(xiii) Special Duty Allowance (SDA) in North-East Region

The University Grant Commission (UGC) vide letter No.F.10-1/94(CU) : Dt. 20-7-1996 at Annexure-I has forwarded a decision of the Hon'ble Supreme Court placed at Annexure-II and desires to know the position in the matter of payment of S.D.A.

The said Hon'ble Supreme Court's judgement states that the employees locally recruited and posted in N.E. Region are not entitled to S.D.A., even if the posts carry All India Transfer Liability. This decision was inview of the O.A. filed by All India Rly. Employees Confederation versus Union of India.

In a similar judgement passed by the Hon'ble Supreme Court placed at Annexure-III, the Supreme Court has upheld that mere Clause in the appointment order to the effect that the post carry All India Transfer Liability will also not make eligible for grant of S.D.A. on being posted to N.E. Region, unless, recruitment to Service/Cadre/Post has been made on All India basis and Promotion done on All India Common Seniority list for the service/cadre/post as a whole.

The above judgement were passed since some employees working in the N.E. Region were allowed S.D.A. on the basis of the judgement given by Central Administrative Tribunal (CAT) Guwahati Bench, and in response to which, the concerned Ministries filed a Special Leave petition in the Supreme Court.

In response to the UGC's communication vis-a-vis Supreme Court's judgement as stated at para(i)&(ii) above, the University sought for comments from the Legal Adviser

F.No.27-9/Admn./88-
Dt.20.3.97

The legal Advice obtained at Annexure-IV states that the decision of the Hon'ble Supreme Court is binding on all concerned parties including officers of NEHU, who are also Central Govt. Employees.

Before considering the legal parametres, it is pertinent to point out here the context of the case in regard to payment of SDA, to NEHU, employees;

1. The SDA. was sanctioned by the Govt. of India in
1. The SDA. was sanctioned by the Govt. of India in 1983 to Central Govt. employees posted in N.E. Region for a tenure period. The drawal of the said allowance was subject to (1) the employees must have All India transfer Liability and (ii) Income tax payer.

2. The employees of NEHU did not fulfill the said mandatory conditions of the G.O.I. and hence, they were not entitled for drawal of the SDA.

However, by virtue of specific sanction accorded by the E.C. vide Annexure V & VI which adopted the instructions of the Ministry in regard to SDA. as a guide for an independant view and especially, when the said allowance was also drawn by the autonomous organisations like NERIST and ICAR, the employees of NEHU were given the SDA. On the lines parallel to the SDA granted by the Ministry to Central Govt. employees. In this regard, the University's communication to UGC. is placed at Annexure - VII & VIII

In the context of above facts, it is expedient to resolve the matter, whether the judgement of the Hon'ble Supreme Court which relates to the concerned parties can also be made applicable to employees of NEHU in view of Annexure IX specific to NEHU. In this context, no specific reply have been received from the UGC, but on January,1987 a letter have been received from them placed at Annexure IX indicating payment of maintenance grant for SDA.

The matter is placed before the E.C. for necessary decisions.

6:6:13:(3)

ANNEXURE IX

No.F.10-1/94(CU)

University Grants Commission
Bahadurshah Zafar Marg
New Delhi-110 002.

4th September,1996.

The Registrar
North-Eastern Hill University
Shillong-793 001

Subject:- Special Duty Allowance in North-Eastern Region - Regarding.

Sir,

In continuation to the Office letter of even number dated 20.7.96 on the above subject and to say that as per Supreme Court's decision, the employees recruited and posted in the North-Eastern Region are not entitled to Special Duty Allowance. The applicants cannot be considered as having All India transfer liability to enable them to get the allowance if they happen to be appointed and posted in North-Eastern Region.

Yours faithfully,

Sd/-
(C.K. Kapahi)
Under Secretary.

6:6:13:(4)

2

Annexure - I (6)

No.F.10-1/94 (CU) Dt. 8-7-1996

To,

Registrar,
North-Eastern Hill University,
Shillong - 793 001.

Subject : Special duty allowance in North Eastern Region - reg. -

Sir,

I am directed to enclose herewith a copy of the extracts from Swamy's Compilation, June 96 and to say that the employees locally recruited and posted in North Eastern Region are not entitled to Special duty Allowance even if post carry all India transfer liability. The University is requested to intimate the position regarding payment of the allowance.

Yours faithfully ,

Sd/- C.K. Kapahi
Under Secretary, U.G.C.

