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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. ~~67/2000~~ 67/2000

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SECTION OFFICER (Judl.)

FORM NO.4  
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWHATI BENCH ::::: GUWAHATI

ORDER SHEET  
Original APPLICATION NO 106 OF 2001

Applicant (S) Monoj Kr. Das Jany

Respondent(s) U.O.I 9am

Advocate for Applicant(s) B.K.Sharma, S. Sarma, Mrs. Usha

Advocate for Respondent(s) C.A.G.

Notes of the Registry	Date	Order of the Tribunal
<p>Information admission order E. for 170/ 26 503678 Date 27.2.2001 1/e 16/3/01 46th steps received. 16.3.2001 Service of notice issued to the respondents vide D.O. 971-971 24.16.3.01 Bor</p>	<p>14.3.01</p> <p>lm</p> <p>4.4.2001</p>	<p>Heard Mr.S.Sarma learned counsel for the applicant and also Mr.B.C.Pathak, Addl.C.O. respondents.</p> <p>Application is admitted. Issue notice to the responder to show cause as to why the interim order as prayed for not be granted.</p> <p>List on 4.4.01 for c 222</p> <p>Four weeks time all the respondents to file statement. List for off 9.5.01.</p> <p>Vice-Chair</p>

FORM NO. 4

( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 67/2000

OF 199

Applicant(s) Sri Bisith Kr. Das

Respondent(s) Union of India and Ors.

Advocate for Applicant(s) Mr. B.K. Sharma

Mr. S. Sarma

Advocate for Respondent(s)

Mr. U.K. Goowari

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form and within time</p> <p>C.F. of Rs 50/- deposited vide</p> <p>17/2/2000</p> <p>17/2/2000</p> <p>17/2/2000</p> <p>Note: Allegation Case</p> <p>21-2-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.D.</p> <p>Vide D.Nos. 5/0/0</p> <p>5-14 Dtd-21-2-2000</p>	<p>17.2.00</p>	<p>Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.</p> <p>Application is admitted. Issue usual notices. Returnable on 16.3.2000.</p> <p>Mr. B.K.Sharma, learned counsel for the applicant prays for an interim order of stay of the impugned Annexure-7 order of repatriation, dated 17.12.1999. Mr. A. Deb Roy, learned Sr. C.G.S.C. submits that he has not received any instruction.</p> <p>Issue notice to show cause as to why the order of repatriation shall not be suspended pending disposal of this application. Notice is returnable on 16.3.2000. Meanwhile the order of repatriation dt. 17.12.99 shall remain suspended.</p>

*[Signature]*  
Vice-Chairman

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O.A.67/2000

Notes of the Registry

Date

Order of the Tribunal

Notice duly served  
on R.No-1.

15-3-2000

15-3-00

show cause is not  
seen to be

15/3

29-03-2000

Order dated 16.3.2000  
has been sent to  
D/S for issuing to  
the counsels vide  
D.O.No-4198420.

29/3/2000

30-3-2000

Notice issued  
for filing of the  
written statement, 1, 2.

The case is ready.

6-7-2000

The case is ready  
for hearing.

27-9-2000

16.3.2000

On the prayer of Mr A. Deb Roy,  
learned Sr.C.G.S.C the case is adjourned  
to 5.4.2000 for filing written statement  
and further orders. Mr S.Sarma, learned  
counsel for the applicant submits that  
the interim order may continue. Interim  
~~MEMBER~~  
order dated 17.2.2000 shall continue  
until further orders.

Member(J)

Member(A)

pg

16/3/2000

5.4.00

On the prayer of Mr.A. Deb Roy,  
Sr.C.G.S.C. two weeks time is allowed  
for filing of written statement. List  
on 28.4.00 for filing of written state-  
ment and further orders.

Member

lm

28.4.00

Written statement has been  
submitted. List for hearing on 7.7.00

lm

Member

7-7-00

There is no D.B. Adm  
to 28.9.00

17/0

28.9.00

no D.B. To be listed on  
2-2-01.

17/0

2.2.01

correct bench at Shillong.  
Adjourned to 13.2.2001.

Mh

13.2.

13.2.

on the prayer of learned advocate Mrs. Sharma,  
the case is put over for further  
orders.

13.2.

(3)

OA 67/2000

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Notes of the Registry

Date

Order of the Tribunal

14-2.

Due to want of time, it was again adjourned to 19.2.2001.

Mb  
A.K. J.  
14.2

19.2.01

List on 8.3.2001 for hearing and to enable the parties to obtain necessary instructions.

111 Ushay

Member

Vice-Chairman

pg

8.3.

on the prayer of learned advocate for the applicant, the case is adjourned to 28/3/2001.

Mb  
A.K. J.  
8.3

28.3.01

Heard Mr.S.Sarma learned counsel for the applicant and also Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents.

In the light of the order passed in O.A.No.122 of 2000 this application is dismissed on withdrawal with a leave to file such application if occasion arises.

111 Ushay

Member

Vice-Chairman

lm

AB  
28/3/01

written statement has been filed.

By  
27.3.01

30.3.2001

Copy of the order has been put to the D/Sec. for issuing the same to the L/Advocate for the parties.

HS

Notes of the Registry	Date	Order of the Tribunal

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THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

(An application under Section 19 of the Administrative  
Tribunals Act, 1985)

Title of the case : O.A. No. 67 of 2000

Shri Binith Kr. Das ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing :
Registration No. :
_____ Registrar

X  
Filed by  
17/12/2000

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI \*\*\*

D.A. No. 67 of 2000

BETWEEN

Shri Binith Kumar Das, Divisional Accountant in the office of the Executive Engineer, Ziro Division, P.W.D., Arunachal Pradesh, P.O. Ziro, District Lower Subansiri, Arunachal Pradesh.

... Applicant

- AND -

1. The Union of India, through the Comptroller & Auditor General of India; 10, Bahadur Shah Jafar Marg, New Delhi-110002.
2. The Accountant General (A & E), Meghalaya etc., Shillong-793001.
3. The State of Arunachal Pradesh, represented by the Secretary to the Government of Arunachal Pradesh, P.W.D., Itanagar.
4. The Chief Engineer, Department of Power, Government of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, P.W.D., Ziro Division, Arunachal Pradesh, Ziro-791120.
6. The Director of Accounts & Treasuries, Government of Arunachal Pradesh, Itanagar, Arunachal Pradesh.

... Respondents

DETAILS OF APPLICATION

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

The present OA is directed against the proposed repatriation of the Applicant to his parent Department

Bk

from the establishment of the AG (A&E) Meghalaya etc. and the impugned order passed to that effect vide No. DA CELL/163 dated 17.12.99 without considering the case of the Applicant for his permanent absorption.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 - That the Applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2 That in the instant writ petition, the Applicant has made a grievance in respect of an order dated 17.12.99 issued from the office of the Accountant General (A&E) Meghalaya etc. directing repatriation of the Applicant w.e.f. 10.2.2000 to his parent department of P.W.D. By the said order, the Respondent No. 5 has been requested to release the Applicant on or before 10.2.2000. However, the Applicant has not been released by the said Respondent and he is still continuing under the said Respondent. The Applicant was selected for

appointment as Divisional Accountant way back in 1993 and has been continuing to be as such under the Accountant General (A&E), Meghalaya etc. and presently posted in the office of the Executive Engineer, Ziro Division, P.W.D. In spite of asking for option for permanent absorption and exercising the same by the Applicant, no action has been taken for his permanent absorption even after nearly seven years of service and contrary to the own stand of the Respondents, the Applicant is being sought to be repatriated to a lower post without considering his option for permanent absorption. Hence this writ petition for urgent and immediate relief.

4.3 That the Applicant, as stated above, is presently working as Divisional Accountant under the Accountant General (A&E), Meghalaya etc. in the combined cadre of Arunachal Pradesh, Manipur and Tripura. The Applicant was originally appointed as Store Keeper in the Supply and Transport Department under the then NEFA administration (Now Arunachal Pradesh) on 10.4.67 and subsequently absorbed in the P.W.D. as LDC and thereafter promoted as UDC on 1.2.83. He was selected for appointment as Divisional Accountant under the A.G. (A&E), Meghalaya etc. Shillong and posted to the office of the Executive Engineer, Education Building Division (Hill), P.W.D., Manipur vide order No. DA.CELL/127 dated 18.11.93. Subsequent to such selection and appointment, the Applicant joined the said post of Divisional Accountant on 18.12.93. The Applicant was again selected and appointed as

Page

Divisional Accountant by the A.G. (A&E), Meghalaya etc. Shillong vide order No. DA.CELL/2-49/94-95/2736-3A dated 3.2.97 and this time posted in the office of the Executive Engineer, P.W.D. Ziro Division, Arunachal Pradesh and the Applicant joined as such on 11.2.97.

Copies of the order dated 18.11.93, 3.2.97 and the released order dated 7.2.97 are annexed as ANNEXURES-1, 2 and 3 respectively.

4.4 That pursuant to the above order dated 3.2.97, the Applicant joined the present assignment on 11.2.97 by submitting his joining report. It will be pertinent to mention here that the post of Divisional Accountant is a promotional post for which post the Applicant was duly selected being qualified not only once but twice. The pay scale attached to the post of UDC is Rs.4000-5030/- as against the pay scale of Rs.5000-8000/- of Divisional Accountant. Be it further stated here that the post to which the Applicant was appointed and presently being held by him, is a permanent post. His pay in the post of Divisional Accountant has been fixed with due increment etc. and the same has been communicated by letter No. DA.Cell/2-3/97-98/Vol.III/933 dated 22.7.98.

Copies of the joining report dated 11.2.97 and the letter dated 22.7.98 are annexed as ANNEXURES-4 and 5 respectively.

4.5 That in the meantime, the services of the Applicant was extended upto 31.1.99 by letter No. DA.Cell/10-1/93-94/Vol.V/3520 dated 29.1.98 issued from

the office of the A.G.(A&E), Meghalaya etc., Shillong. When the matter rested thus, the office of the A.G.(A&E) has issued the order No. DA.CELL/163 dated 17.12.99 purportedly repatriating the Applicant to his parent department of Power, Arunachal Pradesh and to that effect an endorsement has been made to the Executive Engineer, P.W.D. to released the Applicant on or before 10.2.2000.

A copy of the order of extension dated 29.1.98 and the order dated 17.12.99 are annexed as ANNEXURES-6 and 7 respectively.

4.6 That the Applicant states that the aforesaid order dated 17.12.99 is totally uncalled for inasmuch as while by the said order, the Applicant is sought to be repatriated but the post presently being held by the Applicant is sought to be filled up by another deputationist. Thus here is a case of replacement of one deputationist by another deputationist. Adding insult to the injury, the case of the Applicant for his permanent absorption has not been considered for which option was taken. In this connection, circular No. DA.Cell/2-1/96-97/178 dated 24.12.96 may be referred to by which a decision was conveyed towards separation of joint cadre of Divisional Accountant/DAOs among the State Accountant General (A&E), Manipur, Tripura, Meghalaya etc. for AP. By the said letter, options were called for to enable the office of the A.G.(A&E), Meghalaya etc., Shillong to assess the availability qualifying/unqualifying DA/DAOs for each of the State

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and to decide the further course of action. The Applicant duly exercised his option for permanent absorption in the cadre of Divisional Accountant in the State of Arunachal Pradesh.

A copy of the said letter dated 24.12.96 is annexed as ANNEXURE-8.

4.7 That in the meantime, the Government of Arunachal Pradesh, Directorate of Accounts and Treasuries, Naharlagun issued a letter No. DA/TRY/15/99 dated 16.11.99 informing about the desire of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountant and Divisional Accounts Officer from the A.G. (A&E), Arunachal, Shillong and to encadre these posts to the Financial Accounts Service. Accordingly, by the said letter, the respective Executive Engineer of various departments were requested to furnish the information as reflected in the said letter dated 16.11.99. By yet another letter No. DA/TRY/15/99 dated 15.11.99 issued by the Government of Arunachal Pradesh, Directorate of Accounts and Treasuries, Naharlagun and addressed to the A.G. (A&E), Meghalaya, Arunachal Pradesh etc., Shillong in reference to his earlier letters, it was emphasized that the serving Divisional Accountants on deputation may be allowed extension so as to provide succour to the poor financial condition of the State of A.P.

Copies of the said letters dated 16.11.99 and 15.11.99 are annexed as ANNEXURE-9 and 10 respectively.

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4.8 That the Applicant states that he having rendered about seven years of service in the promotional post of Divisional Accountant under the A.G.(A&E), Meghalaya etc. in the joint cadre of Manipur, Tripura and Arunachal Pradesh and he having exercised his option for permanent absorption, the impugned order could not have been issued without first considering his case for permanent absorption. In this connection, the authorities ought to have taken into consideration the letters dated 15.11.99 and 16.11.99 at Annexures-9 and 10 referred to above. It will be pertinent to mention here that when the first deputation period of the Applicant had come to an end alongwith many others, some of them had approached this Hon'ble Tribunal making a grievance against their proposed repatriation on the plea of being permanently absorbed in the establishment of A.G.(A&E) and this Hon'ble Tribunal having found a prima facie case was pleased to protect their interest by way of passing interim orders. To the best of knowledge of the Applicant, said persons are still continuing in the establishment of A.G.(A&E), Meghalaya etc. without any hindrance.

4.9 That the Applicant states that many similarly situated persons like that of the Applicant being aggrieved by such order of repatriation has approached this Hon'ble Tribunal by way of filing OA's and this Hon'ble Tribunal having found a prima facie case has been pleased to pass interim orders protecting the interest of those Applicants who are similarly

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situated with that of the present Applicant. In many cases unlike the present Applicant, the Applicants therein have completed only three years of service as against seven years of service to the credit of the Applicant as Divisional Accountant. In this connection, orders passed in OA Nos. 338/99 and O.A. No. 392/99 may be referred to.

