

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 19/96

R.A/C.P No.

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SECTION OFFICER (Judl.)

Shah
22.11.98

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO.
TRANSFER APPLN.NO.
CONT EMPT APPLN.NO.
REVIEW APPLN.NO.
MISC.PETITION NO.

19 OF 1996

OF 1995

OF 1995 (IN NO.)

OF 1995 (IN NO.)

OF 1995 (IN NO.)

.....S. Banerjee..... APPLICANT(S)

.....U. O. I. P. M. RESPONDENT(S)

For the Applicant(s)

Mr. S. Roy

Mr.

Mr.

Mr.

For the Respondent(s)

Mr. G. Sarma Addl. Case

OFFICE NOTE

DATE

ORDER

13-2-'96

This application is in
form and within time

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 337400

Dated 7.2.96

[Signature] 12/2/96
R. Registrar

Mr. S. Roy for the Applicant.

Mr. G. Sarma, Addl. CGSC for the
Respondents No.1 and 3.

O.A. admitted. Notice waived by counsel
of respondents No. 1 and 3. Service of
notice on Respd. No.2 dispensed with.

Heard Mr. Roy.

The claim is for special pay. The Applica-
ant is a retired officer. He seeks the
benefit despite the 5th amendment Rules
1993 contending that retrospective benefit
should be given. The applicant also cont-
ends that the claim is covered by earlier
decisions of this Tribunal referred to in
the representation dtd.17-1-'96, Annexure
6/1. The applicant filed representations
on 12/2/95 and 17/1/96. These represen-
tations are submitted to State of Tripura
and are pending. The applicant has rushed
without waiting for the result of repres-
entations. Hence following order:

The respondent No.2 is directed to
dispose of the representations of the
applicant on merits in the light of rele-
vant decisions and provisions within a
period of 2 months from the receipt of

QA/TA/GR/BA/MP No. 19 of 1996

OFFICE NOTE

DATE

ORDER

13-2-'96

the order and inform the applicant accordingly.

The applicant is at liberty to pursue his legal remedy if aggrieved by the aforesaid decision.

It will be open to the applicant to submit a representation to the Central Govt. if so required under the law.

This order is passed against respondent No.2 at the admission stage subject to which the O.A. has not been decided on merits. The O.A. is disposed of in terms of the above order. No order as to costs. Copy to be furnished to the counsels of the parties.

At this stage Mr. M.R. Pathak for Mr. B.P. Katak, Govt. Advocate appears and waives notice for Respd. No.2 and takes notice of the order.

AC

Member

Vice-chairman

21/5/96

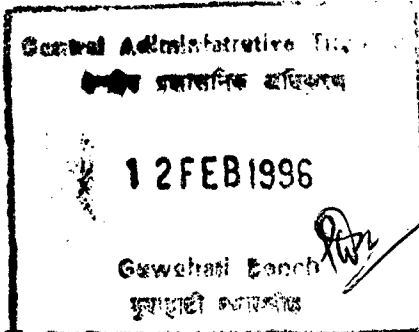
copy of order dtd.
13-2-96 issued to
the counsel for the
parties vide D/NO.
Dtd.

gls.

12.7.96

Copy of order
issued to the
Respondent vide
D. No. 2086 to 2088
Dtd. 12.7.96

gh
12/7



Handwritten signature and initials on the right margin.

A P P E N D I X - A.

F O R M S

FORM - 1.

(See Rule - 1)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL
ACT : 1985

Title of the Case CA 19/96

Shri Satchidananda Banerjee Union of India and others
- Applicant : - VERSUS - Respondents.

I N D E X

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| 7. | Annexure - 6 Copy of Representation dt.12.12.95 : | 20 - 21 |
| 8. | Annexure-6/1 Copy of Representation dt.17.1.96 : | 22 - 24 |

*Recd Copy
Gopal Sarema
Addl C/SC
12/2/96*

Satchidananda Banerjee

Signature of the Applicant.

For use in Tribunal's Office.

| | |
|--|---------------------------------|
| Date of filing - OR Date of receipt by post Registration | Signature for REGISTRAR |
|--|---------------------------------|

Satchidananda Banerjee
[Signature]
[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O. A. NO.....19.....OF 1996 :

Shri Satchidananda Banerjee Applicant.

- V e r s u s -

1. The Union of India -

-represented by-

the Secretary, Ministry of Personnel,
Public Grievances and Pension,
(Department of Personnel and Training)
Government of India : New Delhi;

2. The State of Tripura -

-represented by-

the Chief Secretary to the
Government of Tripura : Agartala;

3. The Accountant General,

Tripura : Agartala;

..... Respondents.

