above including uncongenial climate areas below the height of 9000 ft to be entitled. The details of these areas are given in Appx 'C' to this letter. The rates of High Altitude/Uncongenial climate allowances are given as under :-

Pay	Cat-I (Height from 9000 ft to 15000 ft incl uncongenial climate areas of 9000 ft)	Cat-II (Height above 15000 ft excl Siachen)
For pay not exceeding Rs. 950/-	Rs. 100/-PM	Rs. 150/-PM
For pay exceeding Rs. 950/-PM but not exceeding Rs. 2300/-PM	Rs. 140/-PM	Rs. 210/-PM
For pay exceeding Rs. 2300/-PM but not exceeding Rs. 3000/-PM	Rs. 180/-PM	Rs. 270/-PM
For pay exceeding Rs. 3000/-PM	Rs. 200/-PM	Rs. 325/-PM

The High Altitude/Uncongenial Climate Allowance to be admissible in addition to the field compensatory allowance and other concession in kind.

5. Command Headquarters are requested to examine the above proposal submitted to Ministry of Defence and given their comments. Annual financial implications on the above proposal may please be worked out separately in respect of Field Area Allowance, Modified Field area allowance and High Altitude/Uncongenial Climate Allowance and furnished to this Headquarters latest by 20 May 94.

Sd/- x x x x x x x x
(Pranod Ji Saxena)
SCSO
Director (MP)
Org 4 (Div)(d)
for Adjutant General

RESTRICTED

Handwritten:
Hester
bcl
Advocate

Sl. No. 20014/10/0011
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, 14.12.83

OFFICE MEMORANDUM

Subject :- Improvement in facilities for Civilian employees of the Central Govt, serving in the state of North Eastern Region, A & N Islands and Lakshadweep.

The undersigned is directed to refer to the Ministry's O.M. No. 20014/3/83-E.IV dt 14th December, 1982 and 30th March, 1984 on the subject mentioned above and to say that the question of making suitable improvements in the allowances and facilities to Central Govt. employees posted in North-Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. Accordingly the President is now pleased to decide as follows :-

(i) Termination of posting/deputation

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

(ii) Weightage for Central Government and 20% for abroad Special mentioned in confidential records :-

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

(iii) Special (Duty) Allowance :-

Central Govt. Civilian employees who have full India transferability will be granted Special (Duty) Allowance at the rate of 2% of basic pay subject to a ceiling of Rs 1500/- per month on posting to any station in the North Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (Duty) allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance and Special pay/deputation (Duty) Allowance will not exceed Rs 2000/- p.m. Special Allowance like Special Compensation (Duty) Allowance, Construction Allowance and Project allowance will be drawn separately.

Attested
Sd/-
Sd/-

- 48 -
- 48 -

- 60 -

- 2 -

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

(v) Special Compensatory Allowance :-

The recommendations of the 4th Pay Commission have been accepted by the Govt. and Special Compensatory Allowance at the revised rates have been made effective from 1.10.86.

(vi) Travelling Allowance on First Appointment :-

The present concessions are contained in this Ministry's O.M. dated 12.83 will continue with the liberalisation that on first appointment T.A. should be admissible for the total distance instead of for the distance in excess of first 100 Kms. only.

(vii) Travelling Allowance for Journey on Transfer :-

The existing provisions as contained in this Ministry's O.M. dated 12.83 will continue.

(viii) Road Allowance for transportation of personal effect on transfer :-

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

(ix) Joining time with leave :-

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

(x) Leave Travel Concession :-

The existing concession as contained in this Ministry's O.M. dated 12.12.83 will continue.

Officers drawing pay of Rs 5100/- or above, and their families i.e. spouse and two dependent children (upto 13 years for boys and 24 years for girls) will be allowed air travel between Imphal/Silchar/Agartala/Aizawl/Mizoram and Calcutta and vice-versa; between Port Blair and Calcutta/Madras and vice-versa in case of postings in A & N Islands; and between Kavaratti and Cochin and vice-versa in case of postings in Lakshadweep.

(xi) Children Education Allowance/Hospitalisation :-

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 residing in

Attested
[Signature]
[Signature]
[Signature]

— Love —

- 64 -

The last station of posting of the employee shall be at a place where the children reside or are studying in schools and hostels at the last station of postings or any other station. Government servant employed as a domestic help will be given hostel subsidy without restrictions. The rate of Children Education Allowance/Hostel Allowance will be as in the G.P.S.T., O.M. 13011/7/86-ESTD. (Allowances) dt. 29.09.2006.

Secretary

Annexure II

Household Allowance of officers

2.1) Concession regarding Grant of House Rent Allowance to officers posted in the States of North Eastern Region, Andaman & Nicobar Island and Lakshadweep Islands :

The present conclusion is contained in this Ministry's C.M. No 1/1711 (B)/94 dt 29.3.94 as amended from time to time will be applicable

Telephone facilities :-

The officers who are eligible to have confidential telephone may be allowed to retain their telephone at their residence in their last place of the posting subject to the condition that the rental and all other charges are paid by such officers.

2. The above orders will also apply ~~to all personnel~~ to the Central Gov. employees posted in A & H Interior and ~~to all personnel~~ to those officers will also apply ~~to all personnel~~ to officers posted to H.E. Council, when they are stationed in the H.E. Region.

These orders will take effect from the date of issue.

2. In so far as the persons serving the Indian Audit & Accounts Deptt. are concerned these orders will be issued after consultation with the Controller & Auditor General India..

5. Hindi Version of this Memorandum is attached.

50/- x x x

(A. JAYARAJA)

JOINT SECRETARY TO THE GOVT OF INDIA

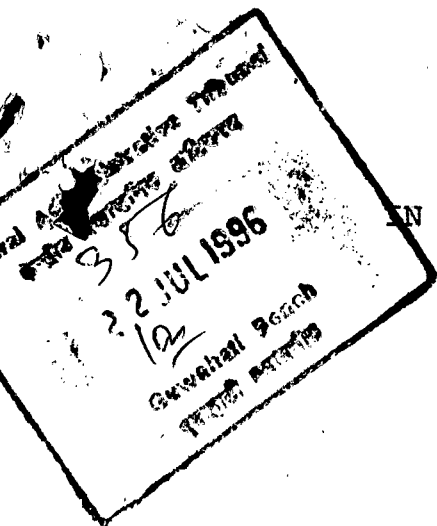
To
All Ministries/Departments of Govt. of India, S.O.

Copy (with usual number of spare copies) forwarded to C. & A.
U.P.S.C, etc etc. as per standard endorsement list.

01 100 00 000 000

(Technology)
Class II
Chlorine
Along Zone.

Accepted
for
Abstract



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :-

O.A. No. 86 of 1996

Sri Tridip Ranjan Dey

-versus-

Union of India & Ors.

-And-

In the matter of :-

Rejoinder submitted by the
Applicant.

The above named applicant most respectfully
begs to state as under :-

1. That with regard to the statement made in paragraph 3 and 7 of the written statement the applicant categorically denies the same and further begs to state that the statement of the respondents are made is quite contradictory. It is specifically admitted in paragraph 3 of the written statement that the applicant is belong to the common cadre of Section Officer consequent on his promotion to the post of Section Officer which is being controlled by the Accountant General (A&E) Assam, Shillong. The relevant portion is quoted below :

"While working as Stenographer he passed the Section Officers' Grade Examination and consequent on his promotion to the post of Section Officer became a member of the Common cadre is being controlled by the Accountant General (A&E), Assam, Shillong."

Handwritten notes in the bottom left corner:
GPM
1. Sarma
2. GHS
3. CAT
22-7-96

Filed by the applicant
H. Narayan

From above it is quite clear that all the section officers as well as Assistant Accounts Officers under the cadre controlling authority AG (A&E) Assam, Shillong should be treated equally in the matter of transfer and posting and therefore no discrimination is permitted under any rule of law. The policy as indicated in paragraph 3 of the written statement quoting the reference to letter dated 28.2.1990 Annexure A is misleading and ~~misrepresented~~ misinterpreted. The mere reading of Annexure A made it abundantly clear that for the sake of convenience it is stated in the letter dated 28.2.1990 issued from the office of the Comptroller and Auditor General, with reference to D.O. letter dated 26.12.1989 wherein it was stated that on promotion as sections officer may be posted in the office from which they passed the Section Officers grade examination as far as possible. The relevant portion of the letter dated 28.2.90 Annexure A of the written statement is quoted below :

"Posting of Section Officers/Assistant Accounts Officer to the office of the Accountant General (A&E) Tripura, Agartala.

Sir,

I am directed to refer Shri S.K.Chakraborty Accountant General (A&E), Tripura d.o. letter No. Esstt/Restructt//1/1/1983/Vol.II/2665 dated 26.12.1989 addressed to you on the subject mentioned above and to request that as far as possible the Section Officer Grade Examination passed staff of

Accounts and Entitlement offices in North Eastern region on their promotion as Section Officers may be posted in the offices from which they passed the above examination."

It is quite clear from above that it is made for the sake of convenience of the staff concerned who passed Section Officers Grade Examination they may be retained in the office from which they have passed the aforesaid examination to avoid the inconvenience which may cause in the event of posting to other offices. Therefore it does not mean that a Section Officer who passed the Section Officers' Grade Examination from the office of the AG, Nagaland is not entitled to be posted in any other office of cadre controlling authority i.e. AG, Assam. Therefore the interpretation of the letter dated 28.2.90 given in the written statement is contrary to the context of the letter dated 28.2.90. Be it stated that the nomenclature used in the written statement as 'Base Office' is misleading and the same is manufactured by the respondent to frustrate the fair policy of transfer and posting, of Section Officers/Assistant Accounts Officer. It is categorically admitted by the respondents in paragraph 3 of the written statement that consequent upon promotion of the applicant in the post of Assistant Accounts Officer is saddled with the liability to be transferred to any of the (A&E) office of the North Eastern Region vide Annexure C. The relevant portion of the paragraph 3 of the written statement is quoted below :

"While he was functioning as Section Officer the applicant was promoted to the cadre of Asstt. Accounts Officer with the condition that he is liable to be transferred to any of the A&E office of North Eastern Region (Vide Annexure-C)."

From above, the contention made by the respondent in the written statement it is quite clear that the fair intention of the Comptroller and Auditor General is sought to be misinterpreted by the local administration of the Accountant General, Assam by using the nomenclature such as "Base Office". In this connection it may also be stated that the applicant was initially appointed as Stenographer, ~~therefore~~ through Staff Selection Commission in the year 1983 and posted in the office of the Accountant General, Nagaland. The Staff Selection Commission is to conduct the Stenographer's Examination in the entire North Eastern Region for different Central Government offices. Therefore he could have been posted either in the office of the Accountant General (A&E) Assam or Accountant General (A&E), Meghalaya but unfortunately he was posted in the hard station under the Accountant General, Nagaland. Therefore discrimination cannot be made on the alleged ground of Base Office and by misinterpreting the contents of the letter dated 28.2.1990. Be it also stated that the applicant pray that the Hon'ble Tribunal be pleased to direct the respondent to produce the D.O. letter ~~No. 102/Nx2/127/22xx dated 28.2.1990~~ No. Estt/Restructt/1-1/1983/Vol. II/2665 dated 26.12.1989 which is indicated in the letter dated 28.2.1990 for perusal of the Hon'ble Tribunal under what circumstances the letter dated 28.2.1990 was issued. Even if the applicant was transferred to Guwahati

office on compassionate ground on the basis of his representation even then the longest stayee of the office of the AG (A&E) Guwahati as well as AG (A&E) Assam Meghalaya, Shillong are liable to be posted on rotation basis in the hard station like Kohima in the office of the AG (A&E) Nagaland if there is any administrative exigencies. In this connection it may also be stated that there are 19 ~~Section~~ officers/Assistant Accounts Officers who are seniors and juniors to the applicant are serving in the same station either at Guwahati or Shillong since their initial posting and as well as even after promotion to the post of Section Officer as well as to the post of Assistant Accounts Officer. Therefore the applicant cannot be made scapegoat again and again for filling up the vacancy in a hard station i.e. Nagaland who served Nagaland nearly 8 years and even after the promotion the cadre of Section Officer and he has served nearly 2 years at Nagaland. Therefore allegation that the applicant was retained at Guwahati office for a considerable long time i.e. 4 years 4 months does not sound nice when as much as 19 officers are retained in their so called Base Office at Guwahati and Shillong since their joining in service and even after their promotion to the cadre of Section Officer as well as Assistant Accounts Officer. The example cited in page 5 of the written statement in paragraph 7 regarding Assistant Accounts Officer Shri B. Bikash Bhattacharjee is hailed from the State of Tripura therefore it is quite natural that he is interested for home state posting at