Copy of the orders passed in the above OAs passed in the OA NO.338/99 is annexed as ANNEXURES-11. The Applicant craves leave of the Hon'ble Tribunal to produce the copy of the order passed in OA No. 392/99.

4.10 That the Applicant states that all the Applicants in the above OAs are working on deputation and were sent on deputation like that of the Applicant from various departments of State of Arunachal Pradesh. It is the common case of all the Applicants that consequent upon their exercising options for permanent absorption, the repatriation order issued by the authorities are bad in law. All the Applicants therein are continuing on the strength of the interim orders passed by this Hon'ble Tribunal.

4.11 That the Applicant states that instead of absorbing him as Divisional Accountant he is sought to be replaced by yet another deputationist. The Applicant has by now worked for nearly seven years as Divisional Accountant and his appointment is against a permanent post and he was so appointed on promotion pursuant to his selection for such appointment. There is no

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earthly reason as to why he cannot be absorbed in the said post. Instances are galore in the establishment of A.G.(A&E), Meghalaya etc. of deputationists. As already stated above, the appointment of the Applicant as Divisional Accountant has been made pursuant to his selection in accordance with law. Since the Applicant was duly qualified and he was selected for such appointment, he was sent on deputation as Divisional Accountant which is also a source of recruitment of Divisional Accountants in the establishment of A.G.(A&E), Meghalaya etc.

4.12 That as stated above, the A.G.(A&E) has sought to replace the Applicant by another deputationist which is contrary to the established proposition of law that one deputationist cannot be replaced by another deputationist. In view of the fact that the Applicant has by now completed nearly seven years of services, his replacement by another deputationist is wholly arbitrary and unreasonable. In this connection, the Applicant begs to refer to some other cases of the Hon'ble High Court viz. W.P.(C) 367/99 (Krishna Mangal Das -Vs- Union of India & Ors.) ; W.P.(C) No. 877/99 (Ajit Kumar Deb -Vs- Union of India & Ors.- since closed and entertained by this Hon'ble Tribunal) ; W.P.(C) 1196/99 (Dambaru Dutta -Vs- Union of India & Ors.) In all these cases, it is the stand of the Arunachal Pradesh that it does not have any objection towards absorption of the Applicants therein in the CBI. Its only objection was in respect of the delay towards such absorption. Same is the case in the instant case

inasmuch as the Government of Arunachal Pradesh do not have any objection if the Applicant is permanently absorbed in the establishment of A.G.(A&E), Meghalaya etc. or in the bifurcated establishment of A.G.(A&E) for Arunachal Pradesh. The reason is obvious inasmuch as by such absorption, posts will be vacant by which others will be benefited.

The Applicant craves leave of the Hon'ble Tribunal to produce the copies of the orders passed in the above writ petitions whereby the interest of the Applicants therein has been protected.

4.13 That the Applicant states that from the letters dated 15.11.99 and 16.11.99, it is crystal clear that the A.G.(A&E) has got no right to repatriated the Applicant, rather the said authority ought to have issued orders permanently absorbing the Applicant in the cadre of Divisional Accountant in the light of the option exercised by the Applicant. The Applicant is not being replaced by any other regular incumbent, but he is being replaced by another deputationist. If the impugned order is given effect to, the valuable right of the Applicant will be affected inasmuch as the bifurcation towards creation of new cadre of A.G.(A&E) for Arunachal Pradesh is on the offing and the necessary infrastructure has already been arranged. Thus if in the meantime, the impugned order is given effect to without considering the case of the Applicant for his permanent absorption, it would seriously tell upon his service career. The impugned order of repatriation suffers from arbitrary exercise of power,

non-application of mind and prima facie illegal. The A.G.(A&E) never consulted the State of Arunachal Pradesh towards issuance of the impugned order and by the said order, an one sided action has been taken.

4.14 That the Applicant states that he has got a strong case for permanent absorption as Divisional Accountant either in his present place of posting or in any other office in the combined cadre of Manipur, Tripura and Arunachal Pradesh including the bifurcated cadre of A.G.(A&E) for AP for which options were called for. The impugned order has not yet been given effect to and the Applicant is still continuing as Divisional Accountant in the office of the Respondent No.5. He has not yet been released pursuant to the impugned order and no one else has taken over charge from him. In any case, even if any deputationist is appointed, vacancies are at galore to adjust such deputationists without disturbing the Applicant. Thus it is a fit case for passing an interim order. The interim order as prayed for and if passed will not affect the interest of the Respondents. On the other hand, if the interim order is not passed, it will render the O.A. infructuous and thus the balance of convenience lies in favour of the Applicant towards passing of the interim order. The impugned order has not been formally served on the Applicant and he having come across the said order only on 8.2.2000 has come down to Guwahati all the way from Arunachal Pradesh and now has approached this Hon'ble Tribunal at the earliest opportunity. Be it further stated here that the Executive Engineer, P.W.D., Ziro

Division under whom the Applicant has been working is yet to receive the copy of the impugned order and as such, the Applicant has not been released of his assignment as Divisional Accountant and he is still continuing under him in the said post. Moreover, the release of the Applicant from his office before the end of March 2000 is also not practicable in view of heavy work load due to the forthcoming closure of the financial year.

4.15 That the Applicant filed a writ petition being W.P(c) No. 751/2000 pertaining to the same subject matter on a mistaken view of the matter and the same has since been withdrawn there being no jurisdiction being vested in the Hon'ble High Court to entertain the subject matter. Accordingly the present OA is filed.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the Applicant having served in the establishment of A.G.(A&E) for nearly seven years, the impugned order could not have been passed without first considering the case of the Applicant for his permanent absorption in terms of the options called for and the policy decision taken by the State of Arunachal Pradesh.

5.2 For that the other persons having lesser years of service than the Applicant having been protected by this Hon'ble Tribunal by way of appropriate interim orders, it is a fit case to pass similar order in respect of the Applicant as well.

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5.3 For that the Applicant submits that it is his legitimate expectation for permanent absorption in the establishment of A.G.(A&E), more particularly, in view of his long years of service as Divisional Accountant for which he was duly selected.

5.4 For that as stated above, the pay scale of the post of Divisional Accountant is higher in the post of U.D.C. and in case of repatriation of the Applicant, it will amount to reduction in rank. Be it further stated that fixation benefit in the post of Divisional Accountant has already been extended to the Applicant with due benefit of increment etc. as already stated above.

5.5 For that the impugned order has led to the violation of equality clause enshrined in the Constitution of India and so also the principles of natural justice. Accordingly, same is not sustainable and liable to be set aside and quashed.

5.6 For that the Applicant having exercised his option for permanent absorption the Respondents ought to have considered his case for permanent absorption instead of passing the impugned order.

5.7 For that there being a policy decision for bifurcation of the office of the AG (A&E) AP etc. and the authorities having considered the question of absorption of the incumbent working on deputation the impugned order could not have been passed.

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5.8 For that in any view of the matter the impugned action is not sustainable .

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them. The statement is made subject to the statement made in para 4.15 above.

7. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order dated 17.12.99(Annexure.7).

8.2 To direct the respondents to permanently absorb the applicant as Divisional Accountant In the

establishment AG (A&E), Meghalaya etc. with retrospective effect or in the bifurcated cadre of AG (A&E) for A.P

8.3 Cost of the application.

8.4 Any other relief/reliefs that the Applicant is entitled to in the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant most respectfully prays for an interim order directing the Respondents not to repatriated and released the Applicant from his present post of Divisional Accountant in the office of the Executive Engineer, PWD Ziro Division Arunachal Pradesh and to suspend the impugned order dated 17.12.99 (Annexure-7)

10. ....

The application is filed through Advocate.

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

- i) I.P.O. No. : 06 457612
- ii) Date : 2-2-2000
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Shri Binith Kumar Das, aged about 52 years, son of Late Amaresh Chandra Das, the Applicant, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 11-12, 18, 19-21 and 25 to 27 are true to my knowledge ; those made in paragraphs 4, 5-7 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 17 th day of February 2000.

Binith Kumar Das.

ANNEXURE-1

OFFICE OF THE ACCOUNTANT GENERAL (A & B) MEGHALAYA ETC:  
SHILLONG

NO. DA CELL/127

Date 18.11.93

Consequent on his selection for the Post of Divisional Accountant (on deputation) in the Pay Scale of Rs.1400-40-1600-50-2300-EB-60-2600/= in the cadre of Divisional Accountants (on deputation) under the Administrative control of the office of the Accountant General (A&E), Meghalaya etc., Shillong, Shri Binith Kr. Das, UDC at present working in the office of the Executive Engineer, Micro Hydel Division, PWD, Pasighat, Arunachal Pradesh is posted on deputation as Divisional Accountant in the office of the Executive Engineer, Education Building Division (Hill), Manipur, Imphal.

2. Shri Binith Kr. Das should join the post of Divisional Accountant on deputation, within 1 (one) month from the date of issue of this order, failing which his posting on deputation will be treated as cancelled without any further communication. No representation for a change of the place of posting will be entertained under any circumstances.

3. The period of deputation of Shri Binith Kr. Das will be for duration of 1 (one) year from the date of joining in the office of the Executive Engineer, Education Building Division (Hill), PWD, Manipur, Imphal.

4. The pay and deputation (duty) allowances in respect

of Shri Binith Kr. Das will be governed by the Govt. of India, Ministry of Finance, Public Grievances and Pension (Department of Personnel and Training) letter No. 2/12/07-Estt(Pay II) dated 29.4.1988 and as amended and modified from time to time, while on deputation, Shri Binith Kr. Das may elect to draw either the pay in the scale of pay of the deputation post or his basic post in the parent cadre plus personal pay, if any, plus deputation (duty) allowances. Shri Binith Kr. Das on deputation should exercise option in this regard within a period of one month from the date of joining the new assignment (i.e. the post of deputation.) The option once exercised by Shri Binith Kr. Das shall be final.

5. The Dearness Allowances, CCA, Children Education Allowance, TA, LTC, Leave, Pension etc. will be governed by the Govt. of India, Ministry of Finance O.M. No. F.1(6)E-IV(A)/62 dated 7.12.1962 (incorporated as Annexure to Govt. of India decision No. 1 in Appendix 31 of Choudhury's CSR Volume IV (13th Edition) and as commended and modified from time to time.

6. Shri Binith Kr. Das on deputation will be liable to be transferred to any place within the States of Arunachal Pradesh, Manipur and Tripura, in the cadre of Divisional Accountant under the administrative control of the Accountant General (A&E), Meghalaya etc., Shillong.

7. Prior concurrence of this office must be obtained by the Divisional Officer before Shri Binith Kr. Das (on

deputation) is entrusted in additional charges, appointed or transferred to a post/is given any Station other than that cited in this establishment order.

Authority : AG's order dated 13.10.93  
at P/9W of File NO. DA.CELL/2-40/93-94.

Sd/-  
Sr. Dy. Accountant General (A&E)

Memo No. DA.CELL/2-49/93-94/1649-1659 Dated 23.11.93.

Copy forwarded for information and necessary action to:

1. The Accountant General (A&E), Manipur, Imphal.
2. The Accountant General (A&E), Tripura, Agartala
3. The Chief Engineer, PWD, Manipur, Imphal
4. The Chief Engineer, PWD, Itanagar, Arunachal Pradesh. He is requested to release Shri Binith Kr. Das immediately with the direction to report for duty to his place of posting on deputation under intimation to this office.
5. The Executive Engineer, Micro Hydel Division, PWD, Pasighat, Arunachal Pradesh is requested to release immediately Shri Binith Kr. Das with the direction to report for duty to his place of posting on deputation under intimation to this office.
- REGD.6. The Executive Engineer, Education Building Division (Hill), Imphal, Manipur. He is requested to intimate the date of joining of Shri Binith Kr. Das.
- REGD.7. Shri Binith Kr. Das, UDC, Executive Engineer, Micro Hydel Division, PWD, Pasighat, Arunachal Pradesh.
8. EO file.
9. SC File
10. PC file
11. File of the deputationists.

Sd/-

Sr. Dy. Accountant General (A&E)

ANNEXURE-2

OFFICE OF THE ACCOUNTANT GENERAL (A & B) MEGHALAYA,  
ARUNACHAL PRADESH AND MIZORAM : SHILLONG

EO No. DA CELL/226

Date 3.2.97

Consequent on his selection for the post of Divisional Accountant (on deputation basis) in the pay scale of Rs. 1400-40-1600-50-2300-60-2600/- in the combined cadre of Divisional Accountants under the administrative control of the office of the Accountant General (A&E), Meghalaya etc., Shillong, Shri Binith Kr. Das, UDC at present working in the office of the Chief Engineer, Power, Itanagar is posted on deputation as Divisional Accountant in the office of the Executive Engineer, Ziro PW Division, Ziro, Arunachal Pradesh.

2. Shri Binith Kr. Das should join in the aforesaid post of Divisional Accountant on deputation within 15 days from the date of issue of this order, failing which his posting on deputation is liable to be cancelled without any further communication and the position may be offered to some other eligible and selected candidate. No representation for change of the place of posting will be entertained under any circumstances whatsoever.

3. The period of deputation of Shri Binith Kr. Das will be for a period of one year at the initial stage, from the date of joining in the office of the Executive Engineer, Ziro PW Division, Ziro, Arunachal Pradesh. However, the period of deputation may be extended upto three years, but in no case, the period of deputation will be extended beyond three years.