1. Particulars of the Applicant :

- I). Name of the Applicant - Shri Satchidananda Banerjee,
- II). Name of father - Late Bimalananda Banerjee,
- III). Age of the Applicant - 62 years.

Vatthi dandula Pranjee

-: 2 :-

- IV). Designation and particulars of Office (Name and station) in which employed before ceasing to be in service : Director of Training, Government of Tripura, Agartala.
- V). Office address : Does not arise since retired.
- VI). Address for service of Notices : Milan Chakra, Madhya Badharghat, Agartala : West Tripura.

2. Particulars of the Respondents :

- I). Name of the Respondents : (a) Union of India
(b) State of Tripura
(c) Accountant General, Tripura : Agartala.
- II). Name of father : Does not arise.
- III). Age of Respondents : Does not arise.
- IV). Designation and particulars of office(name and station) in which employed : Does not arise.
- V). Office address : (a). Union of India -
-represented by-
the Secretary, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training), Government of India : New Delhi.

Satish Chandra Dasgupta

(b). The State of Tripura -
-represented by-
the Chief Secretary to the
Government of Tripura,
Agartala.

(c). The Accountant General,
Tripura : Agartala.

VI). address for service
of Notices :

As in (V) above.

3. Particulars of the Order
against which the
Application is made :

The Application is made against
the following :
Indian Administrative (Pay) Fifth
Amendment Rules, 1993, contained
in the Notification issued by the
Respondent No.1 and circulated by
the Respondent No.2 by Circular
No.F.10(2)-GA/87, dated 12.1.94,
issued from the Appointment &
Services Department of the
Government of Tripura(Annexure-4).

4. Subject in brief : The benefit of Special Pay granted to
'B'-posts carrying pay in the senior
Time-scale of the Indian Administrative
Service under the State Government inclu-
ding posts carrying Special Pay in
addition to pay in the Time-scale as
mentioned in Schedule-III of the Indian

Administrative Service (Pay) Rules, 1954 by the Indian Administrative Services(Pay) Fifth Amendment Rules, 1993 should be extended to the Petitioner from 16.5.1987 - the date of his joining the IAS Cadre Post in the Senior Time-scale and for that purpose to add, alter, modify, delet relevant provisions of the Indian Adminis- tive Services (Pay) Fifth Amendment Rules, 1993.

5. Jurisdiction of the Tribunal :

The Applicant declares that the subject matter of the petition and provisions of Rules against which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

6. Limitation :

The Applicant further declares that the Application is within the limitation prescribed by Section 21 of the Administra- tive Tribunal Act, 1985.

7. Facts of the Case :-

I). That, the Applicant is a citizen of India.

II). That, the Applicant while working as Director of Panchayet, a post in Grade-I of Tripura Civil Service, was appointed to the IAS Cadre post of MT Cadre on

Salahi d... ..

officiating basis, under Rule 9 of IAS Cadre Rules, 1954 and was posted as Joint Secretary to the Government of Tripura in the Panchayet Department, Civil Secretariate Agartala by a Notification No.F.2(4)-GA/86, dated 16.5.1987, issued by the Respondent No.2 in the Appointment and Services Department. The Applicant joined the said post of the Joint Secretary to the Government of Tripura on 16.5.1987 and continued to work in the said post till 31.1.1991.

A copy of the Notification dated 16.5.1987 as mentioned above is annexed and marked

ANNEX - 1.

Annexure - 1.

III). That, while the Applicant was officiating in the aforesaid IAS Cadre post of Joint Secretary to the Government of Tripura, he was appointed on promotion to the IAS under Rule 8 of the Indian Administrative Services (Recruitment) Rules, 1954 by Notification No.F.14015/31/87-AIS(I) dated 5.12.1988, issued by the Government of India, Ministry of Personnel, Public Grievances and Pension, (Department of Personnel and Training).

A copy of the said Notification dated 5.12.1988 is annexed and marked as Annexure - 2.

ANNEX - 2.

IV). That, the Applicant held the post of Joint Secretary to the Government of Tripura from 16.5.1987 to 31.1.1991 and thereafter was transferred to the

For the Director of Training

post of Director of Training which post he held from 1.2.1991 till retirement on 28.2.1991.