Agartala. The same would be evident if the relevant transfer and posting file is produced before this Hon'ble Court in respect of Shri Bhattacharjee, Assistant Accounts Officer mentioned in the written statement. In this connection the applicant also begs to state that Shri Joshodhir Ghosh, Assistant Accounts Officer (earlier Section Officer) hailed from Agartala was posted at Nagaland in the year 1991 to relieve Shri R.C.Barman in the same capacity as Section Officer and thereafter Shri Ghosh sought transfer at Guwahati and accordingly he was accommodated at Guwahati in the year 1993/94 and still Shri Joshidhir is working at Guwahati Office. Therefore the statement of 'Base Office Posting' is misleading and the respondents are liable for contempt of court for misrepresentation of facts and the respondents are duty bound to adopt the fair policy in the matter of transfer and posting of Section Officers as well as Assistant Accounts Officers. The applicant is saddled with the regional transfer liability therefore he is entitled for posting in any choice station on rotation basis under the cadre controlling authority. Be it stated that the applicant hailed from the State of Assam and he is a permanent resident of Assam therefore the respondents are duty bound to retain the applicant in the choice station i.e. at Guwahati and the longest stayee officers are liable to be transferred on rotation basis in other offices of the office of the Accountant General (A&E) Assam, Shillong.

2. That the applicant deny the correctness of the statement made in paragraphs 8 and 9 of the written statement and further begs to reiterate the contents made in paragraphs 6.5 and 6.6 of the Original Application and also begs to state that since the applicant obtained House Building Advance from the Department and the said Building not yet completed in that event also the applicant is ~~xxxx~~ entitled to retain at Guwahati for completion of the Building and also for his ailing mother's medical treatment who is suffering from various old age chronic diseases after the surgical operation. Be it stated that the applicant received the order of transfer dated 31.5.96 on 6.6.96 where in the transfer order it was specifically stated that the applicant is stands relieved from his duty with effect from 7.6.96, therefore the applicant had no opportunity to approach the department authorities and finding no other alternative the applicant under the compelling circumstances approached the Hon'ble Tribunal on 6.6.96 for the cause of justice and also against the arbitrary and discriminatory and differential treatment towards the applicant by the respondents and there was no scope to exhaust the remedy and in this connection it may also be stated that the applicant as per provision of Administrative Tribunals Act 1985 is entitled to approach the Hon'ble Tribunal under section 19 of the said Act and the question of violation of CCS Conduct Rule does not arise at all as the final order of transfer had already been issued to the applicant and the applicant approached against the said final order of transfer.

The applicant reiterates that the transfers and posting order is to be prepared on the basis of the choice of the concerned dealing officer and not in terms of fair policy.

3. That with regard to the statement made in paragraph 11 of the written statement the applicant begs to state that the Annexure H referred quoting the judgement of the Hon'ble Supreme Court is absolutely correct and the applicant is in agreement that the said judgement but the authorities while putting the reference of the said judgement did not act in terms of fair and reasonable policy of transfer and posting rather acted in a very arbitrary and discriminatory manner in the instant case. The applicant is duty bound to carry out the transfer order issued by the competent authority but correspondingly there is an obligation also lies with the competent authorities deals with the transfer and posting with the administration who act fairly. In the instant case when it is admitted in the written statement itself that the AG, Assam is the cadre controlling authority for the Assistant Accounts Officers as well as Section Officers therefore the Accountant General (A&E) Assam is duty bound to apply the system of rotation in the matter of transfer and posting in different offices under the cadre controlling authority it cannot be said that a fair policy to allow other officers in the cadre of Section Officer as well as in the cadre of Assistant Accounts Officer to retain in the same station since their joining and also of their promotions to the cadre of

the judgement is required to be read in context of the particular facts and circumstances in the instant case. The question of fair policy is raised before this Hon'ble Tribunal therefore the reference quoted in the judgement is not relevant in the facts and circumstances of the present case. In the instant case the respondent did not act in terms of fair policy rather made an effort to cover up their lapses of misinterpretation the letter dated 28.2.90 issued by the Office of the Comptroller and Auditor General, New Delhi, it is highly objectionable and also amount to contempt of court as regard the statement made in paragraph 11 of the written statement regarding the threatening of disciplinary action against the applicant when the Hon'ble Tribunal is seized of with the matter and therefore this sorts of statement in the written statement is uncalled for and the applicant stoutly reiterates the statement made in the original application in paragraph 6.8 that he is being transferred to Nagaland only with the intention to accommodate the other officer who are longer stayee either at Guwahati or Shillong.

4. That the applicant is categorically deny the statement made in paragraph 13,14,15 of the written statement and further begs to state that with regard to the statement in paragraph 16 of the written statement that the applicant was never intimated regarding his transfer and posting at Nagaland issued under letter dated 31.5.96 rather in the said order it is directed that

he had no opportunity to approach the competent authority as because the order of transfer was received by the applicant only on 6.6.96. Therefore the allegation made by the respondents in paragraph 16 of the written statement is baseless and misleading.

5. That the applicant categorically deny the correctness the statement made in paragraph 18,19,20,22 of the written statement and further begs to state that the respondents have not adopted the fair policy regarding the transfer and posting of a Section Officer-Assistant Accounts Officer therefore the application is deserves to be allowed with costs and the order of stay is deserves to be made absolute.

The Hon'ble Tribunal be pleased to direct the respondents to produce the policy of transfer and posting of a Section Officer as well as Assistant Accounts Officer under the cadre controlling authority i.e. Accountant General(A&E) Assam and also be pleased to direct the respondents to produce the relevant transfer and posting file of the Section Officer and as well as Assistant Accounts Officer for proper adjudication of the grievances of the applicant.

22- (x) Children Education Allowances/Hostel Subsidy

Where the children do not accompany the Govt servant to the North Eastern Region, children Education Allowances 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 Govt servant. If children studying in schools are put in hostels at the last station of posting or any other station, the Govt servant concerned will be given hostel subsidy without other restrictions.

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

3. These orders will take effect from 01st Nov '63 and will remain in force for a period of three years upto 31st Oct 1966.

4. All existing special allowance, facilities and concessions extended by any special orders by the Ministries/Departments of the central Govt to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office memorandum.

5. Separate orders will be issued in respect of other recommendations of the committee referred to in paragraph 1 and when decisions are taken by them by the Govt.

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

sd/- (SC Mahalik)
Jt Secy to the Govt of Ind.

Attested
Jt Secy
Advocate

Travel Allowance on first appointment

In relaxation of the present rules (SR-103) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in case of officers for taking up initial appointment to posts in the North Eastern Region, travelling allowance will be payable by bus fare/second class rail fare for the initial journey in excess of first 400 kms. for the Govt servant him self and his family will be admissible.

(vi) Travelling Allowance for journey on transfer

In relaxation of orders below SR 12, on transfer to a station in the North Eastern Region, the family of the Govt servant does not accompany him, the Govt servant will be paid travelling allowance on tour or half only for transit period to join the post and will be permitted to carry personal effects, upto 2/3rd of his entitlement ~~with the exception of~~ at Govt cost or 1/3rd a Govt equivalent of carrying 1/3rd of his entitlement of 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 transport of baggage. In case the family accompanies the Govt servant on transfer, the Govt servant will be entitled to the existing admissible travelling allowances including the cost of transportation charges of the admissible 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 the relaxation of orders below SR 11c for transportation of the personal effects on transfer between two different stations in the North Eastern Region, higher rate of allowances admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Govt servant will be admissible.

(viii) Joining time with leave

In case of Govt servants proceeding on leave from a place ~~residing~~ in North Eastern region, the period of travelling ~~from~~ two days from the station of posting to outside that region will be treated as joining time. The outside that region will be admissible on return from leave.

(ix) Leave travel concession

A Govt servant who leaves his family behind at the old duty station or another selected place of residence for the family will have to option to avail of the existing leave travel concession of journey to home town once in a block period of 2 years or in lieu thereof, facility of travel for himself once a year from from the station of posting in the north eastern region to his home town or place where the family is residing and in addition the facility for the family (restricted to his wife, spouse, and two dependent children only) also to travel once a year to visit the employee at the station of posting in the North eastern Region. In case the option is for the latter alternative, the cost of travel for the initial distance (400/Kms) will not be borne by the officer.

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

Handwritten signature and initials

74

however, be required to furnish a certificate to the effect that they are incurring some expenditure on rent/contributing towards rent. H.R.A. at above rates shall also be paid to Government employees living in their own houses subject to their furnishing certificate that they are paying/contributing towards house or property tax or maintenance of the house.

3. Where H.R.A. at 15 percent of pay has been allowed under special orders, the same shall be given as admissible in A, B1-1 and B-2 class cities. In all other cases covered by special order, HRA shall be admissible at the rate in C class cities. In both these cases there shall be no upper pay limit for payment of HRA.

4. The other condition at present applicable for grant of HRA in cases of housing of accommodation and other categories shall continue to be applicable.

5. Pay for the purpose of these orders, will be 'pay' as defined in F.R.9(21) (a) (i). In the case of persons who continue to draw pay in the scales of pay which prevailed prior to 1.1.1986 it will include in addition to pay in the pre-revised scales, dearness pay, dearness allowance, Additional Dearness Allowance, Ad-hoc DA and Interim Relief appropriate to that pay, admissible under orders in existence on 31-12-1985.

6. These orders shall be effective from 1-10-1986. For the period from 1-1-1986 to 30-9-1986, the above allowance will be drawn at the existing rates on the national pay in the pre-revised scale.

7. These orders will apply to civilian employees of the Central Government belonging to Groups 'B', 'C' & 'D' only. The orders will also apply to the Group 'B', 'C' & 'D' civil employees paid from the Defence Service's Estimates. In regard to Armed Forces Personnel and Railway employees, separate orders will be issued by the Ministry of Defence and Department of Railways respectively.

8. In so far as the persons serving in the India Audit and Accounts Department are concerned this order issues after consultation with the comptroller and Auditor General of India.

9. Hindi version of the order is attached.

Sd/-

(B. P. Vazirani)

Joint Secretary to the Government of India

To All Ministries and Department of the Government of India etc. as per distribution list.

Copy forwarded to CGAC and UPSC etc. (with usual number of copies) as per standard endorsement list.

Handwritten signatures and initials:
 Anest
 J. P. Vazirani
 Ashwari

NO. 11013/2/HC-E-11(B)
GOVERNMENT OF INDIA, MINISTRY OF
FINANCE (Department of Expenditure)

New-Delhi the 23rd September 1966.

Annexure-2

OFFICE MEMORANDUM

Sub + Recommendations of the Fourt Pay Commission .Decisions
of the Government relating to grant of Compensatory(City)
& House Rent Allowances to Central Government Employees.

The undersigned is directed to say that, consequent upon the decisions taken by the Government on the recommendations of the Fourth Pay Commission relating to the above mentioned allowances vide this Ministry's Resolution No.14(1)/1C/66 dtd. 13th September 1966, the President is pleased to decide that in modification of this Ministry O.M. No.F.2(37)-E-II(B)/64 dated 27-11-1965 as amended from time to time for Compensatory(City) and House Rent Allowances to Central Government employees shall be admissible at the following rates.

COMPENSATORY (CITY) ALLOWANCES

Pay Range (basic pay).	Amount of C.C.A. in class of cities (Rs. p.m)		
	A	B-1	B-2
Below Rs.950	30		
Rs.950 and above but below Rs.1500	45	25	20
Rs.1500 and above but below Rs.2000	75	35	20
Rs.2000 and above	100	50	20
		75	20

Note :- For 14 special localities, where C.C.A at the rates applicable to B-2 class city are being paid, fresh orders will be issued separately.