4. The pay and deputation (duty) allowances in respect of Shri Binith Kr. Das will be governed by the Government of India, Ministry of Finance, Public Grievances and Pension (Department of Personnel and Training) letter No. 2/12/87-Estt(Pay II) dated 29.4.1988 and as amended and modified from time to time while on deputation, Shri Binith Kr. Das may elect to draw either the pay in the scale of pay of the deputation post or his basic pay in the parent cadre plus personal pay, if any, plus deputation (duty) allowances. Shri Binith Kr. Das on deputation should exercise option in this regard within a period of one month from the date of joining the assignment (i.e. the aforesaid post of deputation.) The option once exercised by Shri Binith Kr. Das shall be treated as final and cannot be altered/changed later under any circumstances whatsoever.

5. The Dearness Allowances, CCA, Children Education Allowance, TA, LTC, Pension etc. will be governed by the Govt. of India, Ministry of Finance O.M. No. F.1(6)E-IV(A)/62 dated 7.12.1962 (incorporated as Annexure-31 of Choudhury's CSR Volume IV (13th Edition) and as commended and modified from time to time.

6. Shri Binith Kr. Das on deputation will be liable to be transferred to any place within the States of Arunachal Pradesh, Manipur and Tripura, in the combined cadre of Divisional Accountant under the administrative control of the Accountant General (A&E), Meghalaya etc., Shillong.

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7. Prior concurrence of this office must be obtained by the Divisional Officer before Shri Binith Kr. Das (on deputation) is entrusted to additional charges, appointed or transferred to a post/Station other than that cited in this establishment order.

Sd/-  
Accounts Officer  
i/c DA Cell  
Meghalaya, Mizoram & AP,  
Shillong-1.

Memo No. DA.CELL/2-49/94-95/2736-38 Dated 3.2.97.

Copy forwarded for information and necessary action to

1. The Accountant General (A&E), Manipur, Imphal.
2. The Accountant General (A&E), Tripura, Agartala
3. The Chief Engineer, PWD, Manipur, Imphal
4. The Chief Engineer\_\_\_\_\_. He is requested to release Shri \_\_\_\_\_ immediately with the direction to report for duty to his place of posting on deputation under intimation to this office.

REGISTERED \_\_\_\_\_ He is requested to \_\_\_\_\_ release \_\_\_\_\_ immediately Shri \_\_\_\_\_ with the direction to report for duty to his place of posting on deputation under intimation to this office.

REGISTERED The Executive Engineer, Ziro PWD, Ziro, AP. He is requested to intimate the date of joining of Shri Binith Kr. Das.

REGISTERED 3. Shri Binith Kr. Das, UDC, O/O Executive Engineer, Power, Arunachal Pradesh, Itanagar.

8. EO file.
9. SC File
10. PC file
11. File of the deputationists.

Sd/-

Sr. Accountants Officer :

ANNEXURE-3

GOVERNMENT OF ARUNACHAL PRADESH

No.DA.CE(T)/B-III/1/96-97 Dated Itanagar the \_\_\_ th/Feb '97

OFFICE ORDER

Consequent upon his selection to the post of Divisional Accountant (on deputation) under the administrative control of the Accountant General (A&E), Meghalaya etc. vide DO No. CELL/226 dated 3.2.96 issued under Memo No. DA.CELL/2-49/94-95/2736-38 dated 3.2.97 Shri Binith Kumar Das, UDC is hereby released from this office with effect from 7.2.97 to enable him to join his new assignment in the office of the Executive Engineer, Ziro P.W. Division, A.P.

Sd/- Illegible  
Engineer Officer  
to the Chief Engineer (Power),  
Department of Power,  
Itanagar.

No.DA.CE(T)/B-III/1/96-97/9494-501 Dated Itanagar the  
7th/Feb '97

Copy to :

1. Office order .....
2. The Accountant General (A&E), Meghalaya etc. DA Cell (2nd Floor), Shillong-793001, Meghalaya for information with reference to his LC No. referred above.
3. The Superintending Engineer (E), A.P. Elect. Circle No.1, Department of Power, Naharlagun for information and necessary action.
4. The Executive Engineer, Ziro P.W. Division, Ziro, A.P.
5. Shri Binith Kumar Das, UDC, Chief Engineer's office, Department of Power, Itanagar.
6. Cashier, CE(Power)'s office, Itanagar.
7. Personal file of Binith Kr. Das, UDC.
8. Spare copy.

Sd/- Illegible  
Engineer Officer  
to the Chief Engineer (Power),  
Department of Power,  
Itanagar.

ANNEXURE-4

No. DKD/Estt-1/96-97 Dated Ziro the 11th Feb./97

To

The Executive Engineer,  
Ziro P.W. Division,  
A.P., P.W.D.  
Ziro-791120.

Sub : Joining report

Ref : A.G.(A&E)/Meghalaya etc. Shillong, E.O.No.  
DA.CELL/226 dated 3.2.97.

Sir,

With reference to the above cited EO of the Accountant General (A&E), Meghalaya etc., Shillong and relieved from the office of the Chief Engineer, Power Deptt., Itanagar on 7.2.97 (A/N), I am have the honour to submit my joining report as Divisional Accountant of Ziro Division today the 11th Feb/97.

This is for your information and necessary action.

Yours faithfully,

Sd/-

( B.K. Das )

Divisional Accountant,  
Ziro, P.W.Division, A.P. P.W.D.  
Ziro-791120.

ANNEXURE-5

Registered

OFFICE OF THE ACCOUNTANT GENERAL (A&E), MEGHALAYA ETC.  
SHILLONG.

No. DA.CELL/2-3/97-98/Vol.III/933 Dated \_\_\_\_\_

To

The Executive Engineer,  
Ziro P.W. Division,  
Ziro (PIN-791120)  
Arunachal Pradesh.

Subject : (i) Approved statement of fixation of pay under CCS (Revised Pay) Rules, 1997 in respect of Shri Binith Kumar Das as D.A. (on deputation) and drawal of arrear pay and allowances thereof.

(ii) Initial fixation of pay in respect of Shri Binith Kr. Das as D.A. (on deputation) w.e.f. 11.2.97 in the revised pay scale of Rs.5000-150-8000/- and drawal arrear pay and allowances.

Ref : Your letter No. EE/20/PF-5/97-98/452 dated 28.4.98

Sir,

With reference to above, I am to enclose herewith a copy of the approved statement of fixation of pay under Central Civil Service (Revised Pay) Rules, 1997 in respect of Shri Binith Kr. Das as Divisional Accountant (on deputation). The approved statement of fixation of pay (enclosed) may please be affixed in the service book of the official concerned and all necessary entries thereof may please be made in the service book of the official concerned at your end under proper attestation with reference to this office memorandum. The arrear pay and allowances, if any, for holding the post of Divisional Accountant (on deputation) on revised pay scale pertaining to the period from 1.1.96 to 11.12.96 (A/N). Since release from the post of D.A. on 11.12.97 (A/N) may please be drawn and disbursed to Shri Das under intimation to this office.

2. Further I am to state that consequent upon his re-appointment as D.A. on deputation and joining the said post on 11.2.97 (FN), the pay of Shri Binith Kr. Das as DA (on deputation) has been fixed initially at the stage of Rs.5450/- (Rs. five thousand four hundred fifty) only with effect from 11.2.97 FN with date of next increment on 1.2.98 (subject to fulfilment of conditions laid down under FR-26) in the revised pay scale of Rs.5000-150-8000/-. Necessary entry in the service book of Shri

Das may please be made at your end under proper attestation with reference to this office memorandum. The arrear pay and allowances, if any, may please be drawn and disbursed to Shri Das under intimation to this office.

3. Kindly acknowledge receipt of this letter.

(Authority : DAG(ADMN)'s orders dated 24.6.98 at page 11 N of PC file of pf B.K. Das.

Enclose (i) Copy of the approved statement of fixation of pay under CCS (Revised Pay) Rules, 1997.

Yours faithfully,

Sd/-

Senior Accounts Officer  
I/C DA Cell.

Memo No. DA.CELL/2-3/97-98/Vol.III/934 Dated 22.7.98

Copy to :

Shri B.K. Das, DA (on depn.), office of the Executive Engineer, Ziro, P.W. Division, Ziro, PIN-791120, Arunachal Pradesh.

Sd/-Illegible

Senior Accounts Officer  
I/C DA Cell.

ANNEXURE-6

OFFICE OF THE ACCOUNTANT GENERAL (A&E), MEGHALAYA ETC.  
SHILLONG.

No. DA.CELL/10-1/93-94/Vol-V/3520 Dated 29.1.98

To

The Chief Engineer (Power),  
Govt. of Arunachal Pradesh,  
Itanagar.

Sub : Concurrence for extending the period of  
deputation upto 31.1.99 in respect of Shri Binith  
Kr. Das, DA on deputation.

Sir,

I am to invite a reference to this office letter  
No. DA.CELL/2-49/94-95/2736-38 dated 3.2.97 and to  
state that this office is further in need of the  
service of Shri Binith Kr. Das as Divisional Accountant  
(on deputation) for a further period of one year i.e.  
upto 31.1.99 on existing terms and conditions of the  
deputation. On receipt of concurrence from your end in  
this regard the period of deputation will be extended  
upto 31.1.99 by this office and will be intimated to  
you accordingly.

You are, therefore, requested kindly to convey  
your concurrence at the earliest so as to enable this  
office to take further necessary action in this regard.

Yours faithfully,

Sd/- Illegible  
Sr. Deputy Accountant General (A&E),

Memo No. DA.CELL/10-1/93-94/3521-3524 Dated

Copy forwarded to :

1. The Executive Engineer, Ziro P.W. Division, P.O.  
Ziro, Arunachal Pradesh.
2. The Chief Engineer, EZ, Govt. of Arunachal Pradesh,  
Itanagar.
3. Shri Binith Kr. Das, DA on deputation, office of  
the Executive Engr., Ziro P.W. Division, P.O. Ziro,  
Arunachal Pradesh.
4. P.C. file of Shri Binith Kr. Das.

Sd/- Illegible  
Sr. Accounts Officer

ANNEXURE-7

OFFICE OF THE ACCOUNTANT GENERAL (A & B) MEGHALAYA ETC:  
SHILLONG

NO. DA CELL/163

Date 17.12.99

On expiry of the period of deputation to the post of Divisional Accountant under the Administrative Control of the Accountant General (A&B) Meghalaya etc., Shillong, Shri Binith Kr. Das at present posted in the Office of the Executive Engineer Ziro PWD, Ziro; Arunachal Pradesh is repatriated to his parent department i.e. Chief Engineer, (Power) Itanagar w.e.f. 10.2.2000.

On being relieved of his duties on or \_\_\_\_\_ before 10.2.2000 from the Office of the Executive Engineer, Ziro PWD; Ziro, Arunachal Pradesh, he is to report for further duties to the Chief Engineer (Power), Arunachal Pradesh, Itanagar.

*Attested  
W. J. J. J.*

As required under para 384 of the Comptroller and Auditor General's M.S.O. (Admn) Vol. I reproduced in Appendix-I of the C.P.W.A Code, 2nd Edition 19764 the relieved official should prepare a memorandum reviewing the Accounts of the Division (in triplicate) which the relieving official should examine and forward promptly with his remarks, to the Accountant General (A&B), Meghalaya etc., Shillong through the Divisional Officer, who will record such observations thereon as he may consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving Officer.

Authority : Sr. DAG (Admn) order dt. 5.11.99 at P/ 49 IN  
in the file No. DA Cell/10-1/93-94/98-  
99/Vol-V.

Sd/-  
Sr. Deputy Accountant General (Admn).

Memo No. DA Cell/10-1/93-94/99-2000/1663-1668  
dt.13.1.2000

Copy forwarded for information and necessary action to:

1. The Chief Engineer (Power), Arunachal Pradesh, Itanagar. He is requested to arrange for posting of Shri Binith Kr. Das, Divisional Accountant on deputation, on his repatriation to his parent department. The concerned Executive Engineer has been asked to release Shri Binith Kr. Das on or before 10.2.2000.
2. The Executive Engineer, Ziro PWD; Ziro, Arunachal Pradesh. He is requested to release Shri Binith Kr. Das of his Division on or before 10.2.2000 as his term of deputation expires. He is also requested to instruct Shri Binith Kr. Das to report to his parent Department i.e. Office of the Chief Engineer, (Power); Itanagar, on his release from your department. It may be noted that no further extension of period of deputation will be granted to Shri Binith Kr. Das under any circumstances to avoid any complicity.
3. The Executive Engineer, Ziro Electrical Division; Ziro Arunachal Pradesh. He is requested to direct Shri Tapan Kr. Banerjee DAO of his Division to look after the work of the Divisional Accountant of the Office of the Executive Engineer, Ziro PWD; Ziro; Arunachal Pradesh in addition to his normal duties with effect from 10.2.2000 untill further order.
4. Shri Tapan Kr. Banerjee, DAO Grade II of the Office of the Executive Engineer, Ziro Electrical Division Ziro, Arunachal Pradesh. He is directed to look after the work of the Divisional Accountant of the Office of the Executive Engineer, Ziro PWD; Ziro; Arunachal Pradesh w.e.f. 10.2.2000 A.N. in addition to his normal duties, untill further order.
5. Shri Binith Kr. Das Divisional Accountant on deputation O/O the Executive Engineer, Ziro PWD, Ziro; Arunachal Pradesh He is hereby asked to report to his parent Department. i.e. the Chief Engineer (Power) Arunachal Pradesh; Itanagar.
6. Personal file of Shri Binith Kr. Das.
7. Personal file of Shri Tapan Kr. Banerjee.
8. S.C. file.
9. E.O. file.