- V). That, the Indian Administrative Services (Pay) Rules, 1954 provides that the State Government shall be competent to grant a Special Pay for any of the post specified as 'B'-post in Schedule-III, either individual or with reference to a group of class of such posts and prior to the amendment of the said Rules, by the impugned Fifth Amendment Rules of 1993, provided that pay and special pay shall not exceed the maximum of the pay-scale to which Special pay is attached.

For such provisions in the Indian Administrative Services (Pay) Rules, 1954, though the Government of Tripura granted Special Pay @ Rs.250/- per month for the posts held by the Applicant as the Joint Secretary to the Government of Tripura, the Applicant could not get the Special pay so granted as the Applicant's basic pay was fixed at Rs.4700/- at the maximum of Senior Time-scale at the time of his promotion to IAS on 16.5.1987.

That, the Respondent No.2, in the meantime, by Order No.F.10(16)-GA/72, dated 6.4.1987, issued through the Appointment and Services Department, Government of Tripura doubled the existing rate of Special pay subject to a maximum of Rs.500/- per month with effect from 1.1.1986.

Valhira & Co. Secy.

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ANNEX - 3.

A copy of the said Order dated 6.4.1987 is annexed and marked Annexure - 3.

VI). That, the ceiling clause in the Indian Administrative Service (Pay) Rules, 1954 with regard to payment of Special Pay was challenged by Pritam Singh, IAS, Director of Consolidation, Government of Punjab before the Central Administrative Tribunal, Chandigarh Bench in O.A.No.369 CH of 1987 and the said Hon'ble Bench of the Central Administrative Tribunal by Judgment passed on 20.3.1989 as reported in All India Service Law Journal - V-1990(2)(CAT) : page-69, held :

" The amendment to Schedule III to Pay Rules under the heading 'B'-posts carrying pay in the Senior Time Scale of the IAS under the State Governments including posts carrying Special pay in addition to pay the time Scale as per rule 9 of the amended Pay Rules is quashed to the extent provisional thereto lays down that the pay plus Special pay shall not exceed the maximum of the pay scale to which the Special pay is attached, as being discriminatory and ultravires of Articles 14 and 16 of the Constitution. In other words, the Special pay attached to a post shall be paid to the IAS Officer in addition to the pay in the Senior time scale/Junior administrative grade."

Satish Chandra Nayak

The Applicant craves leave of the Hon'ble Tribunal to refer to the ratio decidendi in the said reported case at the time of the hearing.

VII). That, after the decision of the Central Administrative Tribunal, Chandigarh as stated above, the Respondent No.1 by Notification dated 6.3.1993 in GSR No.535(E) made Indian Administrative Services (Pay) Fifth Amendment Rules, 1993 for the purpose of amending the Indian Administrative Services (Pay) Rules, 1954 in the following manner :

" In the Indian Administrative Service (Pay) Rules, 1954, in Schedule III under the heading - "B-Posts carrying pay in the Senior Time Scale of the Indian Administrative Service under the State Governments including posts carrying Special pay in addition to pay in the time Scale" in paragraph (3) :-

(a) the first proviso shall be omitted;

(b) in the second proviso, the word -

'further' shall be omitted."

The Respondent No.2 by Endorsement No.F.10(2)-GA/87, dated 12.1.1994 issued through the Appointment & Services Department circulated the said Notification dated 6.3.1993 to all IAS Officers, but the said circular was not served upon the Applicant.

Valithi dadasaheb Sawye

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ANNEXS - 4 & 5.

Copies of the said Notification dated 6.8.1993 and the endorsement dated 12.1.1994 are annexed and marked Annexures - 4 and 5 respectively.

VIII). That, the Indian Administrative Services(Pay) Fifth Amendment Rules, 1993 has been given effect to with effect from 6.8.1993 most arbitrarily and capriciously by the Respondent No.1 and by giving effect to such amended Rules with effect 6.3.1993 instead of 1.1.1986 - the date when the Revision of Pay-scales of the Central Government Employees was given effect to, it has caused discriminatory treatment to the IAS Officers including the Applicant who held such 'B'-post in Senior Time scale and thus it has become violative of Articles 14 and 16 of the Constitution of India. The Similarly situated retired IAS Officers viz : Sarvashri (1) S.N.Gupta, (2) C.Bardhan, (3) D.K. Bhattacharjee, (4) N.C.Deb and (5) S.B.San filed O.A. No.149/94, O.A. 150/94, O.A.151/94, O.A.152/94 and O.A.153/94 before this Hon'ble Tribunal for granting Special Pay like the Petitioners in the present Case and the Hon'ble Tribunal by a common Judgment delivered on 14.12.1994 held :

" We, therefore, hold that the ceiling contained in the first proviso to Clause-3 under the heading 'B-posts etc' in the Schedule-III of the Indian Administrative Services(Pay) Rules, 1954 was not applicable to the Applicants and they are entitled to claim the Special pay

Vaishanava Narayan

V1

for the period mentioned by them subject

The Applicant craves leave of this Hon'ble Tribunal to refer to such decision at the time of final hearing.