.....

refund the money that was already paid as deputation allowance and HRA. Respondents are restrained from recovering the same.

(Padmalochan Behera v. Union of India and others. 6/96 SwamyanewS 516, (Cuttack). date of judgement 12.5.1995.

O.A.No.648 of 1993.

105

Employees locally recruited and posted in the N.E.Region are not entitled to Special Duty Allowance, even if the posts may carry All India transfer liability.

Facts: This OA has been filed by All India Railway Employees Confederation, North Eastern Zone and All India Railways Ministerial Staff Association. North-Frontier Railway which are registered Associations for and on behalf of their members. The grievance of the applicants is that the Applicant Nos.3 to 15 and other Groups 'C' and 'D' employees of N.F. Railway posted in N.E. Zone are entitled to be paid Special Duty Allowance (SDA) but that facility has been denied to them illegally by the respondents. Hence, they pray for a direction to pay them the SDA with retrospective effect from 1.11.1983.

HELD: The position as regards eligibility for getting SDA has now been settled under the below-mentioned decisions of the Supreme Court (1) Chief General Manager (T lecom) v. S. Rajendra Ch. Battacharjee and others (JT (1995) 1 SC 440.) (2) Union of India and others v. S. Vijaykumar and others (JT (1994) 6 SC 443) and (3) Union of India and others v. Executive Officers' Association, Group 'C' (Civil Appeal No.3034 of 1994, decided on 23.2.1995.)

The ratio deduciable from the aforesaid decisions is as follows.

The Office Memoranda issued by the Government of India are meant for attracting and retaining the services of competent officers in N.E. Region from other parts of the country and are not meant for the persons appointed and posted in N.E. Region. The employees appointed and posted in N.E. Region merely because the posts to which they are appointed may carry All India transfer liability are not entitled to SDA. Thus, the employees recruited and posted in the N.E.Region are not entitled to SDA. The said facility is intended to attract competent officers to N.E.Region at least for 2 to 3 years of tenure posting. The Hon'ble Supreme Court has upheld the Office Memorandum No.20014/3/83/IV, dated 20.4.1987.

The question of discrimination and violation of Article 14 as well as of All India transfer liability have been discussed in the aforesaid decisions of the Hon'ble Supreme Court while laying down the ratio as noted earlier. Moreover, as contended by the respondents by virtue of Rule 226 of the IRE Code, the applicants cannot be considered as having All India transfer liability to entitle them to get the allowance. Even otherwise that would not entitle them to get the allowance if they happen to be appointed in N.E. Region itself.

contd.2/-

Having regard to the position in law and on assumption but subject to verification, that all these 'C' and 'D' Groups accord to the description of being locally recruited persons. It has to be held that they are not entitled to get the allowance. However, if any individual case of an employee from amongst those who are represented in this way who is not covered by the rule of local appointment and posting is brought to the notice of the respondents, they are directed to deal with the same in accordance with the law as enunciated in the decisions of the Supreme Court referred to above. The OA is accordingly disposed of.

(All India Railway Employees' Confederation. N.F. Railways. Guwahati and 14 others v. Union of India and others, 6 96 Swamysnews 518, (Guwahati), date of judgement 6.6.1995.)

C.A.No.2(G) of 1990

106

Stepping up of pay of a senior could be considered only if he satisfies the 3 conditions laid down in G.I., M.F., O.M., dated 4.2.1966.

FACTS: The case of the petitioner is that he stood officiating as LCW, Grade II, with effect from 26.5.1981 in the Eastern Railway while respondent No.5 started such officiation in LCW, Grade II, with effect from 16.12.1982. In all seniority lists published by the Railway authorities on 11.9.1985, 29.[illegible] 19.2.1990 and 7.9.1992, he has been shown as senior to Shri R.N. Ray. Yet Shri Ray has been allowed to officiate in the higher post of LCW, Grade I, with effect from 16.1.1982. The grievance of the petitioner is that even though he is senior to Shri R.N. Ray, the Railway authority most arbitrarily allowed Shri Ray to officiate in the higher post of LCW. Grade I, with effect from 1[illegible].1982 on ad hoc basis while denying him such benefit. As a result, his pay has become less than his junior. Subsequently, Shri R.N. Ray has been regularly promoted as LCW. Grade I, with effect from 31.5.1988. Being aggrieved, the applicant made representation on 3.7.1992

GIMF, OM.No.11(3)/95-E. II(B), dated 12-1-1996

Special Duty Allowance for civilian employees serving in the State and Union Territories of North-Eastern Region

The undersigned is directed to refer to this Department' OM No.20014/3/83-E.IV, dated 14-12-1983 and 20-4-1987 (Sl.No.214 of Swamy's Annual, 1988) on the subject mentioned above.