Attended  
Wk. Gouami

Sd/-

Senior Accounts Officer.

ANNEXURE-8

OFFICE OF THE ACCOUNTANT GENERAL (A&E), MEGHALAYA ETC.  
SHILLONG.

Circular No.DA.CELL/2-1/96-97/178 Dated 24.12.96

Separation of the joint cadre of Divisional Accountants/DADs among the State Accountant General (A&E), Manipur, Tripura and Meghalaya etc. (for A.P.) has been under consideration of this office in consultation with the respective State AG. To enable this office to assess the availability of qualified/unqualified D.A., D.A.O's. (Grade-I & II) for each of the State and to decide further course of action in the matter all Divisional Accountants (both qualified and unqualified) and the Divisional Accounts Officers Gr.I & II are requested to send their options (enclosed) so as to reach this office on or before 15.2.97.

Final decision on the exercised option will however, be taken considering the following conditions:

1. Transfer of the officers will be considered according to their options and seniority subject to availability of vacancies in the State Cadre.
2. Option once exercised is final and cannot be revoked.
3. The entire process of separation of cadre will be conducted in a phased manner.

Sd/-

Sr. Deputy Accountant-General (A&E)

ANNEXURE-9

GOVERNMENT OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS AND TREASURIES : NAHARLAGUN

No.DA/TRY/15/99 Dated Naharlagun the 16th Nov. '99

To

All Executive Engineer  
PWD/Power/PHED/IFCD/RWD/Civil Power

Sub : Divisional Accountants/Divisional Accounts  
Officers - regarding.

Sir,

I would like to inform you that the Government of Arunachal Pradesh desire to take over the cadre of Divisional Accountant and Divisional Accounts Officer from the AG(A&E), Arunachal Pradesh, Shillong and to encadre these posts to the Finance and Accounts Service. You are, therefore, requested to furnish the following information with regard to creation and appointment to the post of DA/DAO in your division since the pay and allowances of DAs/DAOs are drawn by your division.

1. Name of the Division :  
Mailing Address and Phone No./ :  
Fax No. :
2. Date of opening of the Division :
3. Whether the division is permanent :  
or temporary
4. Sanction order No. and date of :  
creation of the post and scale  
of pay.
- 4(a) If the post is upgraded to DAO-II :  
DAO-I/AG and brought under Central  
cadre by the AG, sanction order No.  
date with scale of pay and the  
address of the issuing authority  
may please be quoted.

(A copy of the sanction order is available with regard to upgradation of post may please be furnished)

5. Name and designation of the :  
incumbent holding the post (DAO/  
DA) and scale of pay.
- 5(a) Date of joining to the post :
- 5(b) Whether regular or on deputation :

Contd.....

Annexure-9 contd

6. Whether the post is under Non/ :  
Plan/Plan/temporary or permanent  
etc. may please be furnished with  
their budget head of account.

An early reply on the matter is requested enabling the undersigned to furnish the required information as above to the Govt. within 1st week of December 1999.

Please treat this matter as urgent and confirm action within 5th December 1999.

Yours faithfully,

Sd/-

(C.M. Mongmaw)

Joint Director of Accounts  
Directorate of Accounts and Treasuries  
Govt. of Arunachal Pradesh  
Naharlagun

Copy to :

1. The Chief Engineer PHE/PWD/IFCD/PWD (Zone-I/Zone-II), Itanagar and the Chief Engineer, Power Department, Naharlagun for information. They are requested to furnish the required information as above for the working divisions under their jurisdiction on priority basis in order to formulate the modalities to take over these posts from the AG (A&E), Shillong and their encadrement to SDAs of the State of Arunachal Pradesh.

Sd/-

(C.M. Mongmaw)

Joint Director of Accounts  
Directorate of Accounts and Treasuries  
Govt. of Arunachal Pradesh  
Naharlagun

ANNEXURE-10

GOVERNMENT OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS AND TREASURIES : NAHARLAGUN

THROUGH FAX/SPEED POST

No.DA/TRY/15/99 Dated Naharlagun the 15th Nov. '99

To

The Accountant General (A&E),  
Meghalaya, Arunachal Pradesh etc.  
Shillong.

Sub : Recruitment/posting of regular Divisional Accountants.

Ref : Your letter No. DA/CELL/2-46/92-93/1241 dtd. 4.10.99. & this office letter No. DA/19/85/(Part)/6304 dtd. 8.9.99.

Sir,

This issue of recruitment and posting of Divisional Accountants to 38 Public Works Divisions of this State which are presently manned by deputationists were under active consideration of the State Government. The Govt. of A.P. has observed that prior to this correspondence under reference the State Govt. as well as this Directorate were never consulted while recruiting and posting of DAOs/DAs, though these posts were borne in the establishment of Executive Engineers and paid from the State exchequer. It has also been observed that prior to declaration of the state-head (20.2.97), the cadres of the DAOs/DAs were enjoying pay scales without anomaly with the comparable status of Accountant/Assistant/Superintendent in the State Govt. working either in the Directorate of Accounts & Treasuries as well as in other Directorate or in the District establishment. The Directorate of Accounts and Treasuries now express concern on the pay scale presently enjoying by the cadres of DAOs/DAs which were enhanced without having approach of the State Govt. of A.P. The higher pay scales presently enjoying by the cadre of DAOs/DAs has been posing a problem for granting huge amount in the form of pay and allowances during the proposed training period of 38 Divisional Accountants.

The Govt. of Arunachal Pradesh is of the view that recruitment and posting of the DAOs/DAs for 38 working Divisions of the Govt. is still awaited. The serving Divisional Accountants in the works Deptts. on deputation basis may be allowed extension for a further

Contd....

Annexure-10 contd.

period of two years from the date of expiry of their present respective tenure in the interest of public service. This will provide succour to the poor financial position of the state prevailing at the present time. This arrangement is proposed till view of the State Govt. in final shape could be put forward to your esteem office.

Sd/-

(C.M. Mongmaw)

Joint Director of Accounts  
Directorate of Accounts and Treasuries  
Govt. of Arunachal Pradesh

Copy to :

1. P.S. to the Hon'ble Chief Minister, Arunachal Pradesh, Itanagar for information of the Hon'ble Chief Minister.
2. The P.S. to the Commissioner (Finance), Govt. of A.P. Itanagar for information.
3. The PS to the Commissioner PWD/R&D/PHED/IFCD/Power for information.
4. The Accountant General (Audit), Arunachal, Meghalaya etc. Shillong for favor of information.
5. The Chief Engineer, PWD(EZ/WZ)/RWD/PHED/IFCD/Power for information please. They are requested to give continuation to the serving DAs who are on deputation for a further period of 2 years on expiry of their present term of deputation & meanwhile they may please direct the Executive Engineers concerned not to accept joining report of new appointee(DA) without consulting the State Govt/Directorate of Accounts and Treasuries, Naharlagun.
6. The Chief Accounts Officer, PWD(NZ/WZ)/RWD/PHED/IFCD/Power for information.
7. Office copy.

Sd/-

(C.M. Mongmaw)

Joint Director of Accounts  
Directorate of Accounts and Treasuries  
Govt. of Arunachal Pradesh

35-  
FORM NO. 4  
( See Rule 42 )

ANNEXURE-11

ANNEXURE-12

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI


ORDER SHEET  
APPLICATION NO. 328/99 OF 199

Applicant(s) Suresh Pal Singh Yadav.

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr. J. M. Choudhury  
Mr. R. K. Sharma Mr. S. Sarma.

Advocate for Respondent(s)  
C. J. S. C.

Notes of the Registry	Date	Order of the Tribunal
	15.10.99	<p>Present : Hon'ble Mr Justice D.N.Baruah, Vice-Chairman and Hon'ble Mr G.L.Sanglyine, Administrative Member.</p> <p>Application is admitted. &amp; Mr B.C. Pathak, learned Addl.C.G.S.C has entered appearance on behalf of all the respondents. No formal notice need be sent.</p> <p>List on 18.11.99 for written statement and further orders.</p> <p>Mr J.M.Choudhury, learned counsel for the applicant prays for an interim order of stay of the impugned order of repatriation. Mr Pathak submits that he has not received any instruction. Issue notice to show cause as to why the order of repatriation shall not be suspended pending disposal of this application. Notice is returnable by four weeks. Meanwhile the repatriation order shall</p>

contd.

42

-35-  
C.A. 338/99

Notes of the Registry

Date

Order of the Tribunal

15.10.99



remain suspended. Mr Choudhury submits that he has not received the impugned order and therefore he could not annexed with the application. He makes a prayer for a direction to the respondents to supply a copy of the repatriation order. Respondents shall supply a copy of the order to the applicant.

SD/- VICE-CHAIRMAN

SD/- MEMBER (A)

Certified to be true Copy

প্রমাণিত প্রতিলিপি

Section Officer (J)

জ্ঞানদাস অধিকারী (ন্যায়িক শাখা)

Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক আদালত

Guwahati Bench, Guwahati-8

গুৱাহাটী : মায়দীড, গুৱাহাটী-৪

36 37  
28 29 MAR 2000  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH ... GUWAHATI

Filed by

(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

IN THE MATTER OF :

O A No 67 of 2000.

Shri Binith Kumar Das - Petitioner.

- VERSUS -

Union of India and Ors. - Respondents.

-AND -

IN THE MATTER OF :

*Written statement submitted by*  
~~Affidavit in opposition on behalf~~  
*of* Respondents No. 1 and 2 i.e.

Union of India and The Accountant  
General, Meghalaya etc., Shillong.

I, Shri S.A. Bathew, son of Shri W.B. Bathew,  
aged about 36 years, presently working as Senior  
Deputy Accountant General (Admn.), in the office of  
the Respondent No. 2 do hereby solemnly affirm and  
declare as follows :

1. That a copy of the application has been served  
upon the Respondent No. 1 and 2 and myself being  
authorised to defend the case before this  
Hon'ble Central Administrative Tribunal, Guwahati  
I do hereby file this ~~Affidavit in opposition~~  
as desired by the Central Administrative  
Tribunal, Guwahati Bench, Guwahati.

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2. That this Affidavit-in-opposition is filed bonafide and save and except what is admitted in this Affidavit-in-opposition rest may be treated as total denial by the Respondent No.1 and 2.
  
3. That, with regard to the contents made in para 1 of the application, the Respondents beg to state that contents totally baseless and misleading. It is submitted that the Petitioner was on deputation as Divisional Accountant only for a specified period. A person on deputation can be repatriated to his parent post/Department/Cadre at any time even before the expiry of period of deputation tenure of 3 (three) years mentioned in note 3, under column 1 of Scheduled to the Indian Audit & Accounts Department ( Divisional Accountant). As per Recruitment Rules, 1988, which came into force w.e.f. 24/9/1988, the deputationist does not have any right to be absorbed against the deputation Post. Hence, the Petitioner's claim for permanent absorption as Divisional Accountant, is not tenable in Rules.  
  
( A copy of the said Recruitment Rules, Published Gazette in the ~~Gazette~~ of India, September, 24, 1988, is annexed, as Annexure- 1).
  
4. That with regard to the contents in paragraph 2 and 3 of the application, the Respondents humbly

humbly submit that they have no comments on them.

5. That with regard to the contents made in paragraph 4.1 of the application, the Respondents humbly submit that they have no comments on them.

6. That with regard to the contents made in paragraph 4.2 of the application, the Respondents humbly submit that the Petitioner is not entitled for absorption as per existing Rules.

Further to state that during the last part of 1996, there was a proposal for separation of Cadre of Divisional Accountant. A Circular was also issued and option was called for, from qualified /unqualified D.A. and D.A.O.'s ( Grade-I & II) only, but no option was called for from any D.A. on deputation. As the applicant is a D.A. on deputation, question of calling option from the applicant and his submission of option, does not arise. What the applicant has stated about option and submission of option, is completely false and mis-statement of facts.

7. That with regard to the contents made in para 4.3 of the application, the Respondents submit that, they have no comments on the para. The same being matters of records.

8. That with regard to the contents made in para 4.4.

para 4.4 of the application, Respondents submit that as per recommendation made by the 5th Pay Commission, the Pay Scale of D.A. on deputation is revised as, Rs.5000-150-8000 and the applicant being the D.A. on deputation, his Pay had been fixed in accordance with the revision of the Pay Scale.

Fixation of Pay of the applicant, in the revised scale is done according to rule, applicable to D.A. on deputation and in no case the applicant can be treated as a regular staff of the establishment of A.G. ( A & E), Meghalaya etc., Shillong.

9. That with regard to the statement made in paragraph 4.5 of the application, Respondents humbly submit that as per recruitment Rules which came into force, w.e.f. 24/9/1988, period of deputation cannot be extended beyond the period 3(three) years. As the applicant was due to complete 3(three)years period of deputation, on 10/2/2000, Order of repatriation repatriating the applicant to his parent Department was issued vide E.O. No. DA Cell/163 dated 17/12/99, requesting the Executive Engineer to release the applicant on or before 10/2/2000. The applicant instead of carrying out the repatriation Order, moved to the Hon'ble CAT, Guwahati. The applicant should have carried out the Order of repatriation

repatriation to follow the Recruitment Rules which came into force w.e.f. 24/9/1988.

(Copy of the Recruitment Rules is annexed as Annexure-1 )

10. That, with regard to the statement made in paragraph 4.6 of the application, Respondents, humbly submit that the Order of repatriation dated 17/12/99 was issued as per Recruitment Rules in force.

Further to state that Respondents have every right to bring fresh deputationist as per existing Rules, till regular Divisional Accountants are appointed through staff Selection Commission. This being the discretionary power of the Respondents which cannot be questioned by the Petitioner and also as a matter of Government policy.