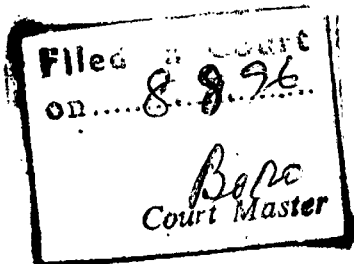
11) HOUSE RENT ALLOWANCE:

Type of accommodation to which entitled	Pay range in revised scales or pay for ent- itlement.	Amount of H.R.A. payable in Rs.p.m		
		A, B-1, B-2 C class cities.	Unclass- ified places	
1	2	3	4	5
	750-949	150	70	30
	950-1499	250	120	50
	1500-2799	450	220	100
	2800-3599	600	300	150

H.R.A. at above rates shall be paid to all employees (other than those provided with Government owned/hired accommodation) without requiring them to produce rent receipts. These employees shall,

Cont. to P.2

Attested
[Signature]
[Signature]
[Signature]



In the Central Administrative Tribunal,
Guwahati Bench, Guwahati.

By same
Additional Central
Govt. Standing Counsel

In the matter of
DA No 86/96

Shri Tridib Ranjan DeyApplicant

Versus

Union Of India & Others. .Respondents

AND

In the matter of reply to the rejoinder
submitted by the applicant.

I, Shri. John K. Sellate, Deputy Accountant General (Admn), office of the Accountant General (A&E), Assam, Shillong do hereby solemnly affirm and declare that a copy of the rejoinder submitted by the applicant has been served upon the respondent and myself being authorised to defend the case, I file the reply to the rejoinder on behalf of Respondent No 1,2,3 and 4 and say categorically that save and except what is admitted in this written statement, rest may be treated as total denial by all the Respondents i.e., Respondent No 1,2,3 and 4.

Adm.
8-8-96-

2. That with regard to the statement made in paragraph 1 of the rejoinder the respondents respectfully submit that there is no contradiction in the statement made in para 3 and 7 of the written statement as would be evident from the following paragraphs

The respondents further beg to state that all the cadres upto the level of Accounts Officers of the Offices of the Accountants General, Assam, Meghalaya, Arunachal Pradesh and Mizoram, Tripura, Nagaland and Manipur were controlled by the Accountant General, Assam, Meghalaya, Arunachal Pradesh and Mizoram, Shillong. Consequent upon the separation of Cadres with effect from 1.9.81 upto the level of Supervisors each of the individual Accountants General became cadre controlling authority upto the aforesaid level for their own offices.

The cadre of Section Officer and above could not be separated due to acute shortage of SAS/S.O.G.E. passed officials in the offices of the Accountants General Nagaland, Kohima; Manipur, Imphal and Tripura, Agartala.

To overcome the problem of shortage of Supervisory Staff a policy was formulated to transfer Supervisory Officers from the office of the Accountants General, Assam, Meghalaya, Arunachal Pradesh and Mizoram, Shillong/Guwahati to other deficit offices till such time they form the cadre of their own, based on S.O.G.E. result of such of the offices. Even after adopting formulated policy as aforesaid the cadre controlling authority i.e., Accountants General Assam, Meghalaya, Arunachal Pradesh and Mizoram, Shillong/ Guwahati was compelled on compassionate ground / Administrative reasons to transfer some of the Supervisory Officers whose base offices were other than Shillong/Guwahati to Shillong/Guwahati for medical treatment etc. in most deserving cases.

It is reiterated that the applicant was initially appointed as Stenographer in the seperated cadre of the office of the Accountant General (A&E), Nagaland, Kohima and consequent on his promotion after passing the S.O.G.Examination has become a member of common cadre of N.E Region. Although the applicant belongs to the Supervisory Staff of a deficit office his representation for transfer to Guwahati was considered taking into account the gravity of the personal reason prevailing at that

point of time and also due to the fact that there was a vacancy in the Supervisory Cadre to accommodate him at Guwahati.

It would be evident from the above statement that Comptroller and Auditor General of India's letter dated 28.2.90 referred to by the applicant is only a re-iteration of the policy which has been in force.

It is, thus, quite clear that the nomenclature "Base Office" is very much in consonance with the policy of transfer/posting of the officers of combined cadre and the intention of Comptroller and Auditor General's instruction has in no way been misinterpreted.

The respondents further submit that except the officers named in Sl No.1 and 4 of Annexure G of the original written statement all the other officers were initially recruited in the office of the Accountant General (A&E), Assam, Meghalaya, Shillong/Guwahati and belong to the separated cadre of the aforesaid offices and on their promotion as Section officer/Asstt. Accounts Officer they were retained in their respective base offices as there were vacancies to accommodate them.

in the promoted posts. So far as Sl.No. 1 and 4 are concerned their position has already been clarified in sub para 3 of paragraph 7 of the original written statement. As regards Shri Joshodhir Ghose, A.A.O. the respondents submit that although Shri Ghose's base office is Accountant General (A&E) Tripura (Presently a surplus office) he was initially transferred to Nagaland and therefrom to Guwahati on compassionate ground on the basis of his representation (Annexure - A.1). His transfer to his base office will be considered at the appropriate time.

The respondents beg to reiterate the submission already made in the original show cause/written statement that for transfer/posting no office of Indian Audit and Accounts Department in N.E. Region is regarded as hard station.

3. That with regard to the applicant's contention in paragraph 2 of the rejoinder that he is entitled to be retained at Guwahati for completion of the building which he has started constructing taking House Building Advance the respondents beg to reiterate the fact given in paragraph 8 of the written Statement already submitted that there is no policy that a Govt. Servant should be posted to the station in which he has been permitted to purchase land for dwelling purpose. Permission to construct or granting House Building Advance to construct a house in the place of present posting of a government servant does not confer the right to stay in that particular place as a government servant is to be guided by his service conditions so far as transfer / posting is concerned. There is no dearth of instances in Govt. Offices where Govt. Servants construct Houses in places other than their places of posting and complete construction by availing leave, if necessary. The applicant's plea for retention at Guwahati on the ground adduced by him is , therefore , not tenable. Further, he has already been retained at Guwahati on compassionate ground for more than 4 years 4 months, a considerably long time and now that his turn for transfer to his base office has come being the senior most (with reference to his

7

31

date of transfer)of the officers transferred from the office of the A.G.(A&E), Nagaland and that his transfer order has been issued in conformity with the policy adopted and also that his retention at Guwahati has caused adverse chain reaction in the matter of administration jeopardising proper functioning . Thus the respondents submit that the applicant's plea for retention at Guwahati is not acceptable

With regard to the applicant's plea for retention at Guwahati on the ground of medical treatment of his ailing mother the respondents submit that on this compassionate ground the applicant was transferred from the O/O the A.G.(A&E), Nagaland to the Office of the A.G.(A&E), Assam at Guwahati where he has already stayed for about four and half years. It can not be denied that four and half years is a considerably long time. The applicant can not be retained at Guwahati for years together to overcome his personal problems which can go on multiplying from mother's illness to construction of House and in course of time some other new problems may crop up. The respondents submission is that the applicant has been given the benefit of compassion and now fair policy demands that he should go back to his base office to

facilitate proper functioning of the administration.

As regards the applicant's contention that he had no opportunity to approach the departmental authority because he received the transfer order on 6-6-96 which specifically stated that he stood relieved with effect the afternoon of 7-6-96 the respondents submit that the transfer order dated 31-5-96 was faxed from Shillong to Guwahati office on the date of issue of the order itself. The applicant was well aware of the issue of the transfer order when it reached Guwahati office but evaded receiving the same. He was on casual leave for a few days and this might have caused delay in his receiving the transfer order. It is pertinent to mention here that the other officer who was transferred under the same order received his copy in time.

Accepting his statement that he received the transfer order on 6-6-96 the respondents beg to state that even then the applicant had ample time to represent his case to the authority. He could have submitted his representation to the Deputy Accountant General (Admn.) of Guwahati office on 6-6-96 itself or during the period of 12 days of joining time which he was entitled to avail with effect from 8-8-96, his transfer being in public

interest. It is reiterated that he had never represented for his retention during his stay at Guwahati and did not represent after receipt of the transfer order though there was sufficient time left to do so.

Therefore, his statement that he approached the Hon'ble Tribunal under compelling circumstances is not at all true. The fact, therefore, remains that he has not exhausted normal official channels of redress even though there was ample scope and time for him to do so.

The present transfer policy is fair and best on logic.

4. That with regard to the statement made in paragraph 3 of the rejoinder, the Respondents beg to reiterate that the transfer of the applicant has been made for administrative convenience in public interest and in conformity with the adopted policy. There was no deviation on the part of the Cadre Controlling Authority from the adopted policy in any case of transfer not to speak of the transfer of the applicant. The Hon'ble Supreme Court is very specific in its judgement referred to that 'whenever a public servant is transferred he must comply with the order but if thereby any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer.'

Annexure - H of the original Written Statement.

As regards his allegation of contempt of Court the Respondents beg to submit that it is the duty of the Respondents to lay before the Hon'ble Tribunal the rule position which the Hon'ble Tribunal may take into consideration while deciding the case. It is the humble submission of the respondents that mere quoting of rules does not amount to contempt of Court. The allegation made by the applicant is baseless and is made with the intention to mislead the Hon'ble Tribunal.

5. That with regard to the statement made in paragraph 4 of the rejoinder, the respondents beg to reiterate that the statements made in paragraph 13, 14, 15 of the Written Statement are correct which is evident from the facts furnished therein.

As regards the applicant's allegation that he was never intimated regarding his transfer and posting at Nagaland the respondents beg to submit that transfer order was issued observing all norms of transfer policy.

The applicant was informed of the transfer vide Admn.I order No.29 dated 31.5.96(Annexure A.2).

6. That with regard to the statement made in paragraph 5 of the rejoinder the respondents reiterate that the statements made in paragraph 18, 19, 20, 22 of the written statement are true and there was no violation of the adopted policy of transfer.

11

7. In view of the facts furnished and statements made in the foregoing paragraphs the humble respondents now beg to submit before the Honourable Tribunal that in paragraph 24 of the judgement passed by the Hon'ble Central Administrative Tribunal, Calcutta Bench in OA No. 536 of 1990 (240/1990), OA 537 of 1990 (OA 241 of 1990) the Hon'ble Tribunal held that "It is now well established that the administration is the best judge to decide which employee will work where and for howlong. It may be necessary for them to retain some one at the same station in the larger interest of Government work or even on compassionate ground" (Copy enclosed as Annexure - A.3)

In view of the above the humble respondents submit that stay as prayed for by the applicant and granted to the applicant be reviewed in the light of submission referred to above and also taking into account the Hon'ble Supreme Court's orders dated 31.3.89 pronounced by Mr. Justice E.S. Venkatramaiah and Mr. Justice K.N. Singh in Civil Appeal No 3561 of 1986-Gujrat Electricity Board and another Vrs. Atmaram Sungomal Poshani ((1989)10 Administrative Tribunal Cases 396) (Annexure H of the written statement) and the interim stay be vacated.

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

I, Shri JOHN KENEDY SELLATIE Deputy Accountant General (Admn) in the Office of the Accountant General (A&E) , Assam Shillong do hereby solemnly affirm and declare that the contents made in paragraph 1 of this written statement are true to my knowledge and those made from 2 to 6 are derived from records which I believe to be true and those made in paragraph 7 are humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 5th day of August 1996 at Shillong



D E P O N E N T

उप- महालेखाकार (प्रः)

महालेखाकार का कार्यालय (लेखा)

क.न. शिल्लोंग

Deputy Accountant General (Admn)

Office of the

Accountant General (Accounts)

Assam, Shillong.

Admn-1/1/589.

253

To

Annexure A.1

The Accountant General (A&E)

~~Nagaland, Kohima~~
Assam, ShillongSub: Transfer to Gauhati.

Sir,

I beg to state that under Memo No Admn-1/5-10/84-85/pl-111/3335-48 dt.31-10-91 of Accountant General Shillong. I had been transfer to the Accountant General Kohima.