IX). That, the Applicant held such 'B-Post' of Joint Secretary to the Government of Tripura from 18.5.1987 to 31.1.1991 and as such he is entitled to Special Pay of Rs.500/- per month from 16.5.1987 to 31.1.1991 in terms of Order No.F.10(16)-GA/72, dated 6.4.1987, issued by the Respondent No.2 (Annexure-3).

8. Details of remedies exhausted : That, the Applicant on 12.12.1995 submitted a representation to the Respondent No.2 requesting him to pay the Special Pay of Rs.500/- per month from 16.5.1987 to 31.1.1991, but no Order was passed on such representation. The Applicant again on 17.1.1996 submitted an application to the Respondent No.2 requesting him to pay the Special Pay of Rs.500/- per month from 16.5.1987 to 31.1.1991 in terms of Govt. of Tripura Order dated 6.4.1987 (Annexure-3) but no

Satchidananda Dasgupta

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Order was also passed on such representation.

Copies of the aforesaid representations dated 12.12.1995 and 17.1.1996 are annexed and marked Annexures - 6 and 6/1 respectively.

ANNEXs - 6 & 6/1

9. Matter not previously filed or pending before any other Court :

The Applicant further declares that he did not previously filed any application before any Court in respect of the matter in the present application and no such application, suit or writ is pending before any Bench of the Tribunal or Court.

10. Relief sought :

In view of the facts mentioned in the foregoing paragraphs, the applicant prays for the following reliefs :

(a).

to modify/cancel/quash or amend the provisions of Indian Administrative Service (Pay) Fifth Amendment Rules, 1993 for the purpose of giving effect of the amendment of Indian Administrative Services (Pay) Rules, 1954 with effect from 1.1.1986 - the date when the revision of Pay-scales were given effect to;

--: 12 :-

- (b). for an Order directing the Respondents to pay Special pay @ Rs.500/- per month from 16.5.1987 to 31.1.1991 by virtue of Applicant's holding the post of Joint Secretary to the Government of Tripura, Agartala - a post of IAS Cadre post - 'B-Post' in Schedule-III of the Indian Administrative Services (Pay) Rules, 1954;
- (c). other reliefs which the Applicant is entitled to under the Law and the equity.

Interim order, if any,

prayed for :

NIL.

11. Particulars of Postal Order/Bank

Draft in respect of the Applica-

tion fee :

- I. Number of Indian Postal Order :- B. 09 337400
- II. Name of the issuing Post Office :- Agartala
- III. Date of issue of the Postal Order :- 7.2.96
- IV. Post Office at which payable :- Guwahati.

12. List of enclosures :

- (1). Copy of the Notification No.F.2(4)-GA/86, dated 16.5.1987, issued by the Appointment & Services Deptt., Government of Tripura, Agartala.

cont....p/13

Salikidance Agency

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- (2). Copy of the Notification No.F.14015/31/87-AIS(I) dated 5.12.1988, issued by the Government of India, Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training).
- (3). Copy of the Order No.F.10(16)-GA/72, dated 6.4.1987, issued by the Appointment and Services Department, Government of Tripura.
- (4). Copy of the Notification dated 6.3.1993 in GSR No.535(E), issued by the Respondent No.1, making Indian Administrative Services (Pay) Fifth Amendment Rules, 1993 for purpose of amending the Indian Administrative Services (Pay) Rules, 1954.
- (5). Copy of the Endorsement No.F.10(2)-GA/87, dated 12.1.1994, issued by the Respondent No.2 through the Appointment & Services Deptt circulating the Notification dated 6.3.1993 (Annexure-4 above).
- (6). Copy of the representation dated 12.12.1995 submitted by the Applicant to the Respondent No.2 to pay him the Special Pay of Rs.500/- per month from 16.5.1987 to 31.1.1991.
- (7). Copy of the representation dated 17.1.1996 submitted by the Applicant to the Respondent No.2 seeking relief as claimed in the representation dated 12.12.1995 above.