Further to state that during 1996, there was a proposal for separation of Cadre of Divisional Accountant. And option was called for from qualified/unqualified D.A. and D.A.O's (Grade-I & II) only, but no option was called for from any D.A. on deputation. What the applicant has stated about option and submission of option, is completely false and mis-leading of the fact. It is further to submit here that the proposal for separation of cadre was subsequently dropped.

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11. That, with regard to the statement made in paragraph 4.7 of the application, Respondents humbly submit that, this office is not concerned with issue of taking over the Cadre of DA/DAO by the Government of Arunachal Pradesh. Till date no such proposal from the competent authority of the Govt. of Arunachal Pradesh has been received. Moreover, transfer of Cadre of DA/DAO to the State Govt. of Arunachal Pradesh, from the administrative control of Respondents is not feasible as per the existing Govt. Policy of G & A.G. of India.

The Respondents is the Cadre Controlling authority for the Cadre of Divisional Accountants for the State of Manipur, Tripura and Arunachal Pradesh. The Respondents is empowered to appoint Divisional Accountant on deputation, as a stop gap arrangement, when necessity arises, till recruitment of regular D.A. through Staff Selection Commission is made. And the Respondents is competent authority to recruit D.A. through Staff Selection Commission. The Govt. of Arunachal Pradesh cannot interfere the process of recruitment of D.A. on deputation or repatriation of D.A. on deputation.

The Government of Arunachal Pradesh has no power to take over the Cadre of

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over the Cadre of Divisional Accountant from the administrative control of the Respondents.

It is further to state that, the Govt. of Arunachal Pradesh, made a request vide their letter No. DA/TRY/15/99/9029 dated 15/11/99, to extend the tenure of deputation for another two years, beyond the period 3(three) years.

But, it is not tenable as per Recruitment Rules which came into force w.e.f. 24/9/1988. And the Govt. of Arunachal Pradesh, has been intimated accordingly vide this office letter No. DA Cell/ 2-46/92-93/1698 dated 7/1/2000.

( Copies of letter No. DA/TRY/15/99/9029 dated 15/11/99 and No. DA Cell/ 246/92-93/1698 dated 7/1/2000 are annexed as Annexure 2 and 3 )

12. That with regard to the statement made in paragraph 4.8 of the application, Respondents humbly submit that, it has already been stated in para 10 of this Written Statement that during 1996, there was a proposal for separation of Cadre of Divisional Accountant and option was called for from the qualified/unqualified DA/DAO (Grade-I & II) only. And no option was called for, from any DA on deputation as there is no provision in the Recruitment Rules and DA on deputation cannot be

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cannot be absorbed in the Cadre of D.A. What the applicant has stated about option and submission of option by the applicant is completely false and mis-leading of the facts. It is further to state that, the proposal for separation of Cadre has ultimately been dropped. It has already been stated in the foregoing paragraph 11 of the application that, it is not possible as per Rules to hand over the Cadre of Divisional Accountants for Arunachal Pradesh, to the State Govt. of Arunachal Pradesh and the period of deputation cannot be extended as per Recruitment Rules, for further period of 2(two) years beyond the period of 3 (three) years.

Further, what the applicant has stated in the last part of para 4.8 of his application, that, when the first deputation period of the applicant came to an end along with others, some of them had approached the Hon'ble Tribunal and the Hon'ble Tribunal protected their interest and those DAs on deputation are still continuing, is completely false and fabricated. There is no such case, with the Respondents till the recent date. But during 1993, 8 DAs on deputation moved to the Hon'ble Tribunal, Guwahati against the order of repatriation and also for permanent absorption in the Cadre of DA. The Hon'ble Tribunal passed a favourable judgement and dismissed all those 8 Nos. Original Applications.

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Further to state that the Hon'ble Tribunal in a common judgement delivered on OA No. 33/93, 34/93, 35/93, 36/93, 37/93, 38/93, 44/93 and 65/93, held as " That a deputationist cannot claim as a matter of right regularisation/ absorption in a post in the borrowing department while retaining his lien on the substantive post he holds in the parent Department and he cannot refuse to go back to the substantive post when his deputation is terminated."

Thus, what the applicant has stated is completely false and mis-statement of the facts. The applicant's claim for permanent absorption is not tenable in law.

( A xerox copy of the common judgement delivered on those 8 OAs i.e. OA No. 33/93, 34/93, 35/93,..... 65/93 is annexed as Annexure- 4)

13. That with regard to the statement made in paragraph 4.9 of the application, Respondents humbly submit that the Respondent is the Cadre controlling authority for the Cadre of DAs. for the States of Manipur, Tripura and Arunachal Pradesh As per recruitment Rules D.A. on deputation can be appointed as a stop gap arrangement, till regular DAs, are appointed through Staff Selection Commission. The applicant was first appointed as D.A. on deputation, during December'93 and he joined as DA

contd...10...

as DA on deputation on 18/12/93 served upto 11/12/96 for a period about 3(three) years, ~~which~~ ~~his first tenure~~ just before completion of deputation period of 3(three) years, Orders of repatriation was issued and the applicant took his release on 11/12/96 from the deputation post and joined in his parent Department. In response to subsequent office Circular, the applicant applied for DA on deputation for second time and he was considered by the Respondents for appointment as DA on deputation for the second time. And joined on 11/2/97 as DA on deputation for the second time. And on second stage just before, completion of 3 (three) years, Order of repatriation was issued, but the applicant instead of joining in his parent Department, filed this present application before the Hon'ble Tribunal what the applicant has stated in his application that he has completed 7 (seven) years is completely false. As per the existing recruitment Rules, the period of deputation cannot be extended beyond the period 3(three) years. The applicant during his first tenure served from 18/12/93 to 11/12/96 and during his second tenure he joined on 11/2/97 and just before completion of 3(three) years orders of repatriation was issued. What the applicant has stated is mis-statement of fact.

Further, the Hon'ble Tribunal in a

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in a common judgement passed on OA No. 33/93  
38/93,  
34/93, 35/93, 36/93, /44/93 and 65/93 held  
that a deputation cannot claim as a matter of  
right regularisation/absorption in a post in the  
borrowing department. Thus, the applicant mis-  
led the Hon'ble Tribunal by filing this present  
application for absorption.

Copy of the judgement passed on OA No. 33/93,  
34/93..... 65/93 is annexed, as Annexure-4)

14. That with regard to the statement made in paragraph  
4.10 of the application, the Respondents humbly  
submit that it is already been stated in para 6  
of this Written Statement that no option was  
called for, from any deputationists. Thus the  
question exercising option by the applicant does  
not arise. What applicant has stated regarding  
option and exercising option, is completely false  
and mis-statement of fact.

The applicant on deputation has no  
right to claim against the deputation Post for  
regularisation/absorption.

In this connection, it is to be pointed  
out here that The Hon'ble Supreme Court of India,  
Case No. AIR 1990 S.C. 1132 : State of Punjab Vrs  
Inder Singh ( 1997 ) 8 SSC 372 and in case of Ratilal  
B. Soni Vrs Union of India and others held that  
" a deputationist is liable to be repatriated to

contd...12....

to his parent Cadre/department on expiry of period of deputation. Repatriation from deputation cannot be resisted by an employee on the grounds that he has continued on deputation for a long time during which he earned promotions on ex-Cadre Posts, and that on repatriation he will have to work in his parent Cadre on a lower Post."

In view of the aforesaid Judgement passed by the Hon'ble Supreme Court the applicant cannot claim for absorption in the Cadre of the Divisional Accountant.

( Copy of the aforesaid Judgement of the Hon'ble Supreme Court is annexed as Annexure - 5).

15. That with regard to the statements made in paragraphs 4.11 and 4.12 of the application, I beg to state that the Respondents have every right to bring fresh deputationist as per existing rule, till regular Divisional Accountants are appointed against the vacant post, through Staff Selection Commission. The applicant cannot question the action of the Respondents in such a matter. The Recruitment Rules, which came into force w.e.f. 24.9.1988 speaks of the appointment of Divisional Accountant through Staff Selection Commission. The applicant cannot claim any benefit of further extension or absorption under the existing rules.

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In this connection further to state that a deputationist can be repatriated to his parent post/ parent Cadre/ parent Department at any time and does not have any right to be absorbed in the deputation post. Reliance is placed on Hon'ble Supreme Court decisions in the case of Ratilal B. Soni Vrs. Union of India & Ors. AIR 1990 S.C. 1132 and State of Punjab Vrs. Inder Singh : (1997) 8 SCC 372.

( Copy of the Supreme Court Judgement are annexed as Annexure- 5)

16. That, with regard to the statement made in paragraph 4.13 of the application, the Respondents humbly submit that what the applicant has stated about the letter dated 15/11/99 and 16/11/99, has no relevancy in this present application. The Govt. of Arunachal Pradesh requested vide letter dated 15/11/99 to extend the period of deputation by another 2(two) years beyond the period of 3(three) years, but, the Respondents expressed inability to extend the period of deputation. The Respondents intimated this position to the Govt. of Arunachal Pradesh, vide letter No.DA Cell/ 2-46/92-93/1698 dated 7/1/2000. The Respondent who has appointed the applicant as DA on deputation, has every right, as per Recruitment Rules, to repatriate the applicant on or before expiry of the period of deputation. It is already stated in para 10 of this written statement that option was called

contd...14...

called for, from qualified/unqualified DA's and DAO's (Grade I & II) only. But, no option was called for, from D.A. on deputation.

What the applicant has stated about option and exercising option is completely false and mis-statement of the facts. The Respondent is the appointing authority, for appointment of D.A. on deputation. And as per Recruitment Rules, the Respondents can repatriate the applicant on or before the date of expiry of the period of deputation. The applicant cannot question the action of the Respondents for not consulting the State of Arunachal Pradesh towards issuance of the repatriation order.

It is further submitted that as per the Recruitment Rules, 1988 for Recruitment of Divisional Accountant, the Divisional Accountant on deputation does not have any right to be absorbed in the deputation post.

In this connection, it is pertinent to mention that the Hon'ble Supreme Court held that the deputationist is liable to be repatriated to his parent Cadre/Department on expiry of period of deputation. Further the Hon'ble Supreme Court held that repatriation from deputation cannot be resisted by an employee on the grounds that he has continued

contd....15...

continued on deputation for a long time, during which he earned promotions on ex-cadre posts and that on repatriation he will have to work in his parent cadre on a lower post. He cannot also claim permanent absorption on deputation post. Reliance is placed on Hon'ble Supreme Court decision in the case of Ratilal B. Soni Vrs. Union of India and others: AIR 1990 S.C. 1132 and State of Punjab Vrs Inder Singh: (1997) 8 SSC 372.

( Copies of the letter from Govt. of Arunachal Pradesh dated 15/11/99, letter No. DA Cell/2-46/92-93/1698 dated 7/1/2000 from the respondents to the Govt. of Arunachal Pradesh, Recruitment Rules, 1988 and Supreme Court's judgement, are annexed as Annexure-2, 3, 1 and 5)

17. That, with regard to the statement made in paragraph 4.14 of the application, the Respondents humbly submit that the applicant was only on deputation as Divisional Accountant. A person on deputation can be repatriated to his parent post/parent Department/parent cadre at any time even before the expiry of period of deputation of 3 (three) years, mentioned in note 3, under column 2 of schedule to Indian Audit and Accounts Department (Divisional Accountant Recruitment Rules, 1988). The deputationist does not have any right to be absorbed in the deputation post.

Hence, the applicant's claim for permanent absorption as Divisional Accountant is not tenable.

As per existing recruitment Rule, which came into force with effect from 24/9/1988, order of repatriating the applicant to his parent Department was issued by the Respondent. Instead of carrying out the order, the applicant had approached the Hon'ble Tribunal and obtained a Stay Order misleading the factual position of the Recruitment Rules, 1988 and decision of the Hon'ble Supreme Court. ( Copies of the Recruitment Rules and Supreme Court decision are annexed as Annexure-1 and 5)

18. That with regard to the statement made in paragraph 4.15 of the application, the Respondents has no comment, as same being the matter of records.
19. That with regard to the contents made in paragraph 5.1 to 5.8 of the application the Respondents beg to state that the applicant does not deserve any relief from the Hon'ble Tribunal and only remedy is to carry out the impugned order dated 17/12/1999 of the Respondents.

Further, the Respondents beg to state that the applicant has hopelessly failed to bring out the prima-facie case in his favour and there being no arbitrariness, the application is liable to be

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to be dismissed with cost and the interim order granted on 17/2/2000 needs review.

( Copy of the impugned order dated 17/12/99 and interim order dated 17/2/2000 are annexed as Annexures 6 and 7 )

20. That with regard to the statement made in paragraph 6 and 7 of the application, the Respondents has no comments.
21. That with regard to the statement made in paragraph 7 of the application, the Respondents has no comment, as same being matter of records.
22. As regards the relief sought for by the applicant in para 7 and in paras 8.1 to 8.4 of the application, the Respondents humbly submit that the applicant does not deserve any relief from the Hon'ble Tribunal as per the Recruitment Rules 1988, the Hon'ble Supreme Court decision and the judgement delivered by the Hon'ble CAT, Guwahati on OA No. 33,34,35,36,37,38, 44 and 65 of 1993.
- Hence the application is liable to be dismissed with cost.
23. That with regards to paras 9,10,11,12, of the

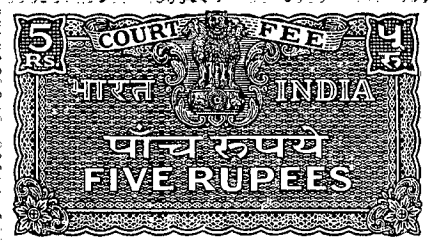
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of the application the Respondents has no comments, as same being the mere prayer of applicant.