In this connection I beg to state the following for favour of your kind consideration and favourable orders.

(i) That Sir I joined to the office of the Accountant General Nagaland, Kohima on 23rd April '92 in persuance of the said orders leaving my wife and two children at old station at Agartala and my old aged father at my home town at Silchar. I compelled to keep my family at Agartala as the school of equivalent status is not available at Kohima I could not bring my father at Kohima because of severe cold and absence of proper medical facilities. In fact there is none at my home to take the proper care of my father. Further, my wife is also not having a good health and suffering from womanly diseases and is under prolonged medical treatment at Agartala. So I am passing the days here in mental agony.

Under the circumstances, I, therefore pray that you would be kind enough to consider my case favourably for my transfer at Gauhati if my transfer at Agartala is not possible at the moment as the School of equivalent status and proper medical facilities is available there at Gauhati and for this act of kindness I shall remain ever grateful to you.

Dated the Kohima ^{Dec} 30th 1992

Yours faithfully,

Jashodhrit Ch. Ghosh,
Section Officer.Office of the A.G. (A&E)
Nagaland, Kohima.

Certificate to be done

mm

Deputy Accountant General (Admn)
Office of the A. G. (A & E)
Assam, ShillongAD.
10
6/1/93

Admn1/OS/176

Admn1/I/181

21

To The Deputy Accountant General(A)
Office of the Accountant General,
Assam, Shillong.

Sub: Prayer for repatriation to the Office
of the A.G. (A & E) Assam, Guwahati

Sir, I beg to state that I am willing to
be repatriated to the Office of the
Accountant General (A & E) Assam, Guwahati
as the adequate medical facilities for my
ailing old-aged father and school of equivalent
~~and school~~ status is available for my children
at Guwahati.

I would be highly obliged if my transfer
at Guwahati is considered favourably considering
my pecuniary condition as stated in my
earlier representation and for this act of
kindness, I shall ever remain grateful
to you.

Dated: Kohima
13th June '93

Certified to be true

[Signature]

Deputy Accountant General (Admn)
Office of the A. G. (A & E)
Assam, Shillong

yours faithfully
Jashodhri Ghosh.
Section Officer.
Office of the A.G.
Nagaland, Kohima.

Annexure A.2 13

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM :: SHILLONG

Admn.I Order No.29

Dt. 31-5-96.

The following Asstt. Accounts Officers/ Section Officers are transferred and Posted in the same capacity in the offices shown against their names.

Sl.No.	Name	From	To.
(1)	(2)	(3)	(4)
1)	Md. Abdul Jalil A.A.O. S.O.	A.G.(A&E) Assam, Guwahati	A.G.(A&E) Tripura, Agartala, vice Smti Kalpana Mazumdar, S.O. transferred to the A.G.(A&E) Assam, Guwahati.
2)	Bishnu Pada Saha, S.O.	A.G.(A&E) Assam, Shillong.	A.G.(A&E) Tripura, Agartala, vice Shri Rathindra Ch. Dhar, A.A.O. transferred to the A.G.(A&E) Assam, Shillong.
3)	Madhusudan Saha, S.O.	-do-	A.G.(A&E) Tripura Agartala, vice Shri Prasanta Dutta, A.A.O. transferred to the A.G.(A&E) Assam, Shillong.
4)	Nirmalendu Bhattacharjee, S.O.	A.G.(A&E) Meghalaya etc. Shillong.	A.G.(A&E) Tripura, Agartala vice Shri Swapan Kr. Nath, A.A.O transferred to the A.G.(A&E) Meghalaya etc. Shillong.
5)	Tridib Rn.Dey, A.A.O.	A.G.(A&E) Assam, Guwahati	A.G.(A&E) Nagaland, Kohima vice Shri L.C.Dey promoted as A.O.

The officers mentioned at Sl.No. 2 to 4 will stand released from the office of the A.G.(A&E) Assam, Meghalaya etc. Shillong on the afternoon of 31st June, 1996.

Contd. P/2.

Certified to be true

[Signature]

Deputy Accountant General (Admn)
Office of the A G. (A & E)
Assam, Shillong

Further, the officers mentioned at Sl. No.1 and 5 will also stand released from the offices of the A.G.(A&E) Assam, Guwahati on the afternoon of 7th June, 1996.

The above transfer is in Public interest.

(Authority :- A.G.'s order at P/82 of file No. Admn.I/7-8/93-94,)

Sd/-

DEPUTY ACCOUNTANT GENERAL (Admn)

Memo No. Admn.I/7-8/93-94/523-47

Dt. 31-5-96.

Copy forwarded to :-

- Regd. 1. The Deputy Accountant General (A&E) Tripura, Agartala. He is requested to intimate the date of joining of the officials transferred to the A.G.(A&E) Tripura, Agartala with a request to release immediately the four officers mentioned at Sl. No. 1 to 4 in Column (4) of this order.
- Regd. 2. The Accountant General (A&E) Nagaland, Kohima. He is requested to intimate the date of joining of Sri Tridib Rn. Dey, A.A.O. O/O the A.G.(A&E) Assam, Guwahati-5. He is requested to intimate the date of joining of Smti Kalpana Mazumdar, S.O. of A.G.(A&E) Tripura, Agartala.
3. The Secretary to the A.G.(A&E) Meghalaya etc. Shillong.
4. The Deputy Accountant General (Admn) Meghalaya. He is requested to release Sri N. Bhattacharjee, S.O on 3-6-96(AN).
5. The Sr. P.A. to the A.G.(A&E) Meghalaya etc. Shillong.
6. The Sr. P.A. to the A.G.(A&E) Assam, Guwahati.
7. Shri Md. Abdul Jalil, A.A.O. O/O the A.G.(A&E) Assam, Guwahati.
8. Shri Sishnu Pada Saha, S.O.
9. Shri Madhusudan Saha, S.O.
10. Shri Nirmalendu Bhattacharjee, S.O.
11. Shri Tridib Rn. Dey, A.A.O. O/O the A.G.(A&E) Assam, Guwahati.

Contd. P/3:

Certified to be true

[Signature]

Deputy Accountant General (Admn)
Office of the A.G. (A & E)
Assam, Shillong

76

::3::

- Regd. 13. Smti Kalpana Mazumdar, S.O. O/O the A.O. (A&E) Tripura, Agartala.
- Regd. 14. Shri Rathindra Ch. Dhar, A.A.O. O/O the A.O. (A&E) Tripura, Agartala.
- Regd. 15. Shri Prasanta Dutta, A.A.O. O/O the A.O. (A&E) Tripura, Agartala.
- Regd. 16. Shri Swapan Kr. Nath, A.A.O. O/O the A.O. (A&E) Tripura, Agartala.
17. Sr. Accounts Officer i/c TM-Co-ordn. Section.
18. Asstt. Accounts Officer/Estt-1(M) section.
19. Admn. I Order Book.
20. G.L. Group.
21. Budget Group.
22. Section Officer/Admn-2
23. Section Officer/Estt.-2(M)
24. Hindi Cell.

Certified to be true

THW

Deputy Accountant General (Admn)
Office of the A. G. (A & E)
Assam. Shillong

DBB
ESTABLISHMENT OFFICER (A)

Annexure A.3

2 Copies

By (DAI/CA) / CA4 / 0298

dt. 18.6.91.

✓¹⁰

Circular No. 4-LC.II/91

No. 78-LC.II/ -91

Dated 17.5.1991

5 JUN 1991

All Heads of Offices in IA&AD

(As per mailing list)

Except Overseas offices

Subject: Transfer of Government Servants -Decision
of Hon'ble Central Administrative Tribunal
Calcutta bench dated 26.3.1991 passed in
OA No. 536 & 573 of 1990 dated 7.6.1990
and 8.6.1 90 filed by S/Shri S. Sengupta
and A.K. Mukhopadhyay, Audit Officers
(Commercial).

Sir,

In continuation of this Department's circular
No. 3-LC/89 (766-LC/116-89) dated 19.9.1989, I am
directed to forward herewith a copy of the judgement
dated 26.3.1991 passed by the Hon'ble Tribunal of
the Calcutta Bench in OA No. 536 and 573 of 1990 dated
7.6.1990 and 8.9.1990 of S/Shri S. Sengupta and
A.K. Mukhopadhyay Audit Officers (Commercial) for
your information and record.

Yours sincerely,

S.K. Verma
(S.K. VERMA)

Administrative Officer (Legal)

46
17/6

E/O

110/cont. cell.

On
19/6/91

Received by

M

Deputy Accountant General (Admin)
Office of the A.G. & E.
Assam, N. L. H.

18

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Nos O/A 536 of 1990
C.A. 240/1990

O/A 537 of 1990
C.A. 241/1990

Present: Hon'ble Mr. A.P. Bhattacharyya, Judicial Member.
Hon'ble Mr. P.K. Mallick, Administrative Member.

SAMIR SENGUPTA

Vs.

UNION OF INDIA & ORS.

ASISH KUMAR MUKHOPADHYAY

Vs.

UNION OF INDIA & ORS.

For Applicants : Mr. B.P. Saha, Counsel.

For Respondents: Ms. Uma Bhattacharyya, Addl. Standing Counsel.

Heard On; 26.2.1991

Judgement passed on 26.3.1991

J U D G E M E N T

P.K. Mallick A.M.

O/A 536 of 1990 and O/A 537 of 1990 were filed by Samir Sengupta and Asish Kumar Mukhopadhyay respectively challenging their transfer from Calcutta to Dhanbad and Sindri, after they were transferred from Shillong to the Office of the Principal Director of Commercial Audit-II, Calcutta. Since the issues involved in both the applications are the same and the facts are virtually identical, the two matters were heard analogously and are covered by this common judgement.

2. Both the applicants are working as Audit Officers (Commercial) in the Indian Audit & Accounts Department.

In O/A 536 of 1990,

certified to be true

.....2/-

19 208

the applicant had been promoted as Audit Officer (Commercial) and posted in the Office of the A.G.(A), Orissa. Due to various family problems including the illness of his wife, he had prayed for accommodation in the promotional post at Calcutta, but his representation was not entertained and he had to forego his promotion for one year from 10.11.1987. He was promoted after the expiry of this period and posted at Shillong. He joined at Shillong on 30.12.1988, after submitting a representation on 22.12.1988 that he may be brought to Calcutta in view of his continued family trouble. He submitted another representation on 3.7.1989. Ultimately, an office order was passed by the Office of C.A.G., New Delhi, with the approval of D.G.(Commercial) on 27.3.1991 transferring 18 Audit Officers, including both Samir Sengupta and Ashish Kumar Mukhopadhyay, to the Office of the Principal Director of Commercial Audit-II, Calcutta.

3. It is the grievance of Samir Sengupta that instead of accommodating him at Calcutta, the Principal Director, Commercial Audit-II, Calcutta issued an office order on 6.4.1990 directing him to join at Durgapur to replace one Shri R.G. Basak, who was posted at Calcutta. Subsequently, by another office order dated 9.4.1990, he was posted to Dhanbad vice J. Mitra, who was posted at Calcutta. He submitted a representation on 17.4.1990 for his retention at Calcutta but did not get any reply. He filed O/A 536 of 1990 on 17.5.1990. After the filing of the application, his representation was disposed of under instructions of this Tribunal and he ^{was} informed vide a memo dated 27.6.1990 that his case had been duly considered and that in accordance with the scheme and posting and transfer of Audit Offices (Commercial), it had not been found possible to accommodate him in the Calcutta Head Office at present but his request had been noted for future consideration at appropriate time in accordance with the same scheme subject to administrative convenience.

certified to be true

ms

Deputy Accountant General (Admin)
Office of the A.G. (A & E)
Assam, Shillong

4. He filed MP 120/1990 on 18.6.1990 praying for a direction on the respondents to allow him to join at Calcutta w.e.f. 11.6.1990, the date on which he had submitted his joining report in the Calcutta Office. While disposing of this miscellaneous application on 25.7.1990, this Tribunal had rejected his prayer for issuing direction on the respondents to allow him to join at Calcutta but had directed the respondents to release his salary from May to July, 1990. The order was passed without any prejudice to the rights and contentions of either side.