2. The Government of India vide the above-mentioned OM, dated 14-12-1983, granted certain incentives to the Central Govt. civilian employees posted to the N-E Region. One of the incentives was payment of "Special Duty Allowance" (SDA) to those who have "All India Transfer Liability".

3. It was clarified vide the above mentioned OM, dated 20-4-87, that for the purpose of sanctioning 'SDA' of the members of any service/cadre of incumbents of any post/group of posts has to be determined by applying the test of recruitment zone, promotion zone, etc., i.e., whether recruitment to service/cadre/pos has been made on All India basis and whether promotion is also done on the basis of an All india common seniority list for the service/cadre/post as a whole. A mere clause in the appointment letter to the effect that the persons concerned is liable to be transferred anywhere in India did not make him eligible for the grant of SDA.

4. Some employees working in the N-E. Region approached the Hon'ble Central Administrative Tribunal (CAT) (Guwahati Bench) praying for the grant of SDA to them even though they were not eligible for the grant of this allowance. The Hon'ble Tribunal had upheld the prayers of the petitioners as their appointment letters carried the clause of All India Transfer Liability and accordingly, directed payment of SDA to them.

5. In some cases, the directions of the Central Administrative Tribunal were implemented. Meanwhile, a few Special Leave Petitions were filed in the Hon'ble Supreme Court by some Ministries/Department against the orders of the CAT.

6. The Hon'ble Supreme Court in their judgment delivered on 20-9-1994 (in Civil Appeal No.3251 of 1993) upheld the submissions of the Government of India that Central Govt. civilian employees who have all India transfer liability are entitled to the grant of SDA, on being posted to any station in the N-E Region from outside the region and SDA would not be payable merely because of the clause in the appointment order relating to All India Transfer Liability. The Apex Court further added that the grant of this allowace only to the officers transferred from outside the region to this region would not be violative of the provision contained in Article 14 of the Constitution as well as the equal pay doctrine. The Hon'ble Court also directed that whatever amount has already been paid to the respondents or for that matter to other similarly situated employees would not be recovered from them in so far as this allowance is concerned.

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

(i) the amount already paid on account of SDA to the ineligible persons on or before 20-9-1994 will be waived; and

(ii) the amount paid on account of CDA to ineligible persons after 20-9-1994 (which also includes those cases in respect of which the allowance was pertaining to the period prior to 20-9-1994, but payment were made after this date i.e. 20-9-94 will be recovered.

8. All the Ministries/Department, etc., are requested to keep the above instruction in view for strict compliance.

6: 6: 13: (9)

7

ANNEXURE - IV

Sunil Ranjan Sen B.A.LL.B
ADVOCATE
GAUHATI HIGH COURT

Dated Shillong
The 22nd February,1997

To

The Deputy Registrar
(Legal Cell),
North-Eastern Hill University,
Shillong

Subject: Payment of Special Duty Allowance to NEHU Employees.

Ref. : Your letter dated 2nd December, 1996

Dear Sir,

With reference to your above letter, I am to state that I have gone through the Rulings of the Hon'ble Supreme Court on Chief General Manager, Telecom. Versus Rajendra Ch. Bhattacharjee as reported in 1995 supplement (1) Supreme Court cases 757 which has dealt with the subject elaborately and from all points of view has also taken into consideration the decisions of the other two cases mentioned by you. After discussing the subject and the points raised by contending Parties, the Hon'ble Supreme Court has held that - "Special Duty Allowance payable to Central Government employees in view of the need for "attracting and retaining the Services" of competent officers - Employees belonging to the North-Eastern Region itself, even if having all-India transfer liability,- not entitled to such allowance"

A xerox copy of the full text of the Hon'ble Supreme Court Judgement in the above case is enclosed herewith for your perusal. The Judgement will make it clear that the decision of the Hon'ble Supreme Court is binding on all connected Parties including the Officers of the North-Eastern Hill University, who are also Central Government Officers.

I have also gone through the notes of the University Grants Commission as contained in their Office Memorandum dated 28-7-1987. I am however, of the opinion that after the decision of the Hon'ble Supreme Court in Chief General Manager, Telecom. Versus Rajendra Chandra Bhattacharjee, this note has lost all relevance as the employees of the North-Eastern Region even if having all India Transfer liability, have been held not entitled to Special Duty Allowance.