24. The Respondents humbly submit that, this present application is liable to be dismissed as per Recruitment Rules 1988, decision of the Hon'ble Supreme Court and decision of the Hon'ble CAT, Guwahati.

25. That this affidavit - in- opposition is filed bonafide and in the interest of justice.

contd.....19.....



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22. That the contents made in paragraph 1 and 2 of this Affidavit-in-opposition is true to my knowledge and those made in paragraphs 3 to 21 are derived from records which I believe to be true and rest are humble submission before this Hon'ble Tribunal and I swear this affidavit on 24th day of March, 2000 at Shillong.

Identified by

S. N. Singh

(S. N. Singh)

Advocate Shillong.

Shri S. N. Singh, BA. LLB

Advocate

Shillong, Bar Association

Shillong-1

( S. A. Bathew )

DEPONENT

व. ल. महालेखाकार (ग)

Sr. Dy. Accountant General (Admin)

महालेखाकार (लेख) वा दफ्तरीय

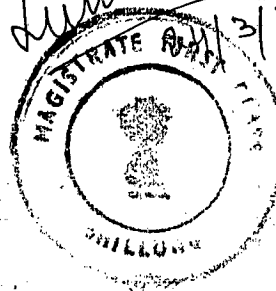
Office of the A.G. (A&E)

मेघालय, मिजोरम एवं अरुणाचल प्रदेश

Meghalaya, Mizoram & A.P.

तिलॉग- ७६३००१

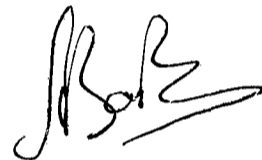
Shillong- 793001.



VERIFICATION

I Shri S. A. Bathew <sup>19</sup> Sr. Dy. Accountant General (Admn)  
being authorised, do hereby declare

22. That the contents made in paragraph 1 and 2 of  
this Affidavit <sup>verification</sup> in-opposition is true to my  
knowledge and those made in paragraphs 3 to 21  
are derived from records which I belief to be true  
and rest are humble submission before this Hon'ble  
Tribunal and I swear this affidavit on 24<sup>th</sup> day  
of March, 2000 at Shillong.



( S. A. Bathew )

DEPONENT.

व. उ. महालेखाकर (प्र.)

Sr. Dy. Accountant General (Admn)

महालेखाकार (ले. र. ह) या कार्यालय

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

मेघालय, मिजोरम एवं अरुणाचल प्रदेश

Meghalaya, Mizoram & A P.

शिल्लोंग- ७९३००१

Shillong- 793001.

(Department of Expenditure)  
New Delhi, the 8th September, 1988.

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Annexure NO 1

G.S.R. 749 - In exercise of the powers conferred by clause (5) of article 148 of the Constitution, and after consultation with the Comptroller and Auditor General of India, the President hereby makes the following rules to regulate the method of recruitment to the post of Divisional Accountant under the cadre control of the Accounts and Entitlement Offices of the Indian Audit and Accounts Department, namely :-

1. Short title and commencement - (1) These rules may be called the Indian Audit and Accounts Department (Divisional Accountant) Recruitment Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Number of post, classification and scale of pay. - The number of the said post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualifications, etc. - The method of recruitment, age limit, qualifications and other matters relating to the said post shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualifications - No person, -

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into or contracted a marriage with any person, ~~shall be eligible for appointment to the said post :~~

shall be eligible for appointment to the said post :

Provided that the Comptroller and Auditor General of India may, if satisfied that such marriage, is permissible under the personal law applicable to such a person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax - Where the Comptroller and Auditor General of India is of the opinion that it is necessary or expedient so to do, he may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving - Nothing in these rules shall effect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Serviceman and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard as applicable to persons employed in the Indian Audit and Accounts Department.

SCHEDULE

Name of post	No. of post	Classification	Scale of pay	Whether selecti- on post or non-selecti- on post	Whether benefit of years of service ad- missible under rule 30 of the Central Civil Ser- vice(Pen- sion) Rules ) 1972
1.	2.	3.	4.	5.	6.

Asstt. Accounts Officer  
C/O The Accountant General  
27/8/99

1.	2.	3.	4.	5.	6.
Personal Accountant 64	2504*(1988) *Subject to variation dependent on work- load.	General Central Service Group 'C' Non-Gaze- tted Ministerial	Rs.1400-40- 1600-50- 2300-EB-60 -2600	Not applicable	No

Age limit for direct recruits Educational and other qualifications required for direct recruits. Whether age and educational qualifications prescribed for direct recruits will apply in case of promotees. Period of probation, if any.

7.	8.	9.	10.
Between 18 and 25 years Note: The crucial date for determining age limit shall be as advertised.	Bachelor's degree of a recognised University. Note: The educational qualifications is relaxable under the orders of the Comptroller and Auditor General of India for specified categories of staff in the Indian Audit and Accounts Department and State Public Works Accounts Clerks.	Not applicable	2 years

Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.

11.

12.

Direct Recruitment.

As stated in column 11

Note: 1. The direct recruits will be selected on the basis of an entrance examination conducted by an authority/by the Comptroller and Auditor General of India. During the period of probation, they should qualify in the prescribed Departmental Examination.

Note: 2. Vacancies caused by the incumbent being away on transfer on deputation or long illness or sudy leave or under other circumstances for a duration of one year or more may be filled on transfer on deputation from -

- (1) Accountants (Rs.1200-2040) and senior Accountants (Rs.1400-2600) (belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen) who have passed the Departmental Examination for Accountants and have 5 years regular service as Accountant/Senior Accountant including 2 years experience in Works section or

Contd..... p.3.

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- 1) State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.

Note: 3. The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/Department of the Central Government shall ordinarily not exceed 3 years.

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If a Departmental Promotion Committee exists, what is its composition.	Circumstances in which Union Public Service Commission is to be consulted in making recruitment.
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13.

14.

Group 'C' Departmental Promotion Committee (for confirmations) consisting of :-

Not applicable

- (1) Senior Deputy Accountant General/Deputy Accountant General (dealing with the cadre of Divisional Accountants).
- (2) Any other Senior Deputy Accountant General or Deputy Accountant General or officer of equivalent rank (from an office other than the one in which confirmations are considered);
- (3) An Accounts Officer.

Note: These senior officer amongst (1) and (2) above shall be the Chairman.

F.No.A-12018/13/88-EG-1)

*Attested*  
*L. K. K. K. K.*  
27/11/88  
Asstt. Accounts Officer  
O/o The Accountant General (A&R)  
Meghalaya, Etc, Shillong.

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Annexure No. 2  
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66

GOVT OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS & TREASURIES : NAHARLOGUN

(THROUGH FAX/SPEED POST)

No DA/TRY/15/99/9625

Dated Naharlogun the 15th Nov '99

To,

✓ The Accountant General (A&E)  
Meghalay, Arunachal Pradesh etc.  
Shillong.

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R 2504  
Dr. 11/12

Sub:- Recruitment /posting of regular Divisional Accountants

Ref:- Your letter No DA/Cell/2-46/92-93/1241 dtd 4-10-99  
& this office letter No DA/29/85/(Part)/6304 dtd 8-9-99

Sir,

The issue of recruitment and posting of Divisional Accountants to 38 public works divisions of this state which are presently manned by deputationist were under active consideration of the state Government. The Govt of A.P has observed that prior to this correspondence under reference the state Govt. as well as this Directorate were never consulted while recruiting and posting of DAOs/DAs, though these posts were borned in the establishment of Executive Engineers and paid from the state exchequer. It has also been observed that prior to declaration of the State-hood (20-2-87), the cadres of the DAOs/DAs were enjoying pay scales without anomaly with the comparable status of Accountant/Assistant/Superintendent in the state Govt. working either in the Directorate of Accounts & treasuries as well as in other Directorates or in the District establishment. The Directorate of Accounts and Treasuries now express concern on the pay scales presently enjoying by the cadres of DAOs/DAs which were enhanced without having approval of the State Govt of A.P. The higher pay scales presently enjoying by the cadre of DAOs/DAs has been posing a problem for granting huge amount in the form of pay and allowances during the proposed training period of 38 Divisional Accountants.

The Govt of Arunachal Pradesh is of the view that recruitment and posting of the DAOs/DAs for 38 working Divisions of PWD may not be done at this stage, since final decision of the Govt is still awaited. The serving Divisional Accountants in the works Deptts on deputation basis may be allowed extension for a further period of two years from the date of expiry of their present respective tenure in the interest of public service. This will provide succour to the poor financial position of the state prevailing at the present time. This arrangement is proposed till view of the State Govt. in final shape could be put forward to your esteem office.

Yours faithfully,

(C. M. Mongmaw)

Joint Director of Accounts  
Directorate of Accounts & Treasuries  
Govt of Arunachal Pradesh

Fax No 0360 244281

Copy to :-

1. The P.S to the Hon'ble Chief Minister, Arunachal Pradesh, Itanagar for information of the Hon'ble Chief Minister.
2. The P.S to the Commissioner (Finance) Govt of A.P. Itanagar for information.

3. The PS to the Commissioner PWD/PWN/PWED/TECD/Power

ScB  
Pl. per  
G. A. Chow  
11/12

1. The Accountant General ( Audit ) Arunachal , Meghalaya etc Shillong for favour of information.
5. The Chief Engineer PWD (EZ / WZ ) / RWD / PHED / IFCD / Power, for information please. They are requested to give continuation to the serving DAS who are on deputation , for a further period of 2 years on expiry of their present term of deputation & meanwhile they may please direct the Executive Engineer concerned not to accept joining report of new appointee(DA) without consulting the State Govt/ Directorate of Accounts and Treasuries , Naharlogun.
6. The Chief Accounts officer PWD (EZ / WZ ) / RWD / PHED / IFCD / Power for information.
7. . Office copy.

( C . M. Mongmaw )  
Joint Director of Accounts  
Directorate of Accounts & Treasuries  
Govt of Arunachal Pradesh  
Naharlogun



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344/60  
8  
OFFICE OF THE ACCOUNTANT GENERAL(A&E),  
MEGHALAYA, MIZORAM & ARUNACHAL PRADESH,  
SHILLONG - 793 001

Annexure No. 3

No. DA Cell/2-46/92-93/1698

Date : 07.01.2000

To

The Joint Director of Accounts,  
O/o The Director of Accounts & Treasuries,  
Government of Arunachal Pradesh,  
Naharlugun,  
ARUNACHAL PRADESH

Sub.: Recruitment/Posting of regular Divisional Accountant.

Sir,

In inviting a reference to your letter No. DA/TRY/15/99/9029 dated 15.11.1999 on the subject cited above, I am to inform you that this office is the cadre controlling authority for the cadres of DA/DAO/Sr. DAO in respect of the State of Manipur, Tripura and Arunachal Pradesh. Transfer and postings of DA/DAO/Sr. DAO is the sole responsibility of this office and these officials are transferred among these three states.

Temporary appointment of DAs on deputation is only a stop-gap arrangement. Further whenever a proposal for recruitment of regular DAs is considered, concurrence of the concerned State is sought for. In this regard, this office letter No. DA Cell/2-46/92-93/3365 dated 07.01.1998, addressed to the Secretary, Finance Department, Government of Arunachal Pradesh, Itanagar, may please be referred to.

Further, I am to state that as per Recruitment Rules, published in the Gazetted of India dated 24.09.1988, the period of deputation cannot be extended beyond three years. Hence, your request for extension of the deputation terms of the deputationist Divisional Accountants beyond three years and for a further period of two years cannot be acceded to.

Yours faithfully,

sd/-

Sr. Dy. Accountant General (Admn)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
(At Agartala)

ORIGINAL APPLICATION NO.33 of 1993  
With

ORIGINAL APPLICATION NO.34 of 1993

ORIGINAL APPLICATION NO.35 of 1993

ORIGINAL APPLICATION NO.36 of 1993

ORIGINAL APPLICATION NO.37 of 1993

ORIGINAL APPLICATION NO.38 of 1993 ✓

ORIGINAL APPLICATION NO.44 of 1993

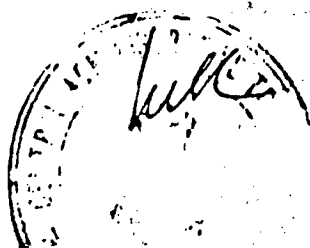
ORIGINAL APPLICATION NO.65 of 1993.

Date of decision: This the 16<sup>th</sup> day of January 1995.

THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN

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

1. Shri P.K. Paul (in O.A.No.33/93)  
Junior Grade Divisional Accountant  
Office of the Executive Engineer  
Southern Division No.3  
Udaipur, Tripura. .... Applicant
2. Shri Deepak Chakraborty (in U.A.No.34/93)  
Divisional Accountant  
Office of the Executive Engineer  
Rig Division, Agartala, Tripura. .... Applicant
3. Shri Bimal Biswas (in O.A.No.35/93)  
Divisional Accountant  
Office of the Executive Engineer  
Flood Management Division No.1  
Agartala. .... Applicant
4. Shri Sashi Ranjan Bora (in O.A.No.36/93)  
Divisional Accountant  
Office of the Executive Engineer  
Gas Thermal Project, Rokhia,  
North Benamalipur, Agartala, Tripura. .... Applicant
5. Shri Sushen Lal Saha (in O.A.No.37/93)  
Divisional Accountant  
Office of the Executive Engineer  
Public Health Engineering Division No.V  
Kumarghat, Tripura. .... Applicant
6. Shri Rakhal Krishna Dey (in O.A.No.38/93)  
Divisional Accountant  
Office of the Executive Engineer  
Flood Management Division No.2  
Kailashahar, Tripura. .... Applicant



7. Shri Bijit Bhushan Deb (in O.A.No.44/93)  
Junior Grade Divisional Accountant  
Office of the Executive Engineer  
Flood Management Division No.III  
Udaipur, Tripura, Agartala. .... Applicant
8. Shri Tapan Lal Mukherjee (in O.A.No.65/93)  
Office of the Executive Engineer  
Gumti Electrical Division  
Gumti Project, Tripura. .... Applicant.