(8). Vokalatnama.

(9). Postal Order for Rs.50/- bearing No. B.09 337/400

V e r i f i c a t i o n

I, Satchidananda Banerjee, son of late Bimalananda Banerjee, aged about 62 years, retired from Government service as a Member of the IAS, resident of Milan Chakra, Madhya Badharghat, Agartala : West Tripura, do hereby verify that the contents of paragraphs 4, 7(I) to 7(V), 8 and 9 are true to my personal knowledge, paragraphs 7(VI) to 7(VIII) are believed to be true to "Legal Advice" and the rest of the foregoing application are my humble submission and prayer and that I have not suppressed any material fact.

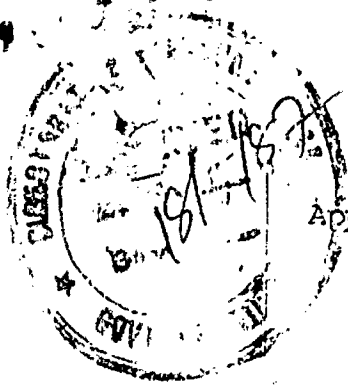
Agartala :

the 1.2.1996.

Satchidananda Banerjee

Signature of Applicant.

.....



NO.F.2(4)-GA/86
Government of Tripura
Appointment & Services Department

Dated, Agartala, the 16th May, 1987.

NOTIFICATION

In the interest of public service, Governor is pleased to order as follows :-

1. Shri S. Banerjee, TCS Gr.I, now Director of Panchayats, Tripura, Agartala on appointment to the IAS Cadre post of M-T Cadre, on officiating basis under Rule 9 of IAS Cadre Rules 1954, for a period of 3(three) months, is posted against the IAS Cadre post of Joint Secretary to the Government of Tripura in the Panchayat Department, Civil Secretariat, Agartala with effect from the date he takes over in the existing vacancy. He will also hold the post of Director of Panchayats, Tripura in addition until further orders.
2. Shri S. N. Gupta, TCS Gr.I, Director of Industries, Tripura, Agartala on appointment to the IAS Cadre post of M-T Cadre, on officiating basis under Rule 9 of IAS Cadre Rules 1954, for a period of 3(three) months is posted against the IAS Cadre post of Joint Secretary to the Government of Tripura, Civil Secretariat, Agartala in the Industries Department with effect from the date he takes over. He will also hold the charge of the post of Director of Industries, Tripura in addition until further orders.

Eur

By order of the Governor,

(P. C. Sharma)
Joint Secretary to the
Government of Tripura

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Special Secretary to Governor, Raj Bhavan, Agartala.
3. Chief Secretary, Manipur, Imphal.
4. Secretary to Chief Minister, Tripura, Agartala.

contd...p/2

Attd.
22-9-87

TO BE PUBLISHED IN THE GAZETTE OF INDIA IN PART I SECTION 2

No.F. 14015/31/87-AIS.I
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

New Delhi, the 5 December 1988

NOTIFICATION

In exercise of the powers conferred by sub-rule(1) of rule 8 of the Indian Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, the President is pleased to appoint S/Shri 1. E. Banerjee, 2. S.M. Gupta, 3.D.K. Bhattacharjee, 4. E.M. Choudhury, 5. J.P. Gupta, 6.S.B. Sen, 7.S.K.Ganguly members of the State Civil Service of Tripura to the Indian Administrative Service on probation and to allocate them to the Joint cadre of Manipur-Tripura under sub-rule (1) of rule 5 of the Indian Administrative Service (Cadre) Rules, 1954.

(M.S. MATHUR)
DESK OFFICER.

To

The Manager,
Govt. of India Press,
Faridabad (Haryana)

No.F.14015/31/87-AIS.I

New Delhi, the 5.12.88

A copy is forwarded for information to the following:-

1. The Chief Secretary to the Govt. of Tripura, Agartala.
(with 7 spare copies for onward transmission to the officers concerned.)
2. The Chief Secretary, Govt. of Manipur, Imphal.
3. Accountant General, Tripura, Agartala.
4. Secretary, Union Public Service Commission, New Delhi.
5. E.O. to the Govt. of India, New Delhi.

(M.E. MATHUR)
DESK OFFICER.

INTERNAL DISTRIBUTION

1. P.O.S) AIS(I) Section, 2. Research Officer(CM), Deptt. of Personnel & Trng., 3. E.O.(PR) Section, 4. AIS.III. Section for Civil List. S. Training Division.