Enclosed: As above.

Yours faithfully,

Sd/-
(S.R. Sen)
Advocate

1955 Supp (I) Supreme Court Cases 757

(Before S.C. Agrawal and Faizan Uddin, JJ.)

UNION OF INDIA AND OTHERS Appellants;

Versus

EXECUTIVE OFFICERS' ASSOCIATION GROUP-C

Civil Appeal No.3034 of 1995 decided on February 23,1995

Service Law - Allowances - Special Duty Allowance - Entitlement to North-Eastern Region States - Special Duty Allowance payable to Central Government employees in view of the need for "attracting and retaining the services" of competent officers-Employees belonging to the North-Eastern Region itself, even if having all India transfer liability, held, not entitled to such allowance OMs Nos.20014/2083-E.IV dated 14-12-1983;20014/16/86. IV/E.II(B) Dated 1-2-1988; No.20014/3/83 (Paras 4 and 8)

Chief General Manager (Telecom) v Rajendra Ch. Bhattacharjee(1995) 2 SCC 532:JT (1995) 1 SC 440; Union of India v. S.Vijayakumar, 1994 Supp (3) SCC 649 : 1995 SCC (L&S) 189:(1994) 28 ATC 598 : IT(1994) 6 SC 443 followed

Appeal allowed H!M/T/14187/SLA

Advocates who appeared in this Case:

N.N. Goswamy, Senior Advocate (S.D. Sharma, V.K. Verma and D.S. Mahra, Advocates, with him) for the Appellants;

From the Judgment and Order dates 28-5-1993 of the Central Administrative Tribunal Guwahati Bench in OA No. 172 of 1991

Krishnamurthi Swami,Advocate, for the Respondents,

The Judgment of the Court was delivered by

FAIZAN UDDIN J - Delay condoned.

2. Leave granted. The counsel for parties are heard.

3. This appeal has been directed by the appellants against the judgment dated 28-5-1993 passed by the Central Administrative Tribunal, Guwahati Bench (hereinafter referred to as Tribunal) in OA No.172 of 1972. By the said judgment the Tribunal held that the respondents are entitled to Special Duty Allowance in terms of Office Memorandum dated 14-12-1983 with effect from the date specifically indicated in the said office memorandum and directed the appellants herein to pay and clear the SDA to the respondents herein within 90 days from the date of receipt of copy of the judgement in respect of the arrears due and to release the current SDA with effect from the month of June 1993.

4. Respondent I is an Association of Group(C) Inspector of Customs and Central Excise under the Collectorate of Customs and Central Excise, Shillong and Respondents 2 and 3 are its President and General Secretary respectively. The respondents approached the Tribunal claiming SDA on the strength of Office Memorandum No.20014/2/83-EIV dated 14-12-1983 and the Office Memorandum No.20014/16/86.IV/E.II(B) dated 1-12-1988 issued by the Ministry of Finance, Government of India. The Respondent Association Claimed that is members have all-india transfer liability under the Central Excise and Land Customs Deptt. Group (C) Posts Recruitment Rules 1979 which were applicable to its members and in pursuance of which three of its members had been transferred and one Smt Lisa L. Rynjan of Shillong had been posted at Goa

Under the said recruitment rules and, therefore, they are eligible and entitled to claim SDA. The appellantsherein opposed and contested the aforesaid claim of the respondents before the Tribunal. The appellants took the defence by stating that the office memorandum No.20014/3/83.E/IV dated 20-4-1987 had clarified that the SDA is payable only to those officers, incumbents of Group (C) posts who are having all-india transfer liability defined in the said office memorandum keeping in view of original Office Memorandum dated 14-3-1983 and that the conditions stipulated in the Recruitment Rules, 1979 referred to above cannot be taken as basis for saddling the respondents or its members with all-India transfer liability and consequent payment of SDA to them. The appellants also took the plea that all India transfer liability of the members of any service/cadre or incumbent of any posts/group of posts is to be determined by applying the tests of recruitment to the service/cadre/post made on all-India basis and that mere clauses in the Recruitment Rules/Appointment Order stipulating all-India transfer liability do not make him/them eligible for grant of SDA in terms of Office Memorandum dated 14-12-1983.