5. Samir Sengupta filed C.A. 220/1990 on 28.8.1990 praying for keeping the impugned order of transfer in abeyance till the disposal of O/A 536 of 1990. The Civil application was disposed of on 4.9.90 keeping the impugned order of transfer in abeyance till 10.12.1990. The respondents were further directed to release the salary of the applicant for August, 1990 and also for the subsequent months till November, 1990. The order was passed without prejudice to the rights and contentions of either side. It was stipulated that the payments so made, shall be adjusted after the applicant's period of absence during the intervening period is dealt with by the respondents, as per rules.

6. C.A. No. 240/1990 was filed by Samir Sengupta on 19.9.1990 praying for clarification of the order dated 4.9.1990 and for passing an interim order directing the respondents to treat the intervening period from 11.6.1990 to 10.12.1990 or till the final disposal of O/A 536 of 1990 as 'duty'. This civil application has been heard alongwith the main application.

7. C.A. 272/1990 was filed by Samir Sengupta on 12.11.1990 praying for issuance of direction on the respondents so that they may treat the intervening period as on duty and also to promote him to join his new place of posting and to keep one post of Audit Officer (Commercial) in the Calcutta Office vacant, till the disposal of the original application. This civil application was disposed of on 14.11.90 permitting the applicant to join his new place of posting without prejudice to his rights and contentions to be decided in the

Notified to be true

gm

Deputy Accountant General (Admin)

Office of the A.G. & A.D.
Assam, Shillong

original application. The other prayers were rejected.

8. The facts in O/A 537/1990 are identical except that Ashish Kumar Mukhopadhyay was transferred to Sindri. He had joined the office of A.G. (Audit) Assam etc. on 18.1.1988 and had represented for his transfer to Calcutta on 2.5.1911 due to various personal problems including wife's illness. He too was transferred to the Office of Principal Director, Commercial Audit-II, Calcutta by the same order dated 27.3.1990. His grievance is that the Principal Director Commercial Audit-II, Calcutta posted him to Sindri to replace one Tarapada Mukherjee, who was posted at Calcutta. He had filed M.P. 125/1990, C.A. 219/1990, C.A. 241/1990 and C.A. 273/1990. Same orders as in M.P. 124/1990, C.A. 220/1990 and C.A. 272/1990 were passed in M.P. 125/1990, C.A. 219/1990 and 273/1990 respectively. C.A. 241/1990 has been heard alongwith O/A 537 of 1990.

9. We have heard Mr. B.P. Saha, Counsel, for the applicants and Ms. Uma Bhattacharyya, Addl. Standing Counsel, for the respondents.

10. Mr. Saha has challenged the impugned transfer orders mainly on four grounds.

His first point is that the CAG's instructions to post the two applicants at Calcutta vide his office order dated 27.3.1990. were violated by the Principal Director, Commercial Audit-II, Calcutta though the CAG is the highest authority in the department.

11. His second point is that there are a number of officers, who have never served in any outstation audit office. Four such officers are G.D. Saha, S.K. Pal Choudhury, T.S. Chakraborty and G.L. Mukherjee. Mr. Saha has submitted that it has been stated at para 4(M)/1 that these four officers have never served outside Calcutta, since joining the Calcutta Office in 1963, 1964, 19.9.1980 and 8.7.1981 respectively. He has argued that their retention at Calcutta is discriminatory and violative of the Principles of natural justice.

12. His third contention is that there has been violation of CAG's letter dated 16.1.1980 regarding transfer and posting of Audit Officers. This letter is mentioned in the memo dated

27.6.1990 rejecting the representation of the applicants. He has drawn our attention to the following portion of the letter 16.1.1980:-

" It may happen that when an Audit Officer (Commercial) is repatriated or posted to your office/station, no Vacant post may be available at your headquarters. It is not the intention that because he is senior to some of the others who may be working at your headquarters, a vacancy should be created for him. But at the same time, even if he is posted outside by you, he should be brought at the earliest to your headquarters if he requests for it and a vacancy becomes available".

He has argued that since clear Vacancies were available, as would be evident from the fact that J. Mitra, T.P. Mukherjee and R.G. Basak were brought from outstations to the Calcutta Office, the two applicants should have been accommodated in Calcutta itself instead of posting officers from other outstations against these vacancies and that by not doing so, the respondents have violated the instructions given in their letter dated 16.1.1980.

13. His last point is that Ministry of Finance O.M. dated 14.11.1983 regarding tenure of posting in the North-Eastern Region (annexed at page 14 of O/A 537 of 1990), has been violated. He has referred to the following portion of that O.M.:-

"Tenure of posting/deputation"

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

He has urged that since the applicants had given Calcutta as their

certified to be true

.....6/-

gm
Deputy Accountant General (Admin)
Office of the A.G. & E.
Assam, Shillong

convenience.

choice and vacancies were available, they should have been posted at Calcutta.

14. He has finally submitted that the applicants ultimately joined at Dhanbad and Sindri respectively on 19.11.1990 and that the intervening period between 11.6.1990 and 19.11.1990 be directed to be treated as on duty, as prayed for in C.A. 240/1990 and C.A. 241/1990 or as extended joining time.

15. He has cited the following judgements of this Tribunal in support of his aforesaid contentions:-

(i) Sumerilal Vs Union of India SLJ 1990 (3) CAT - 129

(ii) M.S. Kutty Vs Director General, Telecom - SLJ 1990 (3) CAT - 111.

16. In Sumerilal's case, the applicant had challenged his transfer from Jabalpur to Bhopal. After hearing both the parties and referring to various judgement including that of the Supreme Court in Gujarat State Electricity Board Vs Atmaram Sungomal Poshani (AIR 1989 SC - 1443), the Jabalpur Bench had dismissed the application but had directed that the intervening period, which was subject to status quo, be permitted as extended joining time.

17. In M.S. Kutty (Supra), the applicant was transferred vide an order dated 31.5.1984 and forcibly relieved from duty on 6.4.1985. The transfer order was set aside. He was not allowed to join duty till 16.8.1985. He was again transferred on 27.6.1986 and relieved on 1.7.1986. This transfer order was also set aside but he was not allowed to join till 31.12.1986. He prayed that the two periods of absence i.e. 7.4.1985 to 16.4.1985 and 1.7.1986 to 2.1.1987 be treated as on duty. The Ernakulam Bench held that as the two orders of transfer had been quashed and the two periods of absence were not due to any fault on the part of the applicant, he cannot be made to suffer due to non-compliance of the transfer orders. It directed the respondents to treat the applicant as on duty for the two periods of absence and to give him all consequential benefits such as pay, leave, seniority, etc.

certified to be true

gms

Deputy Accountant General (Admin)

Office of the A.G. & E

Assam, Shillong

convenience.

However, it is obvious that the facts of this case are clearly distinguishable from those of the two instant applications.

18. Both the original applications have been opposed by Ms. Uma Bhattacharyya. As regards the first objection raised by Mr. Saha, she has drawn our attention to para 5 of the reply of the respondents in O/A 536 of 1990 in which they have referred to CAG's letter dated 16.1.1980 in which it has been clearly stipulated that only orders of posting of Audit Officers (Commercial) to various offices are issued by the Office of the CAG and further posting in the Offices under the jurisdiction of the concerned offices, is left to them. She has asserted that since the order dated 27.3.1990 issued by the Office of the C.A.G., New Delhi, had transferred both the applicants to the Office of the Principal Director of Commercial Audit-II, Calcutta, the latter was fully entitled to post them to Units under his jurisdiction, as considered necessary by him,

19. As regards the second objection of the applicants that G.D. Saha, S.K. Pal Choudhury, T.S. Chakraborty and G.L. Mukherjee have never served outside Calcutta and their retention at Calcutta by denying a Calcutta posting to the two applicants is discriminatory and violative of the principles of natural justice, Ms. Bhattacharyya has asserted that all these officers except T.S. Chakraborty have in fact served outside Calcutta. As regards T.S. Chakraborty, it has been pointed out that since he is a chronic patient of bronchial asthma, he has not been posted out.

20. She has shown us a chart indicating the present status and various postings of Audit Officers of the Office of the Principal Director, Commercial Audit-II, Calcutta. It appears that G.D. Saha had done an outstation posting from May, 1979 to June, 1980 and that he was released for deputation to CMDA w.e.f. 25.2.1991. S.K. Pal Choudhury had remained posted at Durgapur from April, 1969 to September, 1970. T.S. Chakraborty had served in DPL from July, 1971 to June, 1972 while G.L. Mukherjee had served in DVC, Chandrapur from 1968 to 1970. She has argued that the

certified to be true

.....8/-

gth
Deputy Accountant General (Admin)

Office of the A.G. & P.

Assam, Shillong

In accordance with the same scheme subject to convenience.

allegations of discrimination and violation of the principles of natural justice are, therefore, untenable.

21. Regarding the third point raised by Mr. Saha that by accommodating J. Mitra, T.P. Mukherjee and R.G. Basak from outstations to Calcutta the respondents had violated the instructions given in CAG's letter dated 16.1.1980, Mrs. Bhattacharyya has submitted that the records will clearly show that these officers were brought to the Calcutta Office in accordance with CAG's letter dated 16.1.1980. She has shown us the departmental file from which it appears that J. Mitra, T.P. Mukherjee and R.G. Basak had been working at outstations from July, 1987 September, 1987 and September, 1987, respectively. Ms. Bhattacharyya had submitted that since they had worked at the outstations longer than the two applicants, they had the first priority for posting at Calcutta and that the cases of the applicants for posting at Calcutta would be considered in due course, as indicated in the memo dated 27.6.1990 disposing of their representations.

22. As regards the last point regarding Ministry of Finance O.M. dated 14.11.1983 regarding tenure of posting in the North-Eastern Region, she has submitted that the said O.M. is by way of guidelines and is not mandatory. She has further pointed out the OM makes it clear that on completion of the fixed tenure of service, requests for posting to a station of choice is to be considered as far as possible and that since the cases of the applicants have been duly considered and they have been informed that their requests could be considered in due course, they can have no grievance.

23. After giving our careful consideration to the materials on records and the submissions of the two counsel, we do not find any merit in the various contentions of the two applicants. It is quite obvious from C.A.G.'s letter dated 16.1.1980 that only orders of posting of Audit Officers (Commercial) to various Offices are issued by the Office of the CAG and further posting at places under the jurisdiction of the concerned officers is left to them. Thus, after the applicants were transferred to the Office of the Principal Director of Commercial Audit, Calcutta, the latter was fully entitled to post them to Units under his jurisdiction, as per job requirements,

certified to be true

.....9/-

Deputy Accountant General (Admin)
Office of the A.G. & Convenience.

Assam, Shillong

Administrative exigencies and his own judgement. Thus, the first objection raised by the applicants has to be rejected.

24. The second objection that four employees had never served outside Calcutta and had been retained at Calcutta by denying a Calcutta posting to the applicants is also not sustainable as the facts are otherwise. All these officers had in fact served outside Calcutta. Besides, we want to make it clear that even if that was so, it would not amount to discrimination as it is now well established that the administration is the best Judge to decide which employee will work where and for how long. It may be necessary for them to retain someone at the same station in the larger interest of Govt. work or even on compassionate grounds.

25. The third objection regarding the posting of J. Mitra, T.P. Mukherjee and R.G. Basak from outstations to the Calcutta office and sending the applicants to outstations to accommodate them is also not sustainable as we find that these three officers had served at the outstations from July and September, 1987, i.e. longer than the two applicants. The action of the respondents in giving them preference for posting at Calcutta cannot be questioned. It is also to be noted that the applicants have been given an assurance that their cases for posting at Calcutta would be considered in due course.

26. The last point regarding the violation of the Ministry of Finance O.M. dated 14.11.1983 regarding tenure of posting in the North-Eastern Region is not sustainable either. The following observations of a Full Bench of this Tribunal in Kamlesh Trivedi vs. ICAR reported in 1988(7) ATC at page 253 regarding transfer policy is quite revealing and disposes of the last point raised by the applicants:-

"It would thus be seen that any transfer made in violation of transfer policy by itself would not be a ground for quashing the order of transfer for, as observed by the Supreme Court in B. Vardha Rao vs. State of Karnataka (1986 SSC (L & S) 750), instructions embodying the transfer policy are more in the nature of guidelines to the officers who are vested with the power to order transfers in the exigencies of administration than vesting any immunity from transfer in government servants or a right in the public servant. In fact, transfer

certified to be true

.....10/-

Deputy Accountant General (Admin)
Office of the G.A. & D.