10 spare copies.

Attended
9.2.98

-17-
GOVERNMENT OF TRIPURA
APPOINTMENT AND SERVICES DEPARTMENT

Annexure-3

NO.F.10(16)-GA/72.

Dated, Agartala, the 6th April, 1987.

O R D E R

WHEREAS, in exercise of powers conferred by paragraph - 2 of Scheduled (III) (B) of IAS (Pay) Rules, 1954, Special Pay at the rate noted against each were attached to the following IAS Cadre posts of M.T. Cadre, Tripura Wing, vide orders No.F.10(16)-GA/72 dated 27.12.72, 2.1.84 and 4.4.87.

| Sl. No. | Name of Cadre post | Amount of Special Pay attached. |
|---------|--|---------------------------------|
| 1. | 2. | |
| 1. | Secretaries to the Government. ... | Rs.300/- |
| 2. | Secretary to Chief Minister. ... | Rs.300/- |
| 3. | Secretary, Public Service Commission. | Rs.300/- |
| 4. | Joint Secretary to the Government... | Rs.250/- |
| 5. | Deputy Secretary to the Government.. | Rs.200/- |
| 6. | District Magistrate & Collector (West) | Rs.300/- |
| 7. | District Magistrate & Collector (North) | Rs.250/- |
| 8. | District Magistrate & Collector (South) | Rs.250/- |
| 9. | Director of Welfare for Schedule Tribes. | Rs.200/- |
| 10. | Director of Land Records & Settlement. | Rs.200/- |
| 11. | Director of Industries. ... | Rs.200/- |
| 12. | Director of Public Relations & Tourism. | Rs.200/- |
| 13. | Registrar, Co-operative Societies... | Rs.200/- |
| 14. | Director of Food & Civil Supplies... | Rs.200/- |
| 15. | Commissioner of Excise & Taxation... | Rs.200/- |
| 16. | Commissioner of Departmental Enquires. | Rs.200/- |
| 17. | Director, Welfare for Scheduled Castes. | Rs.200/- |

Contd.....P/2.

Handwritten signatures and dates:
7.2.86

2. WHEREAS, Fourth Central Pay Commission has recommended with regard to Special Pay that State Govt. may sanction Special Pay under Clause - 2 Scheduled III of part - B of M.S (Pay) Rules, 1954 which shall be double of the existing Special Pay subject to maximum of Rs. 500/- per month with effect from 1.1.1985.

3. Now, therefore, Governor with concurrence of the Finance Department have sanctioned Special Pay to the above IAS Cadre posts double of the existing rate of the Special Pay subject to a maximum of Rs. 500/- per month with effect from 1.1.1986.

4. The above issued with the concurrence of the Finance Department U.O. No. P-1819/J3/Finance Dated 6.4.87.

By order of the Governor,
(P. G. GHOSH)

Under Secretary to the Government of Tripura.

Copy to :-

1. Chief Secretary, Tripura, Agartala.
2. Chief Secretary, Manipur, Imphal.
3. Special Secretary to Governor, Rajbivam, Tripura, Agartala.
4. Secretary to Chief Minister, Tripura, Agartala.
5. Secretary to Deputy Chief Minister/All Ministers, Tripura.
6. Accountant General, Tripura, Agartala with request kindly to issue pay slip to the officers concerned accordingly.
7. Establishment Officer, Government of India, Department of Personnel and Training, New Delhi.
8. All Commissioners, Tripura, Agartala.
9. All Secretaries, Tripura, Agartala.
10. All Departments, Govt. of Tripura.
11. District Magistrate and Collector, West/South/North, Agartala/ Udaipur/ Kailashahar.
12. Treasury Officer West/South/North, Agartala/ Udaipur/ Kailashahar.
13. Superintendent of Govt. Press, Agartala for publication.
14. Officers concerned
15. Personal file.

(P. G. GHOSH)
Under Secretary to the Government of Tripura.

-18- Annexure 7/1

(TO BE PUBLISHED IN THE EXTRAORDINARY GAZETTE OF INDIA IN PART II
SECTION 3(1) 11-6-8-73

No. 11030/17/92+AIS(I)-A
Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

....
New Delhi, the 6th August, 1993.