5. After considering the rival contentions the Tribunal observed that the contents of Office Memorandum dated 12-4-1984 as well as the letter No.7/47/48.EA dated 28-9-1984 have been fully discussed by the Full Bench, Calcutta and held that the real test/criteria for determination is whether all-India transfer liability exists and opined that without recalling the Office Memorandum issued in 1983 the department concerned had no reason to deny the benefit of memorandum available to certain classes of employees and to withdraw its application to certain other classes. Relying on the said Bench decision of the Central Administrative Tribunal, Calcutta, the Tribunal allowed the application of the respondents by the impugned judgment and grants the relief as stated above against which this appeal has been preferred.

6. Learned counsel for the appellants submitted that the Tribunal has failed to appreciate the true meaning, intention and spirit behind the term "all-India transfer liability" which occurred in the Finance Ministry Office Memorandum referred to above and has thus seriously erred in holding that the members of the respondent-Association are entitled to the SDA. He further submitted that the package of incentives contained in the Ministry's Office Memorandum dated 14-12-1983 (as amended) is based on the recommendations of the committee to review the civil facilities and allowance admissible to Central Government employees in the NE Region and it was with a view to attract and retain competent officers' service in the States and Union Territories in the North-Eastern Region that the Government of India on the recommendations of the committee made the provision for Special Duty Allowance to be paid to such officers who come on posting and deputation to North-Eastern Region from other regions. It was, therefore, submitted that since the members of the respondent-Association belonged to the North-Eastern Region itself who were recruited and posted in the same region, they were not entitled for SDA.

7. The main source for claiming the SDA is the Office Memorandum dated 14-12-1983 the very first para of which reads as under:-

> The need for attacting and retaining the Services of competent officers for service in the N.E. Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories and Arunachal Pradesh and Mizoram have been engaging the attention of the Government for sometime. The Government had appointed a committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowance and

facilities admissible to the various categories of civilian Central Government employees serving in this region and to suggest suitable improvements. The Recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows."

8. A careful perusal of the opening part of the Office Memorandum reproduced above would show that the Government had appointed a committee under the Chairmanship of the Secretary, Deptt. of Personnel and Administrative Reforms to review the existing allowances and facilities admissible to the various categories of Civilian Central Government employees serving in the North-Eastern Region so that competent officers may be attracted and retained in the North-Eastern Region States. The use of words "attracting and retaining in Service" are very much significant which only suggest that it means the competent officers belonging to a region other than the North-Eastern Region. The question of attracting and retaining the services of competent officers who belong to North-Eastern Region itself would not arise. The intention of the Government and spirit behind the office memorandum is to provide and incentive and attraction to the competent officers belonging to a region other than the North-Eastern Region to come and serve in the North-Eastern Region. It can hardly be disputed that the geographical, climatic, living and food conditions of people living in North-Eastern Region and the States comprising therein are different from other regions of the country. The North Eastern Region is considered to be "hard zone" for various reasons and it appears that is is for these reasons that the Government provided certain extra allowances, benefits and other facilities to attract competent officers in the North-Eastern Region at lease for two to three years of tenure posting. The Ministry's Office Memorandum in question came up for consideration before this Court in Chief General Manager (Telecom) v. Rajendra Ch. Bhattacharjee which was decided by us by judgment dated 18-1-1995 in which this court took the view that the said office memorandam are meant for attracting and retaining the services of cmpetent officers in the North-Eastern Region, from other parts of the cuntry and not the persons belonging to that region where they were appointed and posted. This was also the view expressed by this Court in yet another case reported in Union of India v. S. Vijayakumar. In Vijayakumar the point for consideration was exactly identical, with regard to the entitlement to SDA to those employees/officers who are residents of North-Eastern Region itself. After considering the Memorandum dated 14-12-1983 and other related office memorandums indicated above, it was held that the purpose of the allowance was to attract persons from outside the North Eastern Region to work in the North-Eastern Region because of inaccessibility and difficult terrain. In the facts and circumstances stated above the view taken by the Tribunal cannot be upheld and deserves to be set aside.

9. For the reasons stated above the appeal is allowed. The impugned order of the Tribunal is set aside and the application filed by the respondents before the Tribunal for grant of SDA to them is dismissed. in the Facts and circumstances of the case, we make no order as to costs.

ANNEXURE V

(viii) Allowance and facilities for civilian employees of the Central Government serving in the State and Union Territories of the North-Eastern Region -- improvements thereof -

No.:EC:68:90:6:06:(viii): The Council RESOLVED that the decisions and instructions of the Government of India will apply in the matter of payment of Special Duty Allowance to the employees of the University. The Government of India O.M. No.20014/4/83-E.IV dated 27.7.84 will be effective from 6th June, 1989, the date of receipt of the order by the University and the payment of the allowance made earlier to the employees between the period 27.7.84 to 5.6.89 be condoned.