Assam, Shillong

in accordance with the same supreme subject to
convenience.

27

200

102

Policy enunciated by the Government or other authorities often allows a large amount of discretion in the officer in whom the authority to transfer is vested".

27. We also hold that the applicants have not been able to establish any malafide or arbitrariness on the part of the official respondents in issuing the impugned transfer orders. Besides, transfer is an incident of service and the applicants are admittedly holding transferable jobs.

28. As regards the question of regularisation of the period from 11.6.1990 to 10.12.1990, on the facts of the instant applications, we are not inclined to treat this period as extended joining time. We direct the respondents to treat this period as the kind of leave admissible to the two applicants, as per rules, without any break in service.

29. In view of what has been stated above, we dismiss O/A 536 and 537 of 1990 without any order as to costs. C.A.240 and 241 of 1990 are treated as disposed of on the lines indicated in the preceding paragraph.

Sd/-
Administrative Member

Sd/-
Judicial Member

certified to be true.

JM
Deputy Accountant General (Admin)
Office of the G & E

Assam, in accordance with the same scheme subject to
convenience.

File by
Gopal Sarmah

288
18 JUN 1996
Central Bench
Guwahati

Piled in Court
on 28/6/96
Court Master

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF :-

O.A. NO. 86/96

Shri Tridib Ranjan DeyApplicant

- Versus -

Union of India & Ors.Respondents

- AND -

IN THE MATTER OF :-

Show Cause/Written Statement on behalf
of the Respondents No. 1, 2 and 4.

1. I, Shri S.A. Bathew, Deputy Accountant General(Admn), Office of the Accountant General (A&E), Assam, Shillong do hereby solemnly affirm and declare that a copy of application along with an order passed by this Hon'ble Tribunal have been served upon the Respondents and myself being authorised to defend the case, I file the Show Cause/Written Statement on behalf of Respondent No.1,2 and 4 and say categorically that save and except what is admitted in this written statement, rest may be treated as total denial by all the Respondents i.e. Respondent No.1, 2 and 4.

2. That with regard to the statements made in paragraphs 1 & 2 of the application, the Respondents submit that they have no comments on them.

Received
Copy
28/6/96
aklo-30km

- 19
n
2
3. That with regard to the statements made in paragraph 3 of the application, the Respondents submit that the averment made by the applicant that the transfer and posting order is mala fide and discriminatory is not correct.

2.2.5.90

30

6/8/84

3.1.92

The applicant was originally appointed as Stenographer in the Office of the Accountant General (A&E) Nagaland, Kohima. While working as Stenographer he passed the Section Officers' Grade Examination and consequent on his promotion to the post of Section Officer became a member of the common cadre is being controlled by the Accountant General (A&E), Assam, Shillong. As a matter of policy as enunciated in Comptroller & Auditor General of India's letter No.108-N.2/127-88 dated 28th February, 1990 (Annexure 'A') the applicant on his promotion as Section Officer was posted in the O/O the A.G.(A&E), Nagaland from which he passed the above examination. Thereafter, he was transferred to the office of the Accountant General (A&E) Assam, Guwahati on Compassionate Ground taking into account the representation submitted by him (vide Annexure 'B'). While he was functioning as Section Officer the applicant was promoted to the cadre of Asstt. Accounts Officer with the condition that he is liable to be transferred to any of the A&E Offices of North Eastern Region (vide Annexure 'C').

2/8/84

20

3

As a matter of administrative convenience policy all Section Officers / Asstt. Accounts Officers are retained in their respective Offices with the condition that they may be transferred to other stations due to non-availability of vacancy in their respective base offices and also for exigencies of public service.

In the instant case the applicant was transferred to Guwahati on Compassionate ground. Now that he has already stayed at Guwahati for more than 4 years the administration thought it fit that he should be transferred back to his base office in Nagalnd where a vancancy has arisen due to promotion. In this connection, it may be pointed out that the applicant being the senior most among the Section Officers/Asstt.Accounts Officers transferred to Guwahati (with reference to the date of joining at Guwahati) from Nagaland office is ordered to be transferred back to his base office in Nagalnd. His transfer is very much in accordance with the policy adopted for the purpose. (List of officers at Annexur 'D').

4. That with regard to the statements made in paragraphs 4,5 and 6.1 of the application, the respondents submit that they have no comments to offer.

5. That with regard to the statements made in paragraph 6.2, the respondents submit that as per record the applicant was promoted to the post of Section Officer with effect from 23.5.90 and joined Guwahati office on transfer on 3.1.92.

2/94
6. That with regard to the statements made in paragraph 6.3, the respondents submit that they have no comments except that the applicant was transferred to the O/O the A.G.(A&E) Assam, Guwahati in the capacity of Section Officer and not in the capacity of Asstt. Accounts Officer as stated by him. His promotion to the post of Asstt.Accounts Officer was issued in February '94 (Annexure 'C') wherein the condition of further transfer to other sister offices in N.E. Region was specifically envisaged.

7. That with regard to the statements made in paragraph 6.4, the respondents submit that the transfer order in respect of the applicant was issued after a lapse of 4 years 4 months (approx) of his joining at Guwahati office. He was retained in Guwahati office for a considerably longtime. In accordance with Comptroller & Auditor General's instructions that as far as possible the officials concerned are to be posted to their respective base offices, the order transferring the applicant to his base office at Nagaland has been issued.

22

5

The order of his transfer is, therefore, in no way arbitrary or in violation of fair policy.

~~X~~ As regard his allegation of not transferring his junior and Senior Officers to Kohima the respondent begs to submit that there are vacancies to accommodate these officials in their respective base offices (i.e. the offices from which they passed the SOG Examination). The question of transferring them to other stations, therefore, has not arisen.

In this connection, it may be mentioned that Shri B. Bikash Bhattacharjee, AAO belongs to the office of the Accountant General (A&E), Tripura, agartala. After his promotion as Section Officer on 26.3.90 Shri Bhattacharjee was transferred from the O/O the A.G.(A&E), Tripura to the O/O the A.G.(A&E), Assam, Shillong in the same capacity on 22.6.92 and thereafter he was transferred back to his base office at Agartala after a lapse of about 21 months on 31.3.94 (Annexure 'E'). Shri J.M. Aditya, AAO was initially transferred from the O/O the A.G.(A&E), Tripura to the O/O the A.G.(A&E) Assam, Shillong on 13.7.92 and thereafter he was transferred to Guwahati on 9.11.92 and at present he is working in Guwahati office. Incidentally, it may be mentioned that Shri Aditya is junior to the

applicant with reference to the date of transfer to the O/O the A.G.(A&E), Assam vide list (at Annexure 'D'). It may also be mentioned that none of the officials mentioned in para 6.4 are initially appointed in the O/O the A.G.(A&E), Nagaland in any capacity and hence the question of transferring them to Kohima does not arise in the prevailing situation.

✓ As regards the allegation that the officers whose names have been mentioned in this para are serving for a very long period either in the O/O the A.G.(A&E), Assam or Meghalaya, the respondents beg to submit that as there are vacancies these officials have been accommodated in their respective base offices as per C&AG's instructions. Only in the case of exigencies of public service/administrative convenience they may be transferred. But the question of transferring them otherwise does not arise. In this connection it is submitted that no office under the cadre control of the A.G. (A&E) Assam, is termed as hard-station.

As regards the applicant's plea that he stayed in Nagaland for 8 years the respondent begs to submit that the applicant was initially appointed in the O/O the A.G.(A&E) Nagaland as Stenographer. He joined the post knowing fully

well that he was to serve in Nagaland. Only with his passing the S.O.G. Exam. and promotion to the post of Section Officer he became a member of the common cadre w.e.f. 23.5.90 having transfer liability. Prior to his transfer to Guwahati on his own request he served in Nagaland as S.O. for a period of 19 months. He had no connection with the common cadre prior to 23.5.90. Hence his statement that he served in Nagaland for 8 years is not factually correct and is also irrelevant.

It is evident from the facts stated above that there is no merit in the application and hence it is submitted that the same is liable to be dismissed forthwith.

8. That with regard to the statements made in paragraph 6.5, the respondents submit that there is no such policy that the Govt. Servant should be posted to the station in which he has been permitted to purchase land for dwelling purpose. Permission to construct or granting House Building Advance to construct a house in a place of posting of a Govt. Servant does not confer the right to stay in that particular place as a Govt. Servant is to be guided by his service conditions so far as transfer/posting is concerned. As regards his plea regarding treatment of his mother the respondent submits that on this compassionate

ground the applicant's representation for transfer from Nagaland to Guwahati was considered and he was transferred to Guwahati where he has already stayed for more than 4 years. A Govt. Servant can not be retained in his place of choice for an indefinite period which is sure to adversely affect the transfer of other officials facing similar problems. Moreover, the applicant has not submitted any representation to the appropriate authority any time for his retention at Guwahati. Even after issue of his transfer order he has not made any representation, instead has approached straight to the Tribunal without exhausting the normal official channels of redress in violation of C.C.S. (Conduct) Rules (Annexure-F).

9. That with regard to the statements made in paragraph 6.6, the respondents submit that it is very much clear from the facts stated in the earlier paras that there has never been any deviation from the policy adopted for transfer and posting of the officers belonging to the common cadre. It is reiterated that transfer and posting of officers of the common cadre is made strictly in accordance with the policy laid down for the purpose. The transfer/posting is made on the basis of the list maintained by the cadre-controlling authority which is strictly prepared with reference to date of promotion in their respective

26

9

base offices and transfer to other sister officers. The competent higher authority after satisfying itself that policy laid down in this respect has been adhered to, passes orders of transfer. There is no scope for showing any favour to anybody under the system. Further under the policy for transfer/posting in N.E.Region no place is termed as hard-station.

The applicant's allegation that a section of the officers who deals with the transfer and posting of the officers in N.E.Region are used to prepare the list of transfer and posting on the basis of their choice is baseless, without any evidence and malicious.

10. That with regard to the statements made in paragraph 6.7, the respondents submit a list showing the period of stay of the officers mentioned in paragraph 6.4 of the application (Annexure 'G').

11. That with regard to the statements made in paragraph 6.8 the respondents submit that the transfer and posting of the officers of the combined cadre is made in strict compliance with the adopted policy and there has been no departure from that policy regarding the transfer of the applicant.

In this connection, with reference to the applicant's allusion to the "settled law laid down by the apex court" the respondents beg to reproduce below the decision of Hon'ble Supreme court dated 31.3.89 a copy of which has been circulated by the C&AG of India to his field offices for guidance (Annexure 'H'). The decision is relevant in this instant case which reads as follows :-

"Transfer of a Government Servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer. In the absence of any

stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance with the transfer order, he would expose himself to disciplinary action under the relevant rules".

It is pertinent to state that the applicant has not made any representation to the competent authority any time after his transfer to Guwahati praying for his retention at Guwahati and without exhausting the normal official channels of redress, has gone straight to the Tribunal on receipt of the present transfer and which is violative of conduct rules calling for disciplinary action.

His allegation that his transfer order has been issued to accommodate other officers, who are longer stayee in the present place of posting has no truth as is evident from the facts already stated in paragraphs 6 & 8.

In view of the facts stated the application deserves to be dismissed forthwith.

12. That with regard to the statements made

in paragraphs 6.9 and 6.10, the respondents submit that the case has no merit and hence liable to be dismissed.

13. That with regard to the statements made in paragraph 7(1) and (2) the respondents submit that the transfer order issued to the applicant is in order and as there has arisen a vacancy in the cadre of Asstt. Accounts Officer in the base office of the applicant i.e. O/O the A.G. (A&E) Nagaland the respondents are not in a position to retain him at Guwahati.