NOTIFICATION

G.S.R. No. 535(E).... In exercise of the powers conferred by sub-section (1) of Section 3 of the All-India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments concerned, hereby makes the following rules further to amend the Indian Administrative Service (Pay) Rules, 1954, namely :-

1. (1) These rules may be called the Indian Administrative Service (Pay) Amendment Rules, 1993.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Administrative Service (Pay) Rules, 1954, in Schedule III, under the heading "B-Posts carrying pay in the Senior Time Scale of the Indian Administrative Service under the State Governments including posts carrying special pays in addition to pay in the Time Scale" in paragraph (3):-

- (a) the first proviso shall be omitted;
- (b) in the second proviso, the word "further" shall be omitted.

(Y. P. DHINGRA)
Desk Officer.

...2/-

Attested
7-296

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Annexure-5

TO BE PUBLISHED IN THE EXTRAORDINARY GAZETTE OF INDIA IN PART-
SECTION 3(1) dated 6-8-93 II
NO. 11030/17/92-AIS(II)-A
Government of India
Ministry of personnel, Public Grievances and pensions
(Department of personnel and Training)

New Delhi 6th August, 1993.

NOTIFICATION

G.S.R. No.....In exercise of the powers conferred by sub-section (1) of Section 3 of the All-India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments concerned, hereby make the following rules ~~XXXX~~ further to amend the Indian Administrative Service (Pay) Rules,

1. (1) These rules may be called the Indian Administrative Service (Pay) Fifth Amendment Rules, 1993.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Indian Administrative Service (Pay) Rules, 1954, in Schedule III. Under the heading "B-Posts carrying pay in the Senior Time Scale of the Indian Administrative Service under the State Governments including posts carrying special pays in addition to pay in the Time Scale" in paragraph (3) :-

- (a) the first proviso shall be omitted,
- (b) in the second proviso, the word "further" shall be omitted.

sd/-

(V. P. DHINGRA)
Desk Officer.

GOVERNMENT OF TRIPURA
APPOINTMENT & SERVICES DEPARTMENT

NO. F.10(2)-GA/87 : Dated, Agartala, the 12th January, 1994.

Copy to :-

1. Finance Department, (Estt. Branch), Civil Sectt., Agartala for information and taking necessary action
2. All Heads of Department for information.
3. All Treasury Officer for information.
4. All IAS, Officers for information.

Chakraborty 12/1/94
(A. L. Chakraborty)
Deputy Secretary to the
Government of Tripura.

Handwritten signatures and initials:
A. L. Chakraborty
7.2.94

Annexure -6

From

Sri S. Banerjee, IAS (Retd.),
Milanchakra, P.O. - A.D. Nagar,
PIN- 799003, Agartala.

To

The Chief Secretary,
Govt. of Tripura
(Apptt. & Services Deptt.),
Agartala.

Subject:- Grant of Spl. Pay.

Sir,

I am to refer to the Apptt. & Services Department Order No.F.10(16)-GA/72 dated 6-4-1987 under which Spl. Pay for IAS cadre posts ~~in the scales~~ has been allowed. But in terms of proviso-I to Rule 9 of the IAS Pay(2nd Amendment) Rules, officers in the Sr. scale of IAS whose basic pay was less than Rs.4,700/- were entitled to get Spl. Pay for holding specified posts. But officers like me whose pay was fixed at the maximum of the Sr. scale of Rs.3,200/- to Rs.4,700/- i.e., Rs.4,700/- were not entitled to Spl. Pay for holding the same post and performing the same arduous and hazardous nature of duties, because of the existence of the said provision ~~that~~ pay plus Spl. Pay should not exceed the maximum of the scale. This provision has, however, been removed in August 1993 vide Notification No.11030/17/92-AIS(II)-A dated 6-8-1993 of the Ministry of Personnel P.G. & Pension (Department of Personnel & Training) after my retirement from service on 28th February, 1991.

2. That provision was removed from the IAS(Pay) Rules, 1994, because of its discriminatory nature, but was not given effect to from a retrospective date and was made effective only from the date of its publication in the official Gazette dated 6-8-1993. In this connection, reference may be made of the decision of Central Administrative Tribunal, Chandigarh Bench in OA No. 369 CH of 1987 (Pritam Singh Vs. Union of India). Govt. of India has also vide their Notification No.11030/17/92-AIS/II-A dated 6-8-1993, Ministry of Personnel P.G. & Pension (Department of Personnel & Training) left the issue with the State Govts. advising them to decide on the matter of granting of Spl. Pay to

Contd...P/2.