Annexure VI

EXTRACT FROM THE MINUTES OF THE FIFTY-THIRD MEETING OF THE EXECUTIVE COUNCIL HELD ON 4TH SEPTEMBER, 1986 : SHILLONG

(iv) Grant of 25% Special Duty Allowance to the Non-teaching staff of NEHU -

EC:53:86:06:6 (iv): The Council considered the question of payment of SDA at 25% of basic pay to the employees of the University vis-a-vis the demands of the Non-Teaching Staff Association and the Teachers' Association. The Council noted that, with the implementation of the decision conveyed under the UGC's letter No.F.7-11/82(E-II) dated the 3rd Sept' 1984, with effect from 1st July, 1984, the employees of the University, both teaching and non-teaching, hailing from the North-East region, welfare of whose people and improvement of economic condition, the University is charged with the responsibility of paying special attention, had been deprived of this financial benefit. Though the condition of all-India transfer liability had been waived, some of the teachers and officers, though liable to pay Income Tax, have not been made eligible to receive the SDA. It was also brought to the notice of the Council that some of the autonomous Organisations functioning in the region had already extended the benefit to their employees -- teachers, officers and other staff. The Council felt that this anomalous position which give the colour of discrimination in the matter of payment of the Allowance is likely to affect the harmony in the University and is even fraught with explosive consequences. The Council, Therefore, unanimously RESOLVED that the SDA at the rate of 25% of basic pay, subject to a maximum of Rs.400/- may be paid to all employees of the University from the same date it was earlier implemented by the University and the modalities of payment may be decided by the Vice-Chancellor.

The Council further RESOLVED that the decision and action taken by the University may be intimated to the UGC in responce to their letter No.F.7-3/86 (NP-I), dated 28th May, 1986.

13 6:6:13:(15) ANNEXURE-VII

NEHU/VCF-13-2/84-644 April 12, 1984

Dear Smti

Kindly refer to my DO even No. dated February 2, 1984.

I wish to invite your kind attention to the fact that a number of senior teachers left our University early this year and some of those selected by us after a long process failed to join. This has put our academic programme in many subjects in jeopardy. It was with great difficulty that we are able to contain students' discontent. This now makes it imminent that some measures are taken to attract senior people and retain them in our University. If this is not done, I am afraid, Gresham's Law ill have its full fury and we will be reduced to status of a less-than-mediocre institution.

I had referred to in my earlier letter the decisions of the Central Government to give Special Duty Allowance to their personnel posted to this region having All India Transfer Liability. I had mentioned in my letter that it might be difficult for the UGC to extend the same facilities to NEHU teachers, but the decision of the Govt of India could be taken as a guid for taking an independent view about our University teachers (copy of the Govt. of India order enclosed for ready reference).

I may also invite your attention to a circular letter written recently by Prof. S.K. Khanna, Secretary, UGC requesting us to sponsor candidates for various positions in the newly established North Eastern Institute of Technology, Itanagar, Arunachal Pradesh. It has been mentioned there that the teachers appointed to that Institute will be entitled to free accommodation plus 25% special allowance. This shows that substantial facilities, have been extended by the UGC in relation to an Institute which is expected to be a "Deemed University" and is located in a Union Terribory in the North East. As you will agree this adds credibility to our request.

In the context of above facts may I request that the cases teachers of this University may also be considered favourably by the UGC now that we have the precedence of Central Govt employees and also the North Eastern Regional Institute of Technology. They may given special allowance and xx other facilities on lines parallel to granted by Govt. in the circular referred to above and free accommodation.

With best regards,

Yours sincerely,

Sd/-
(B.D. Sharma)
V.C.NEHU

Dr.(Mrs.) Madhuri Shah,
Chairman,
UGC.

Annexure VIII

North-Eastern Hill University
Shillong

No.F.27-5/Admn/88-2283 Dated 30-5-1988

To

Shri S.P. Tuli,
Director (Finance),
Ministry of Human Resource Development,
(Department of Education),
Government of India,
New Delhi.

Sub:- Allowance of Facilities for Civilian Employees of the Central Government Serving in the States and Union - Territories of North-Eastern Region and A&N Island and Lakshadweep - Improvement thereof.