14. That with regard to the statements made in paragraph 7, the respondents submit as follows:

7.1 As already stated in paragraph 6 the statement of the applicant is not factually correct.

7.2 The fact has been submitted in detail at paragraph 6.

7.3 It is submitted that the transfer order has been issued in accordance with the adopted policy. As the applicant belongs to a cadre of transferable posts, transfer is an incident of his service and this condition has been specifically

mentioned in his order of promotion to the post of Asstt.Accounts Officer. He accepted the promotion knowing fully well about the transfer liability.

7.4 The allegation has been denied giving full facts of the case in paragraph 2.

7.5 The allegation that the transfer order is violative of Article 14 of the constitution is denied as there has been no discrimination in the matter of transfer as is evident from the facts submitted at paragraphs 6 & 8.

7.6 The applicant's plea is not tenable in view of the facts submitted in paragraph 7.

7.7 As regards the option exercised by the applicant in pursuance to Circular No.DAG(A)/1-3/94-95/373 dtd.31.8.94 readwith Circular dated 2.9.94 (Annexure-I and Annexure-J) it is submitted that option was not called for retention of the applicant at Guwahati. In this connection the respondents submit that options from all the

Section Officers / Asstt. Accounts Officers/Accounts Officers/Sr.Accounts Officers working in different A&E offices, of N.E. Region were called for to consider cadre separation of the present combined cadre by the Department. The said options were called for just to assess the number of volunteers seeking transfer to other A&E offices other than their base offices. There was no assurance in the said circular that transfer and posting will be made in accordance with their options. The fate of the said options have not been settled due to various administrative constraints.

In this connection, it is pertinent to point out that applicant's first preference was for Guwahati and O/O the A.G.(A&E), Nagaland, Kohima was also in his preference as second one (Annexure 'K').

The applicant's contention that his option is for retention at Guwahati is, therefore, not tenable.

15. That with regard to the statements made

in paragraph 8(1), the respondents submit that release of the applicant from this office has been kept in abeyance as per Hon'ble Tribunal's order dtd.6.6.96.

16. That with regard to the statements made in paragraph 9, the respondents submit that the statement is not factually correct. The applicant did never approach the competent authority with any request for his retention at Guwahati nor did he make any representation even after issue of the order of his transfer. Instead, he has gone straight to the Tribunal without exhausting normal official channels of redress which tantamounts to violation of conduct rules. As per the provisions of the conduct rules he should have exhausted all the normal official channels of redress before taking the issue to a Court of Law (Annexure-F). This is a gross violation of official propriety and discipline.

17. That with regard to the statements made in paragraphs 10, 11, 12 & 13, the respondents submit that they have no comments to offer.

18. That in transferring the applicant no impropriety, arbitrariness, or irregularity has been committed by the Department the respondents pray that the application be dismissed and Hon'ble

Tribunal's orders dtd.6.6.96 directing not to release the applicant be vacated.

19. That the direction dated 6.6.96 to the effect that the applicant will not be released, is putting the Respondents in great difficulty and whole chain of administration regarding transfer is disturbed and further, day to day administration is in dead-lock. Thus the stay order is creating endless inconveniences to the Respondents.

20. That this present application is to be rejected out right solely on the ground that the applicant has not exhausted all the remedies available to him.

21. That the Respondents crave leave of filing Additional show Cause/Written Statement if this Hon'ble Tribunal so directs.

22. That this show Cause/Written Statement is filed bonafide and in the interest of justice.

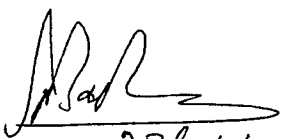
37

18

VERIFICATION

I, Shri S. A. Bathew, Deputy Accountant General(Admn), in the Office of the Accountant General(A&E), Assam, Shillong do hereby solemnly affirm and declare that the contents made in paragraph 1 of this show cause/written statement are true to my knowledge and those made from paragraph 2 to 15 and 17 are derived from records which I believe to be true and those made in paragraph 16,18, 19,20 21 and 22 are humble submissions before this Hon'ble Tribunal—

— AND I sign this verification on this 27/6/96 day of June, 1996 at Shillong.


27/6/96
DEPONENT

Deputy Accountant General (Admn)
Office of the A. G. (A & E)
Assam, Shillong

260

Sery (A) / 001101

पत्र व्यवहार भारत के
नियंत्रक-महालेखापरीक्षक को
समर्पित किया जाए।

All communications should be
addressed to the Comptroller
and Auditor General of India.
तार का पता : आर्जेल
Telegraphic Address: ARGEL.

पत्र सं.
No.

108-N.2/127-88: 17 MAR 1990

ANNEXURE - A

भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय,
नई दिल्ली - 110002
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA,
(Bharat Ke Niyantarak-Mahalekha
Parikshak Ka Karyalaya).
NEW DELHI - 110002

दिनांक

Dated

28 FEB 1990

भारत के नियंत्रक-महालेखापरीक्षक
नई दिल्ली-110002

THE COMPTROLLER AND AUDITOR GENERAL OF INDIA,
NEW DELHI - 110002

The Accountant General(A&E),
Assam,
SHILLONG-793001

Posting of Section Officers/Assistant Accounts Officer to the
office of the Accountant General(A&E) Tripura, Agartala.

Sir,

I am directed to refer Shri S.K.Chakraborty,
Accountant General(A&E), Tripura d.o. letter No. Estt/Restructt/
1-1/1983/Vol. II/2665 dated 26.12.1989 addressed to you on the
subject mentioned above and to request that as far as possible
the Section Officer Grade Examination passed staff of Accounts
and Entitlement offices in North Eastern region on their promotion
as Section Officers may be posted in the offices from which they
passed the above examination.

Yours faithfully,

R.N. Bandhyopadhyay
(R.N. BANDYOPADHYAY)
ADMINISTRATIVE OFFICER (N)

certified to be true
[Signature]
Deputy Accountant General (Admin)
Office of the A. G. (A & E)
Assam, Shillong

ANNEXURE-B

26

(119)

To,

-2-

Letter taken nearly 4 month to reach by post.

The Accountant General (A&E)

Assam, Shillong. All the problems, I have

decided to (Through Accountant General, Nagaland, Kohima)

and educational facilities. As such, my presence in Kohima

Sub: Transfer to the Office of the Accountant
will be very General (A&E) Assam, Guwahati. When facing

financial hardship in maintaining two establishments.

Sir,

I, therefore, request your self to

to transfer. With due respect, I have the honour to submit
(A&E) the following few lines for favour of your sympathetic
and consideration and kind necessary orders.

That Sir, I have joined in Kohima office as
Stenographer on 9th May, 1983 and have been serving
as Section Officer (Accounts) since 23rd May, 1990. My
service tenure 18 months in Nagaland Office is nearing
completion.

Sir, I have been serving in Kohima for last
8(eight) years leaving my old ailing mother and younger
brother & sisters at my native village 'Bhairabnagar' -
a remote village in Kahimganj district of Assam having no
direct rail communication and no direct bus services from
nearby cities and nearest rail head. I cannot keep my family
here in Kohima as a hill station will not at all be
suitable for my mother.

That Sir, my mother has been suffering from
Gastro-enteritis (P.U.S) and other cronic old age deseases since 1985. She had to be admitted in Cachar Medical
College Hospital and Karimganj Civil Hospital several times.
As per doctor's opinion she requires regular medical
check-up and continuous treatment for long period. As such,
she has been advised to stay nearer to Medical College
Hospital etc. Though Silchar Medical College is not too
far from our village yet communication difficulties are
there. Besides, I living away from my home, have to face
much difficulties in attending my mother in case of
urgency.

Further, there is no educational facilities
in my village. Even for college education my brother &
sisters have to make to and fro journey of 19kms. daily.
Though I remain always anxious for my mother's illness
and for sisters, I cannot keep regular communication as a

Deputy Accountant General (Admin)
Office of the A. G. (A & E)
Assam, Shillong

27

118

20 12

letter takes nearly a month to reach by post.

Sir, in view of all the problems, I have decided to shift my family in Guwahati for better medical and educational facilities. As such, my presence at Guwahati will be very much needed. Moreover, I have been facing financial hardship in maintaining two establishment.

I, therefore, request your goodself kindly to transfer me in the Office of the Accountant General, (A&E) Assam, Guwahati, for which act of your kindness myself and my family shall remain ever grateful.

Yours faithfully,

Dated, Kohima the 27th Sept '91 (TRIDIB RANJAN DEY)

Section Officer

Received to be made

Deputy Accountant General (Admin)

Office of the A. G. (A & E)
Assam, Shillong

As per doctor's opinion she requires a regular check-up and medical supervision for her health. she has been advised to stay at a hospital etc. As per our will we are sending her to the hospital for such difficulties in attending to her family emergency.

I remain at your service for any further assistance and for signing. I am at your service.

ANNEXURE - C

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM:::SHILLONG

Admn.1 Order No. 249

Dated 4-2-94.

Sri Tridib Ranjan Dey, Section Officer, O/O the A.G.(A&E) Assam, Guwahati is promoted to officiate as Asstt. Accounts Officer, in the scale of pay of 2000-60-2300-EB-75 -3200/= with effect from the date he takes over charge. On promotion, he is posted in the same office, where he is presently working. On promotion, he will be placed on probation for a period of two years from the date he takes over charge as Assistant Accounts Officer.

His promotion is provisional pending clearance of Dereservation from Headquarter's office.

He is liable to be transferred to the office of the A.G.(A&E) Assam, Meghalaya etc., Shillong, Guwahati, Offices of the A.G.(A&E) Manipur, Nagaland and Tripura and also to the Branches/Zonal Offices under control of these offices already in existence or to be formed in future within the states of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh and Mizoram.

On his promotion as Asstt. Accounts Officer, he is placed in Group 'B' (Gazetted) in the General Central Service with immediate effect in terms of Headquarter's office circular No. NGE/B/1988 issued under letter No. 109/110-N.2/119-87 dated 5-2-98.

On his promotion he is required to exercise option, if any, within one month in terms of G.I.D. No. 15 below FR-22.C.

(Authority :- D.A.G.(A)'s order dated 2-2-94 at P/206^C of file No. Admn.1/5-33/90-91/Vol.I).

Sd/-
DEPUTY ACCOUNTANT GENERAL (A)

(Contd.....P/2)

certified to be true

28/06
Deputy Accountant General (Admn)

Office of the A G (A & E)

Assam, Shillong

ANNEXURE-D

Nagaland Based Section Officers/AAOs who are continuing in Guwahati/Shillong Office.

Sl No.	Name(S)	Date of joining in Guwahati office on transfer from Nagaland office	Remarks
1.	Shri Tridib Ranjan Dey, A.A.O	30-1-92 as S.O.	
2.	Shri Sankar Paul, A.A.O	11-6-92 as S.O	
3.	Shri Matilal Sinha, A.A.O	15-6-92 as S.O	
4.	Shri Parbati Prasad Karmakar, A.A.O	15-6-92 as S.O	
5.	Sh. Apash Chakraborty, A.A.O	15-7-93 as S.O	He was promoted as S.O & joined in Shillong office on 17-8-92, again transferred to Guwahati & joined in 15-7-93.
6.	Shri Prafulla Bora, A.A.O	25-12-95 as A.A.O	

Certified to be true

[Signature]
28/06
Deputy Accountant General (Admin)
Office of the A. G. (A & E)
Assam, Shillong

ANNEXURE-E

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM:::SHILLONG

Admn.1 Order No. 292

Date 7-3-94. *27*

Shri Janardan Goswami, Section Officer and Shri Bishnu Bikash Bhatta charjee, Asstt.Accounts Officer, O/O the A.G.(A&E) Assam, Shillong and Shri Ashit Kumar Banik, Asstt.Accounts Officer, O/O the A.G.(A&E) Meghalaya etc., Shillong are ~~for~~ transferred and posted in the same capacity in the O/O the Sr.Deputy Accountant General(A&E) Tripura, Agartala against the existing vacancy.

They will stand released on 31-3-94(AN).

The transfer is in Public Interest.

(Authority :- AG's orders dtd.4-3-94 at P/115^N).

Sd/-

DEPUTY ACCOUNTANT GENERAL (A)

Memo No. Admn.1/5-10/84-85/Pt.III/7538-53 dtd.7-3-94.