By Advocate Shri J.L. Sarkar and  
Shri M. Chanda for the applicants in the  
respective applications.

-Versus-

1. The Union of India  
(Through the Comptroller and Auditor General  
of India,  
New Delhi)
2. The Accountant General (A & E)  
Meghalaya, etc, Shillong
3. The Executive Engineer  
Southern Division No.3  
P.W.D. Udaipur,  
Tripura
4. The Chief Engineer, PWD,  
Arunachal Pradesh  
Itanagar. .... Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C. and  
Shri G. Sarma, Addl. C.G.S.C. for respondents  
No. 1 and 2.

Respondents No. 3 and 4 served in the respective  
applications.

....

### ORDER

CHAUDHARI, J. V.C.

All these applications raise common questions and  
facts are also similar, hence these are being disposed of  
by this common order.

2. All the applicants were holding the post of Upper  
Division Clerk (UDC) prior to 1989 under the Chief Engineer,  
PWD, Arunachal Pradesh. They volunteered for being posted  
as Divisional Accountant in the office of the Accountant

General (A&E), Meghalaya, Shillong, and being selected were transferred on deputation to that office. They were serving on deputation under the Accountant General (A&E) until 22.2.1993 when orders for their repatriation to the <sup>other of-</sup> parent department, i.e. Chief Engineer, PWD, Arunachal Pradesh were passed by the Accountant General (A&E), Shillong. These orders are the subject matters of challenge in these applications. The applicants' grievance is that they have been arbitrarily repatriated illegally denying them the opportunity to appear at the selection test examination and to be absorbed in the borrowing department of Accountant General (A&E) on regular basis as Divisional Accountants. They therefore pray that the impugned order of repatriation dated 22.2.1993 may be set aside and the respondents be directed to allow them to appear in the Divisional test examination for regular absorption in the existing posts of Divisional Accountants (under the AG).

3. The respondents (No.1 & 2) contend that the applicants being on deputation have no right to claim absorption in the regular posts in the borrowing department and they are bound to accept their repatriation to the parent department where they belong and hold lien on their original posts and therefore there does not arise any question of allowing them to appear at the test examination which will serve no purpose. They also rely on the relevant provisions of the Indian Audit and Accounts Department (Divisional Accountant) Recruitment Rules, 1988. They submit that the applications are liable to be dismissed.

4. Mr J.L. Sarker, the learned counsel for the applicants has urged various contentions in support of the applications which can be divided in two parts, that is legal submissions

and....

and equitable grounds. First we shall deal with the legal submissions. These are as follows:

- 1) The applicants are governed by the standing orders issued by the Comptroller and Auditor General of India (contained in the Manual) in Chapter VII relating to Divisional Accountants and not by the Recruitment Rules 1988.
- 2) The President of India had no authority to make the Recruitment Rules 1988 and these cannot override the standing orders made by the Comptroller and Auditor General.
- 3.) Deputation is one of the sources of recruitment to the post of Divisional Accountant not only under the standing orders but also under the Recruitment Rules 1988.
- 4) The deputation of the applicants cannot be termed as deputation simpliciter as it was coupled with probation.
- 5) The order for repatriation is arbitrary particularly as the Parent department has not refused consent.
- 6) The applicants have to be treated on par with Emergency Divisional Accountants (EDA) under the standing orders.
- 7) The applicants have gained sufficient experience in Accounts and are fit to hold the posts of Divisional Accountants and it is not therefore fair to deny them the opportunity of being absorbed in that post and for that purpose allow them to appear at the test examination.

We now proceed to examine each of these submissions.

Submissions at serial Nos. 1 and 2, 1656

By separate order passed in O.A.No.7/94 filed by the present applicants for setting aside the Recruitment Rules 1988 we have held that the rules are perfectly valid and are applicable and have dismissed that application. That aspect need not be considered again here. Suffice it

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3 / 78

to say that the grievance of the applicants has to be examined <sup>by reference to</sup> ~~under~~ the Recruitment Rules 1988 which we have held to prevail over the earlier standing orders which must be deemed to have been replaced by the 1988 Rules.

Submissions at serial Nos. 3, 4 and 5:

There can be no denying of the fact that the applicants were sent on deputation to the Accountant General (A&E), Shillong's office and are not holders of substantive posts in that department. Their parent department is office of Chief Engineer, PWD, Arunachal Pradesh where they hold the post of Accounts Clerk substantively. While on deputation they continued to hold lien over their substantive post in the parent department. They seek to appear at the test examination while retaining their lien on the parent position so that in case they are allowed to appear at the test and happen to fail they can go back to their parent department. They thus want to play safe. This approach of the applicants is contradictory for while holding a substantive post in one department they cannot seek recruitment to a post in another department. They could do so after surrendering their lien over the substantive post in the parent department. Obviously they are not willing to do so as the consequence thereof may prove disastrous since in the event of failing in the test examination their service would stand terminated. Moreover they have not been permitted specifically by the Parent department to seek absorption in the borrowing department. Such a consent cannot be a matter of implication simply because the Chief Engineer, PWD though made a respondent has not chosen to file a written statement and to contend that he does not consent. The consent has to be in positive terms, which is lacking. Similarly, the borrowing department has not shown its willingness to allow them to

compete....

compete for recruitment as is evident from the fact that repatriation order has been passed.

The position of a deputationist is fairly well regulated under the Fundamental Rules. Appendix 5 to the said rules ~~clearly~~ shows that the term 'deputation' covers only appointments made by transfer on a temporary basis to other posts in the same or other departments/offices of the Central Government provided the transfer is outside the normal field of deployment and is in the public interest and the period of deputation is to be subject to a maximum of three years. Similarly, service of an officer on deputation to another department is treated as equivalent to service rendered in the parent department and would entitle him to promotions which are open on seniority-cum-merit basis. An officer sent on deputation in the public interest does not loose his seniority. In this context it will be apt to refer to the concept of lien. F.R. 9.13 defines 'Lien' to mean the title of government servant to hold substantively, either immediately or on termination of period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively. In Purushottam Lal Dhingra's case (AIR 1958 SC 36) the Supreme Court has defined 'Lien' as a title to hold a permanent post unless his lien is transferred in accordance with the rules. The question of transfer of lien does not arise in the instant case. Thus lien and deputation go hand in hand. It would have been different matter if the applicants were to relinquish their lien on their posts in the parent department and seek recruitment independently in the department of Accountant General (A&E), Shillong, under the rules for such recruitment. That not being the case, the applicants can neither refuse to go back to their original posts nor can claim as a matter of right absorption as

Divisional.....

Divisional Accountants in the office of the Accountant General (A&E), Shillong, while retaining their lien on substantive posts in the parent department. It may be mentioned that the repatriation order has not been challenged on the ground of malafides.

5. We now proceed to examine the Recruitment Rules 1988 to find out whether the applicants have thereunder any right to absorption as Divisional Accountants in the borrowing department.

Rule 3 provides the method of recruitment which shall be as specified in columns 5 to 14 of the schedule. Heading of Column 11 in the schedule is as follows:

"Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods."

Column 12 is as follows:

"In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made."

Note below Column 11 is "as stated in column 11". The method shown in column 11 is 'Direct Recruitment'.

That is followed by Notes. Note 1 related to selection of direct recruits.

Note 2 reads thus:

"Vacancies caused by the incumbent being away on transfer on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled on transfer on deputation from -

- i) Accountants (Rs.1200-2040) and senior Accountants (Rs.1400-2600) (belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen) who have passed the Departmental Examination for Accountants and have 5 years as regular service Accountant/senior Accountant including 2 years experience in Works Section, or
- ii) State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/senior

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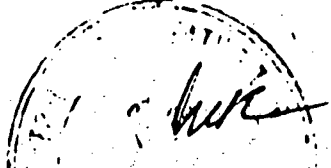
Accountant on a regular basis for  
5 years including 2 years experience  
in Public Works Accounts."

Note 3 reads thus:

"The period of deputation including the period of deputation in another Ex-cadre post held immediately preceding this appointment in the same or some other organisation/Department of the Central Government shall ordinarily not exceed 3 years."

6. Mr Sarkar submitted that since the heading of column 11 refers to method of recruitment and since it also refers to deputation it means that deputation is also one of the sources of appointment to the post of Divisional Accountant and that assuming that these Rules would apply and not the standing order, even then the applicants would be eligible for appointment and therefore they can be allowed to appear at the test examination held for that purpose. We find it difficult to agree with this submission for variety of reasons.

Firstly, the method of recruitment is mentioned as 'Direct Recruitment'. These words occur before the Notes that follow. Note one relates to direct recruits. ~~Rule 2~~ Note 2 although relates to filling in the posts temporarily by deputation it is clear that such vacancy has to arise by reason of the incumbent being away either on transfer or deputation. That is totally different from saying that the applicants who have come ~~in temporarily~~ on deputation have become eligible for direct recruitment. Note 3 makes it further clear that it relates to the incumbents in the department who are sent away on transfer or deputation. That only means that temporary vacancies may be filled in as stop gap arrangement till the rightful incumbent comes back. It has nothing to do with regular recruitments.



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A Government servant on deputation holding a ~~post~~<sup>in that capacity</sup> temporary post and having a lien on his substantive post in his parent department may be sent back to the substantive post in ordinary routine administration or because of exigencies of service. (Decision in K.H. <sup>Phadnis</sup> ~~Phadnis~~ -vs- State of Maharashtra, AIR 1971 SC 998 may be usefully referred to in this context).

Thus we hold that the applicants have no right of absorption in the posts of Divisional Accountants and therefore question of allowing them to appear at the test examination for that end to be achieved does not arise. To allow them to do so will be a futile exercise. The mere circumstance of the applicants having completed the probationary period does not clothe them with a right to claim absorption to the posts of Divisional Accountants. That cannot be a source of recruitment. Applicants therefore have to abide by the order of repatriation.

7. Submission at serial No.6

Another argument relying upon the standing orders urged by Mr Sarkar is that prior to the Rules 1988 EDAs were allowed to appear at the test examination and since the applicants are no different than EDAs, they should be allowed to appear for the test.

Para 316 of Chapter VII of the Manual provided as follows:

"All departmental candidates who have officiated as Emergency Divisional Accountants for a period of not less than 2 years (including spells totalling 2 years) may be absorbed in the cadre on their passing the Divisional Test alone. The age limit for such Emergency Divisional Accountants for appearing in the examination will be 48".

Despite our being asked neither counsel have been able to point out any provision defining an

'Emergency .....

'Emergency Divisional Accountant'. Hence we must follow the ordinary meaning. It is not shown that the applicants were appointed owing to any emergent situation arising in the office of the Accountant General (A&E). They appear to have been transferred on deputation in routine way initially for one year. Hence they cannot base their claim on para 316 assuming it were to apply. However under the 1988 Rules there is no such provision made and as we have held that the Rules would prevail this contention must be rejected.

8. The second part of the learned counsel's <sup>in equity</sup> equity submissions may now be dealt with.

Submission No. 7: Per Barker submitted as follows:

- 1) By absorbing the applicants the Government stands to gain as it gets experienced hands.
- ii) It is not fair to send back trained people and bring in untrained people. In this connection it is submitted that in place of the applicants new batch of untrained persons from the office of the Chief Engineer, PWD is proposed to be sent on deputation and there is no rationale behind this policy. That way the interest of society is not better served. Such a policy is opposed to presentday service jurisprudence and must be discouraged. This policy is also arbitrary in nature and violates articles 14 and 16 of the Constitution. Indeed the repatriation of the applicants is uncalled for as the Chief Engineer's office has no problem owing to applicants being retained in the office of the Accountant General (A&E). In the circumstances when the applicants at their own volition want to take the chance of appearing at the test examination there is no justification to refuse them that opportunity. That again introduces an element of arbitrariness and unfairness.

9. We are not impressed by any of these submissions. We do not find the 1988 Rules in any manner operating unfairly or arbitrarily against any class of officers. The rules have been validly made and what should be the mode of recruitment to the posts concerned is entirely a matter which lies within the administrative powers of the Government of India and Comptroller and Auditor General of India with whose consultation the rules have been made. The standing instructions were also issued by him. If these are now replaced that cannot be said to be illegal or unfair since the rules have been validly made. We find no infirmity in the rules so as to prefer the earlier standing orders to them. We fail to understand as to how the service jurisprudence is relevant or as to how the repatriation of deputationists is against the public interest. After all, the Chief Engineer's office also needs well trained Accounts personnel and the applicants can as well serve the interest of the public while serving in that department. It is fallacious for them to suggest that their presence in the Accountant General's department would enable them to serve the interest of public and thereby suggest that they will not do so in the Chief Engineer's office. This is clearly ~~self-interest~~ an argument motivated by self interest and officers like the applicants are not expected to take up such a stand which is derogatory to the position of an employee. Equally it is fallacious to say that by sending them back the Accountant General's department will lose services of trained people. It is not for the applicants to advise the Government and the Comptroller and Auditor General is quite competent to decide as to what is in the interest of a department under his control. Moreover there is nothing wrong if the Chief

Engineer.....