Sir,

Kindly refer to your letter No.F.24(8)/87-IFD Dt. 6 January,1988 followed by letter No.F.24(8)/87-IFD Dt. 5-4-1988 and No.F.24(8)/87-IFD Dt. 6-5-1988, wherein it has been intimated that if the concerned employees do not fulfill the required condition laid down in the Ministry of Finance's Instruction of the subject, the payment of Special Duty Allowance should be stopped,

In this connection, it may kindly be recalled that the Government of India with a view to attracting and retaining the services of Competent Officers of Civil Services in the North Eastern Region decided to pay Special Duty Allowance @ 25% of the basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. The payment of Special Duty Allowance according to the latest amendment, was subject to the condition that the employees concerned must have all India transfer liability.

The University, which follows the Central Government pay scales and allowances in full, found it very difficult to attract talented Teachers from outside the North Eastern Region unless some financial incentive could be made available. Taking the above instruction of the Government of India in regard to Special Duty Allowance as a guide for a independent view of the University employees, the Executive Council of the University resolved that Special Allowance 25% of basic pay be paid to all teachers of NEHU as per Ministry of Finance, Department of Expenditure, Government of India's O.M. No.20014/G/83-E.IV Dt.14-12-1983 as amended vide O.M. of even no. dated 29-10-86 w.e.f. 1st July, 1984. A reference to this effect was also made

to the UGC and, in reply, the commission considered the request for payment of Special Allowances to the Teachers of this University and agreed that keeping in view the situation of the University and difficulties which the University has to face for the appointment of Teachers, the same benifits will be extended to the Teachers as are admissible to the Central Government employees posted in North Eastern Region as well as those extended to the staff appointed to the Regional Institute of Science and Technology located at Itanagar. A copy of the Commission's letter No.F.7-11/82 (E) - II) Dated 3-9-1984, to this effect, is enclosed.

Subsequently, the Non-Teaching Staff Accociation of this University submitted its representation to the University Authorities urging that it was indiscriminate to pay the Special Allowance only to a section of the Teachers of this University leaving aside the bulk of the Teachers and entire Non-Teaching Staff of the University although the entire Non-Teaching Staff of the University although the entire strength of the employees of the University have been living in the same difficult situation prevailing in the Region. A copy of the representation was also submitted to the University Grants Commission and the Commission in its letter No.F.7-3/86 (NP-I) dated 28-5-1986 asked this University to communicate its decision on the issue. Accordingly, the Executive Council of this University in its meeting held on 4-9-1986 considered the question of payment of SDA at 25% of basic pay to the employees of the University vis-a-vis the demand of the Non-Teaching Staff Association and the Teachers Association. The Council noted that, with the implementation of the decision conveyed under the University Grants Commission Letter No.F.7-11/82 (E.II) Dated 3-9-1984, w.e.f. 1st July,84, the employees of the University, both Teaching and Non-Teaching hailing from the North Eastern Region, welfare of whose people and improvement of economic condition, the University is charged with the responsibility of paying special attention, had been deprived of this financial benefit. The Council felt that this anomalous position which gives the colour of discrimination in the matter of payment of the allowances is likely to affect the harmony in the University and is even fraught with explosive consequences. The Council, therefore, unanimously resolved that the Special Duty Allowance @25% of basic pay subject to a maximum of Rs.400/- be paid to all employees of this University from the same date it was earlier implemented

by the University, Thereafter, the Commission was requested to release sufficient money for discharging the liability for payment of Special Duty Allowance vide University's letter No.FA.2/1/86, dated 17-10-1986 and No.Fin.2/Budge/Maintenance/NP3599 dated 15-12-1986. The Commission, in its letter No.F. 21-7/86 (NP-I) Dt. 28-1-1987, release the necessary amount for the purpose. Thus, the payment of SDA to the entire staff of the University w.e.f. 1-7-1984 was accepted by the UGC by releasing Maintenance Grants which includes the amount of SDA required for the purpose. From what have been pointed out above, it would be seen that the condition that employees who are exempt from payment of Income Tax would not be eligible for the Special(Duty) Allowance, has since been deleted, vide Ministry of Finance(Deptt. of Expenditure)'s O.M. No.20014/3/83-E IV dt. 29-10-1986 and the decision taken to pay SDA to the University employees was not made on the basis of all India transfer liability but in view of the prevailing situtation of this University and the difficulties which the University have to face. This was also accepted by the University Grants Commission vide their letter No.F.7-11/82 (E-II) Dt. 3-9-1984 (copy enclosed). In fact, the Government of India's Orders to Pay SDA was taken as a guid for an independent view about our University employees. There are specific Autonomous Organisation who have extended the SDA to all its employees althoughnot having all India Transfer liability. The organisation, namely, North Eastern Regional Institute of Science and Technology Itanagar (Arunachal Pradesh), and wherein grant of SDA has been extended to all their employees though not having all India transfer liability. Thus, the decision to pay SDA to all the University Employees was made by the decision making body of the University, that is, the Executive Council as empowered under NEHU ACT, 1973.