Copy forwarded to :-

1. The Accountant General(A&E) Meghalaya etc., Shillong.
2. The Sr.Deputy Accountant General(A&E) Tripura, Agartala. He is requested to intimate the date(s) of joining of Shri Goswami, Shri Bhattacharjee & Shri Banik telegraphically.
3. The Deputy Accountant General (A/cs) Assam, Shillong.
4. The Secretary to the A.G.(A&E) Assam, Shillong.
5. Establishment Officer(M).
6. Steno to D.A.G.(A).
7. Shri Janardan Goswami, CA-4 Sec.
8. Shri Bishnu Bikash Bhattacharjee, Treasury-II.
9. Shri Ashit Kumar Banik, Meghalaya Record.
10. Admn.1 Order Book.
11. Budget Group.
12. G.L. Group.
13. Fixation Group.
14. Accounts Officer, i/c. TM-Co-ordination Section
15. Hindi Cell.
16. Secretary, Co-Operative Mutual Benefit Fund Ltd., Shillong.
17. SO/Admn 2 Section

P/1111111111
ESTABLISHMENT OFFICER (A)

certified to be true

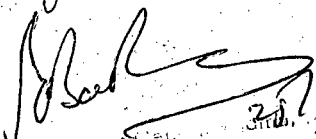
28/06
Deputy Accountant General (Admn)
Office of the A. G. (A & E)

Govt. of India Order No. (9) below Rule 3 of C.C.S. (Conduct) Rules.

- (9) In supersession of orders contained ⁱⁿ M.H.A., Office Memorandum No. 25/52/52-Ests., dated the 11th October 1952, the following instructions are issued :-

(a) Government servants seeking redress of their grievances arising out of their employment or conditions of service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channels of redress before they take the issue to a Court of Law.

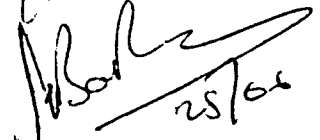
Certified to be true


Deputy Accountant General
Office of the A. G. (A & E)
Assam, Shillong
3rd. 106

Annexure - 5

List of Officers mentioned in Para.4 showing their period of stay.

S1. No.	Name & designation	Date of promotion and the office in which posted	Stay in the original office	Date of transfer and the office to which transferred.	Stay in the office to which transferred	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Shri Bishnu Bikash Bhattacharjee, A.A.O	Promoted as S.O on 26-3-90 and O/O the A.C(A&E) Tripura.	26-3-90 to 21-6-92 (2 years 3 month approx)	Transferred to A.C(A&E) Assam, Shillong on 22-6-92	22-6-92 to 10-4-94 (2 yrs 9 months approx)	Transferred back to his original office
2.	Shri Dibakar Choudhury, A.A.O	Promoted as S.O on 20-9-89 in A.C(A&E) Shillong	20-9-89 to 1-2-90 (5 months approx)	Transferred to A.C(A&E) Guwahati.	2/90 onwards	Posted in his base office.
3.	Shri Kali Sadhak Bhattacharjee, A.A.O	Promoted as S.O on 23-2-89 in A.C(A&E) Shillong.	23-2-89 to 31-7-89 (6 months approx)	Transferred to A.C(A&E) Guwahati.	8/89 onwards	-Do+
4.	Shri Jibendra Mohan Aditya, A.A.O	Promoted as S.O on 26-3-90 in A.C(A&E) Tripura	26-3-90 to 12-7-92 (2 yrs 4 months approx)	Transferred to A.C(A&E) Assam Shillong on 13-7-92. Stayed four months Transferred to A.C(A&E) Assam, Guwahati.	13-7-92 onwards	

Certified to be true

 J. B. Choudhury

Office of the A.C. (A&E) (1/89)

1/90

(1)	(2)	(3)	(4)	(5)	(6)	(7)
5.	Shri Jagan Chandra Goswami, A.A.O.	Promoted as S.O. on 17-10-90 AG(A&E), Guwahati	17-10-90 onwards	-	-	Posted in his base office
6.	Shri <u>Ses Kanto Sharma</u> , A.A.O.	Promoted as S.O. on 17-10-90 AG(A&E), Shillong	17-10-90 onwards	-	-	-do-
7.	Shri Lokapriya Das, A.A.O.	Promoted as S.O. on 30-11-90 AG(A&E), Shillong	30-11-90 onwards	-	-	Posted in his base office
8.	Shri Dilip Kr. Das, A.A.O.	Promoted as S.O. on 30-10-90 AG(A&E), Shillong	30-10-90 to 12-8-91 (Approx. ten months)	Transferred to to Guwahati on 12-08-91	12-8-91 onwards	-do-
9.	Shri Sarbananda Talukdar, A.A.O.	Promoted as S.O. on 30-4-92 AG(A&E), Guwahati	30-4-91 onwards	-	-	-do-
10.	Shri Siddheswar Baruah, A.A.O.	Promoted as S.O. on 29-4-91 AG(A&E), Guwahati	29-4-91 onwards	-	-	-do-
11.	Shri Abul Hashem Sheikh, A.A.O.	Promoted as S.O. on 22-5-92 AG(A&E), Guwahati	22-5-92 onwards	-	-	-do-
12.	Shri Ram Ayodhya Prasad, S.O.	Promoted as S.O. on 25-6-93 AG(A&E), Guwahati	25-6-93 onwards	-	-	-do-

Certified to be true

[Signature]
25.7.06
Accountant General (Admin)

(1)	(2)	(3)	(4)	(5)	(6)	(7)
13. Shri Debashish Deb Barkayastha, S.O.	Promoted as S.O. & posted to RTI Shillong on 12-3-98	12-8-93 to 30-3-94	Transferred to Guwahati on 31-3-94	31-3-94 onwards	Posted in base office	
14. Shri Kamalendu Bhattacharjee, S.O.	Promoted as S.O. & posted to Guwahati on 20-12-94	20-12-94 onwards	-	-	-do-	
15. Shri Gourpada Roy, S.O.	Promoted as S.O. on 21-6-93 in Shillong office	21-6-93 28-2-94	Transferred to Guwahati on 1-3-94	1-3-94 onwards	-do-	
16. Shri Sudip Roy, S.O.	Promoted as S.O. on 30-6-94 in Guwahati Office	30-6-94 onwards	-	-	-do-	
17. Shri Nilodhwaaj Misra, S.O.	Promoted as S.O. on 30-6-94 in O/O the AG(A&E), Assam, Guwahati.	30-6-94 onwards	-	-	-do-	
18. Shri Debananda Bora, S.O.	Promoted as S.O. on 30-6-94 in Guwahati office.	30-6-94 onwards	-	-	-do-	
19. Shri Nihar Loch, S.O.	Promoted as S.O. on 30-6-94 and posted in Shillong	continued upto 29-9-94	Transferred to Guwahati and joined in 30-9-94	30-9-94 onwards	Posted in his base office	
20. Shri Purnendu Barman, S.O.	Promoted as S.O. on 30-6-94 and	Continued upto	Transferred to Guwahati and	19-9-94 onwards	-do-	

certified to be true

[Signature]

Security Accountant General (Accounts)

Copy to be made

[Signature]

Deputy Accountant General (Accounts)
Office of the A. G. (A&E) P.C.
Assam, Shillong

ANNEXURE - H

भारत के नियंत्रक-गृहसहायक निरीक्षक
का कार्यालय

Circular No. 3-LC/89.

No. 766-LC/116-89.

DC - 19-3-1989/000685

Secy (A)/000685

All Heads of Offices in IA&AD,
(As per mailing list)

Except overseas offices.

Subject :- Decision of Hon'ble Supreme Court dated 31.3.89 pronounced by Mr. Justice E.S. Venkata-ramiah and Mr. Justice K.N. Singh in Civil Appeal No. 3561 of 1986. Gujarat Electricity Board and another V/s. Atmaram Sungomal Poshani ((1989) 10 Administrative Tribunal cases 396).

Sir,

I am directed to intimate the observations of the Hon'ble Supreme Court contained in para 4 and 8 of its judgement dated 31.3.89 in the above mentioned case as follows :-

" 4. Transfer of a government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation,

P.T.O.

certified to be true

Deputy Accountant General (Admin)
Office of the A. G. (A & M)
Assam, Shillong

Adm
G.D.A.G.
by

Original to Adm I
Photo copy 1 to Adm II
and 2 to Secy (A)

Sd/-
20/7

50/100/Call

-2-

on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance with the transfer order, he would expose himself to disciplinary action under the relevant rules, as has happened in the instant case. . The respondent lost his service as he refused to comply with the order of his transfer from one place to the other".

" 8. There is presumption of service of a letter sent under registered cover, if the same is returned back with a postal endorsement that the addressee refused to accept the same. No doubt the presumption is rebuttable and it is open to the party concerned to place evidence before the court to rebut the presumption by showing that the address mentioned on the cover was incorrect or that the postal authorities never tendered the registered letter to him or that there was no occasion for him to refuse the same. The burden to rebut the presumption lies on the party challenging the factum of service. In the instant case the respondent failed to discharge this burden as he failed to place material before the court to show that the endorsement made by the respondent in the circumstances of the case was not sufficient to rebut the presumption relating to service of the registered cover. We are, therefore, of the opinion that the letter dated April 24, 1974 was served on the respondent and he refused to accept the same. Consequently, the service was complete and the view taken by the High Court is incorrect."

The aforesaid observations of the Supreme Court are very significant in the matter of transfer of Govt. servant and service of official letters under registered cover on officials and should be kept in view while defending the cases on behalf of the Department.

Yours faithfully,

certified to be true

Deputy Accountant General (Admin)

Office of the A. G. (A & D)

Assam, Shillong

(D. BHARDWAJ)
Administrative Officer (L.C)

ANNEXURE-I

44

OFFICE OF THE ACCOUNTANT GENERAL (ASE) H&E H&E H&E

031 051054704

05-20(MED)-1996 17:11 PAGE: 01

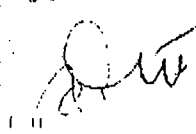
OFFICE OF THE ACCOUNTANT GENERAL (ASE) :::: ASSAM,
CHRISTIAN EASTI, GUWAHATI-5

132

Dt. Guwahati, August 26, 1994.

DAG(A)/1-3/94-95/370

All the Sr. A.O's/A.O's/AAO's/S.O's should submit their option for choosing the cadre in case the cadre is separated in the near future. All the officers should give their option of two cadres, No.1 and NO.2. This may be treated as VERY URGENT and the Officer failing to give the option will be allotted to any of the cadre whichever and where-ever administratively convenient. This option may be given to me by 31/08/94.

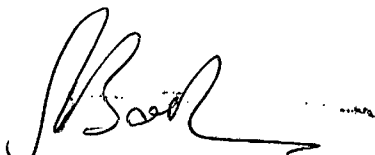

DY. ACCOUNTANT GENERAL (A)

To

All concerned.

By the A.C. (Admin) -

certified to be true



Deputy Accountant General (Admin)
Office of the A.C. (Admin)

25/08

ANNEXURE - JNo. DAG(A)/1-3/94-95/378.Dt. Guwahati, Sept. 02, 1994.

In partial modification of earlier circular No. DAG(A)/1-3/94-95/373 dated 31-8-94 options may be exercised by filling up the following :

1. Name :-
2. Designation :
3. Office where working at present.
4. Office to which opted :
5. Signature with date :

The options has to be exercised from among the following cadres :-

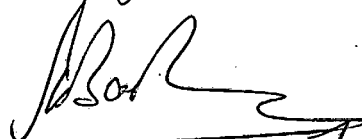
1. 1 A.G. (AAE) Assam.
2. 2 the A.G. (AAE) Meghalaya etc.
3. 2 the A.G. (AAE) Nagaland-
4. 2 the A.G. (AAE), Manipur.
5. 1 the A.G. (AAE), Tripura.

FURTHER, the last date for exercising option is now fixed as 30-9-94 through the D.A.G. (Adm) at Guwahati.

Deputy Accountant General (A)
Guwahati.

To
Shri

certified to be true



Deputy Accountant General (Adm)

2/106