Atul
9/2/96
Dr. M. K.

their respective officers posted in their States, subject to the final decision of the Supreme Court in the Spl. Leave Petition filed by the Govt. of India against the judgement of the Chandrigarh Bench of the Central Administrative Tribunal.

3. Recently, the State Govt. of Tripura has also granted Spl. Pay to 6 (six) such similar officers vide Notification No. F 23(118)/GA/93 dated 1/12/95 of the Appet. & Services Department allowing Spl. Pay to S/Sri S.K. Ganguly and 5 others for the period of their services in various capacities as IAS. It is regretted that the same benefit has not been extended to me though I worked in various capacities carrying Spl. Pay in the IAS cadre as :-

- i) Joint Secretary from 1-5-1987 to 31-1-1991;
- ii) Director of Training from 1-2-1991 to 28-2-1991.

4. I would request you to kindly consider my case sympathetically and sanction me Spl. Pay as admissible against the post held by me at your earliest.

Yours faithfully

Dated, Agartala, the
12th December, 1995.

(S. Banerjee)

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Muzore - 6/1

BY HAND SERVICE

NOTICE :

Dated : Agartala :
January 17th 1996.

From :- Shri Satchidananda Banerjee,
I. A. S. (Retired),
Khan Chakra,
P.O. Arundhatinagar,
Agartala : PIN 799 003,
West Tripura.

To

The Chief Secretary to the
Government of Tripura,
Agartala.

Subject :- Payment of Special Pay.

Sir,

By my representation dated 12.12.1995

addressed to you, I claimed payment of Special Pay @
Rs.500/- (Rupees five hundred) only per month for the
period from 16.5.1987 to 31.1.1991, during which period
I held the post of Joint Secretary to the Government of
Tripura, in terms of Order No.F.10(16)-GA/72, dated
6.4.1987, issued by the Government of Tripura, Appointment
& Services Department. But to my surprise, I received no
response from you.

cont.....p/2

17/1/96

9/2/96

2. I reiterate my submission as below :

Since 16.5.1987 I was holding the I.A.S. Cadre Post of Joint Secretary to the Government of Tripura in Senior Time-scale of Rs. 3200-4700/- with my pay fixed at the maximum of the Time-scale at Rs. 4700/-.

By the Indian Administrative Service (Pay) 5th Amendment Rules, 1993 published on 6.8.1993, the first proviso to Clause-(3) in Schedule.III of the Indian Administrative Service (Pay) Rules, 1954 ^{which} provided that the pay plus special pay shall not exceed the maximum of the Pay-scale to which special pay is attached or omitted and ^{has been} following the decision of the Hon'ble Supreme Court in D.S. Nakara & others VRS Union of India as reported in AIR 1983 : 1.C.-130 and the decision of the Hon'ble Central Administrative Tribunal, Chandigarh Bench in the case of Pritam Singh VRS Union of India and others as reported in AIR 1990(2) (CAT) - 53, the Hon'ble Central Administrative Tribunal : Guwahati Bench by a common Judgment passed on 14.12.1994 in O.A. No.90/94 (S.K. Ganguly V Union of India & Ors), O.A.No.149/94 (S.H. Gupta V. Union of India & Ors), O.A.No.150/94 (C. Bardhan V. Union of India & Ors), O.A.No.151/94 (D.K. Bhattacharjee V. Union of India & Ors), O.A.No.152/94

cont...P/3

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(H.C. Deb V. Union of India & Ors), O.A.No.153/94 (S.B.Sen V. Union of India & Ors) held that 5th Amendment Rules have to be extended to pre-6.8.1993 retirees and as such although I retired from service on 28.2.1991, I am entitled to special pay for holding the post of Joint Secretary to the Government of Tripura from 16.5.1987 to 31.1.1991 @ Rs.500/- per month in terms of Government of Tripura Order dated 6.4.1987 - referred to above.

If I do not get any response to this representation/ Notice within a fortnight from the date of receipt of this by you, I shall seek my redress before the Hon'ble Central Administrative Tribunal, Guwahati Bench, without further reference to you entirely at your risk and costs.

Yours faithfully,

Satchidananda Banerjee
(Satchidananda Banerjee)

IAS (Retired).

REGISTERED WITH A/D.

- Copy to :-
1. The Secretary, Ministry of Personnel, Public Grievances & Pension, (Department of Personnel & Training), Government of India, NEW DELHI;
 2. The Accountant General, Tripura, Agartala for favour of information and necessary action.

Satchidananda Banerjee
(Satchidananda Banerjee)
IAS (Retired)

17/1/91