In view of the above, stoppage of the above allowance is, perhaps, not applicable in the case of this University.

Yours faithfully,

Sd/-
(D.C. Pant),
REGISTRAR

Copy to:-

1. Shri R.S. Dua, Asstt. Financial Adviser, Govt of India, Ministry of Human Resource Development, Deptt. of Education, Integrated Finance Division, New Delhi, with reference to his letter No.F.No.24(87)/87 - IFD Dt. 5-4-1988
2. The F.O. NEHU, Shillong.
3. Salary Section, Finance Deptt.
4. Budget Section, Finance Deptt.

ANNEXURE IX

No.F.21-7/P6(NP-I) Dt. 28th January, 1987

To

The Registrar,
NorthEastern Hill University,
Lower Lachaumiere,
Shillong - 793 001.

Sub:- Maintenance (Block) grant for 1986-87 (On account of SDA

Sir,

I am directed to refer to your letter No. Fin. 2|Budget|Maintenance|NP/3599 Dated 13-12-1986 on the subject mentioned above and to convey the sanction of University Grants Commission to the payment to the North-Eastern Hill University of a further 'On account' grant of Rs.25,00,000 (Rupees Twenty five Lakhs only) as the 8th instalment of grant towards Maintenance (Block) grant for 1986-87 on account of SDA. This will bring the total payment made so far by the commission on this account including the present sanction to Rs.5,26,50,000/- x Rs.5,01,000/- having been paid earlier).

2. The grant sanctioned above is subject to the same terms and conditions as intimated in this office letter of even number dated 21-3-1986.

3. The above amount is debitable to the Head Section-I-Non Plan-Project-0.2 (i) - Block grant to central Universities and is valid for the financial year 1986-87 or for a period of three months from the date of issue whichever is earlier.

4. A bill form T.R.42 is enclosed which may please be returned to this office duly filled in and signed for Rs.25,00,000 only. In this connection it is specifically requested that the certificate at the bottom of the T.R.42 bill may kindly be complete so as to avoid delay in the payment of the bill.

5. "The organisation shall fully implement the official Language policy of the Union Government" i.e. the organisation shall fully comply with the "Official Language Oct 1963" and "Official Language 'Use for the Official purposes of the Union) Rules 1976 etc.

Yours faithfully,

Sd/-
GURBUX SINGH
UNDER SECRETARY

Encl:- As above.

(xi) Absorption of RSIC Staff in the NEHU Cadre.

No:EC:92:97:6:6:(xi): The Council considered the absorption of the staff of the RSIC in the University's Non-Teaching staff cadre and RESOLVED that Smti.Rajamma K. L.D.C. and Smti.K.Thangkhiew,L.D.C. may be absorbed within the University structure as and when RSIC comes under NEHU. However, the case of Shri Joseph P., Assistant ,could not be considered as he was not appointed through a Selection Committee in accordance with the University's recruitment policy. His case may be considered as and when he qualified the test as laid down by the University.

(xii) Consideration of Eligibility for promotion of Ms.M.Pyngrope,Lab Assistant,Chemistry Department vis-a-vis the recruitment policy effective date of application of the revised recruitment policy.

No:EC:92:97:6:6:(xii): The Council considered the promotion case of Ms.M.Pyngrope,Lab.Assistant,Chemistry Department and RESOLVED that her case alongwith that of Shri B.Das,Store-Keeper may be placed before the Advisory Committee for Cadre Management.

(xiii) Special Duty Allowance(SDA) in North-Eastern Region.

No:EC:92:97:6:6:(xiii): The Council considered the grant of Special Duty Allowance to the employees of the University and RESOLVED that in view of the Supreme Court's judgement the same may be dis-continued with effect from 1.4.1997.

(xiv) Benefits on transfer from other Bodies/ Organisations.

No:EC:92:97:6:6:(xiv): The Council considered the benefits on transfer from other Bodies/Organisations and RESOLVED that para-7 of the Government of India's Orders of 29.8.84 may be read with Government of India's Order of 22.2.1988.

Contd/.../-