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Engineer, PWD, wants more and more people to be trained in the Accountant General's office. There is no harm in saying that the trained applicants are being replaced by untrained officers. The applicants forget that when they were sent on deputation they were also untrained in that sense. How can they therefore make a grievance if another batch of officers is given the benefit of training who are not being absorbed as Divisional Accountants in the Accountant General's department and will be required to go back when repatriated? Indeed if the contentions of the applicants are to be accepted that will create a hiatus in the administration of both the departments namely, Chief Engineer, PWD, and Accountant General(A&E) and that clearly is not permissible to do. We do not find any substance or logic in this line of argument adopted by the applicants and find that there is nothing arbitrary in the impugned action of the respondents. We also cannot accept the contention that the repatriation has been ordered in a fishy manner or with unclean hands as there is nothing that appears to us to <sup>lead to such an inference</sup> ~~draw such a conclusion~~. Nor it is possible to accept the contention that the deputation since it was coupled with probation conferred a right on the applicants to be regularised as Divisional Accountants.

10. General Submissions of the learned Counsel Mr J.L. Sarker may now be considered.

We are told that hands of judiciary have to be stretched in the interest of justice, that we must act in consonance with the principle that end of law is to have stable and peaceful society, that we must enumerate the law to bring stability to settle law of such deputationists and that since now a days it is everyday talk of backlog

why.....

why respondents should act arbitrarily in their executive action requiring the officers to involve the judiciary to step in and therefore <sup>we</sup> must step in in favour of the applicants.

11. We do not think that the above propositions can be disputed academically. We cannot however be touchy about our jurisdiction so as to exercise it for mere asking by a litigant. We will not hesitate to do so in an appropriate case but we are not satisfied that on merits the applicants have succeeded in making out such a case. We have already held that the action of respondents cannot be held to be arbitrary hence question of our stepping in does not arise. As far as enunciation of law is concerned, we hold that a deputationist cannot claim as a matter of right regularisation/absorption in a post in the borrowing department while retaining his lien on the substantive post he holds in the parent department and he cannot refuse to go back to the substantive post when his deputation is terminated.

12. In the light of the above discussion we find no substance in these applications and they deserve to be dismissed.

13. In the result all the above mentioned original applications namely, O.A.Nos. 33/93, 34/93, 35/93, 36/93, 37/93, 38/93, 44/93 and 65/93 are hereby dismissed. However, there will be no order as to costs.

14. Interim orders vacated.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Section Officer (I)

General Administration Department

Government of India

General Bench, Government of India

General Bench, Government of India

General Bench, Government of India

General Bench, Government of India

copy of judgment to be kept in each one application on record separately

16-1-95

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[VOL. 36]

1997]

SHORT NOTES TO SUPREME COURT CASES

CLVII

SN - 120

1998 Supreme Court Cases (L&amp;S) 31

(1997) 8 SCC 85

(BEFORE DR A.S. ANAND AND K.T. THOMAS, JJ.)

HARYANA STATE ELECTRICITY BOARD  
AND ANOTHER

Appellants;

Versus

Respondent.

HAKIM SINGH

Civil Appeal No. 6917 of 1997<sup>†</sup>, decided on September 30, 1997

**Appointment — Compassionate Appointment — Request for, after a long time (14 years in the present case) — Rejection of such request — Upheld — Request for compassionate appointment made when the deceased employee's son attained majority — The request rejected by the appellant-Board on the ground that departmental circulars prescribed maximum three years' time for making such request — The High Court holding that "in case of minor child the period of three years would be applicable from the date he becomes major" — High Court's interpretation set aside — If the family members of the deceased employee can manage for fourteen years after his death, one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance — The object of the provisions is ... to give succour to the family to tide over the sudden financial crisis befallen the dependants on account of the untimely demise of its sole earning member**

(Paras 12, 13 and 16)

*Haryana SEB v. Naresh Tanwar*, (1996) 8 SCC 23 : 1996 SCC (L&S) 816 : JT (1996) 2 SC 542; *Umesh Kumar Nagpal v. State of Haryana*, (1994) 4 SCC 138 : 1994 SCC (L&S) 930 : (1994) 27 ATC 537; *Jagdish Prasad v. State of Bihar*, (1996) 1 SCC 301 : 1996 SCC (L&S) 303 : (1996) 32 ATC 238, *relied on*

Appeal allowed

K-O-M/18680/CLA

SN - 121

1998 Supreme Court Cases (L&amp;S) 34

(1997) 8 SCC 372

(BEFORE SUJATA V. MANOHAR AND D.P. WADHWA, JJ.)

STATE OF PUNJAB AND OTHERS

Appellants;

Versus

Respondents.

INDER SINGH AND OTHERS

Civil Appeals Nos. 1293-1303 of 1995 with Nos. 8302 of 1995<sup>†</sup>, 1939 of 1997, 7137-38 and 7145-47 of 1997, decided on October 3, 1997

**A. Deputation — What it is — Held, is a service outside the cadre or the department on temporary basis — Words and phrases**

**B. Deputation — Repatriation from — The deputationist, held, is liable to be repatriated to his parent cadre/department on expiry of period of deputation — Repatriation from deputation, further held, cannot be resisted by an employee on the grounds that he has continued on deputation for a long time during which he earned promotions on ex-cadre posts, and that on repatriation he will have to work in his parent cadre on a lower post — He**

<sup>†</sup> From the Judgment and Order dated 26-2-1996 of the Punjab and Haryana High Court in L.P.A. No. 757 of 1995

<sup>‡</sup> From the Judgment and Order dated 3-9-1994 of the Punjab and Haryana High Court in L.P.A. Nos. 885-892 of 1994

the time of promotion  
inted to Group B in a  
change of channel —

ation — Avoidance of

structions issued by the  
uted under the Marine  
scribed the following  
Channel II — Regional  
istics; Channel III —  
V — Shrimp Farming.  
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in the scale of pay of  
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from Group C to a post  
were holding a post in  
visors, can exercise the  
rticular channel. (Para 8)

K-O-M/T/18537/CLA

cannot also claim permanent absorption on deputation post — Displeasure, however, expressed over action of the appellant-State in continuing the respondents on deputation for a long period thus creating a false hope in the respondents that they would continue there till their retirement — Equity therefore invoked to permit such of the deputationists who had completed 20 years and were thus eligible to seek voluntary retirement — They were deemed to have continued on deputation till the date of the Supreme Court judgment, and their qualifying service for pension also to be determined accordingly — Rest of the persons liable to be repatriated — Retirement — Voluntary Retirement while on deputation — Qualifying service — Determination of, by taking into account deemed period of deputation — Punjab Police Rules, R. 21.25 — Police Act, 1861 — Equity — Constitution of India, Art. 142 — Power of the Supreme Court to make such order "as is necessary for doing complete justice"

C. Deputation — Authority competent to decide whether an assignment is a deputation — Held, such decision is to be taken by the authority which controls the service or post from which an employee is transferred on deputation

D. Deputation — Without consent of an employee — Held, not permissible

The respondents who were appointed as Constables in Punjab Police were taken on deputation to Criminal Investigation Department (CID) of Punjab Police. Provisions for deputation in CID are contained in Rule 21.25 of the Punjab Police Rules, 1934 (reproduced in para 4 of the judgment). While on deputation, they earned promotions on ad hoc basis and some of the respondents reached the rank of ad hoc Sub-Inspectors. After a long time, they were sought to be repatriated to their parent cadre as Constables or Head Constables, depending upon their position in the parent cadre.

Held:

Concept of "deputation" is well understood in service law and has a recognised meaning. "Deputation" has a different connotation in service law. The dictionary meaning of the word "deputation" is of no help. In simple words, "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation, the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the recruitment rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority which controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. (Para 18)

*D.M. Bharati v. L.M. Sud.* 1991 Supp (2) SCC 162 : 1991 SCC (L&S) 1193 : (1991) 17 ATC 310; *Ratilal B. Soni v. State of Gujarat*, 1990 Supp SCC 243 : 1990 SCC (L&S) 630 : (1991) 15 ATC 857; *Puranjit Singh v. Union Territory of Chandigarh*, 1994 Supp (3) SCC 471 : 1995 SCC (L&S) 95 : (1994) 28 ATC 518; *R. Prabha Devi v. Govt. of India*, (1988) 2 SCC 233 : 1988 SCC (L&S) 475 : (1988) 7 ATC 63, relied on

*T. Shantharam v. State of Karnataka*, (1995) 2 SCC 538 : 1995 SCC (L&S) 537 : (1995) 29 ATC 383; *Narayan Yeshwant Gore v. Union of India*, (1995) 4 SCC 470 : 1995 SCC (L&S) 1040 : (1995) 30 ATC 566, distinguished

*Narendra Chadha v. Union of India*, (1986) 2 SCC 157 : 1986 SCC (L&S) 226, referred to

It is really harsh on the respondents to be sent back after they have served the CID for a number of years in higher rank though on ad hoc basis and now when they go back, they have to work either as Constables or Head Constables but the respondents will have to go back to their parent departments. Constables on deputation to CID have reached higher ranks and retired from CID in those ranks. A hope, though not true, is instilled in officers like the respondents that they would continue in the CID holding higher ranks till the age of superannuation. The conduct of the appellants now suddenly asking the respondents to go back to their parent departments when they have put in best years of their lives in CID would appear to be rather unjust. It would have been more appropriate for the appellant to repatriate the respondents after the expiry of the initial period of deputation or at least they should have been told the consequences of their continuing on deputation and sudden repatriation. It would also be more appropriate, considering the fact that the deputation in CID could be for

1997]

SHORT NOTES TO SUPREME COURT CASES

CLIX

any number of years, that the rules are amended and a separate cadre is created in CID to absorb the officers, if they are on deputation for a number of years. It was submitted before the Supreme Court that Constables who have come on deputation to CID retired while holding higher ranks in CID and they earned their pension on the basis of their holding higher ranks though the pension was being paid by their parent department. This may be on the basis of relevant pension rules as applicable in the State. Now, if the respondents go back to their parent department and work there as Constables or Head Constables, their emoluments would be reduced considerably and they would be deprived of getting higher pension when they retire. Considering the whole aspect of the matter, the order of the High Court is affirmed to the extent that option be given to those respondents who have put in 20 years' qualifying service to seek voluntary retirement from the CID in the ranks they are holding and they will be deemed to have worked in CID up to the date of this judgment. The option shall be given within 30 days. The qualifying service would be counted up to the date of this judgment. Those respondents who do not have 20 years' qualifying service would have to revert back to their parent departments.

(Paras 19 to 21)

Appeals partly allowed

K-O-M/T/18712/CLA

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1998 Supreme Court Cases (L&S) 46

(1997) 8 SCC 350

(BEFORE SUJATA V. MANOHAR AND M. JAGANNADHA RAO, JJ.)

S. RAMAMOZHANA RAO

Appellant;

*Versus*

A.P. AGRICULTURAL UNIVERSITY  
AND ANOTHER

Respondents.

Civil Appeal No. 898 of 1992<sup>†</sup>, decided on July 31, 1997

A. "Teacher" — Physical Director in a university — Held on facts, was a teacher — Hence was entitled to retire only at 60 years as per Regulation 33(a) — Words and Phrases — "Teacher" — Interpretation of — Andhra Pradesh Agricultural University Act, 1963 (24 of 1963), Ss. 2(n) and 40 — Andhra Pradesh Agricultural University (Conditions of Service) Regulations, 1965, Regn. 33

B. Retirement — Age of retirement — Premature retirement, by wrong interpretation of rules — Reliefs which can be granted by the court — Emoluments allowed up to 60 years and retiral benefits also directed to be determined accordingly

The question in this case was whether Physical Director in Andhra Pradesh Agricultural University was a "teacher" entitled to 60 years of retirement age in accordance with Regulation 33(a) of the Andhra Pradesh Agricultural University (Conditions of Service) Regulations, 1965, or was he an "employee" whose retirement age was 58 years prescribed in Regulation 33(b)(i). According to Section 2(n) of the Andhra Pradesh Act, 1963, 'teacher' "includes a professor, reader or other person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research or extension programmes, and any person declared by the statutes to be a teacher."

The University itself indicated the following duties of Physical Director "(a) to arrange games and sports daily in the evening for the students, (b) to look after the procurement of sports material and the maintenance of the sports grounds, (c) to arrange inter-class and inter-collegiate tournaments, (d) to accompany the student teams for the inter-university tournaments, (e) to guide the students about the rules of the various games and sports."

<sup>†</sup> From the Judgment and Order dated 28-4-1989 of the Andhra Pradesh High Court in W.P. No. 12751 of 1988

43 Annexure No 6 77  
OFFICE OF THE ACCOUNT GENERAL (A&B) MEGHALAYA ETC. SHILLONG

NO. DA CELL/ 163

Date

17/12/99

On expiry of the period of deputation to the post of Divisional Accountant under the Administrative Control of the Accountant General (A&B) Meghalaya etc., Shillong, Shri/Smti

Bimuth K. Das, Amandeep at present posted in the Office of the Executive Engineer, Ziro P.W.A.

Ziro, Aunachal Padesh is repatriated to his parent Department i.e. Chief Engineer, (Power)

Hanagar w.e.f. 10.2.2000

On being relieved of his duties on or

before 10.2.2000 from the Office of the Executive

Engineer, Ziro P.W.A. Ziro,

Aunachal Padesh he/she is to report for further duties to the Chief Engineer, (Power)

Aunachal Padesh, Hanagar

As required under para 384 of the Comptroller and Auditor General's M.S.O. (Admn)-Vol. I reproduced in Appendix-I of the C.P.W.A. Code, 2nd Edition 1964 the relieving official should prepare a memorandum reviewing the Accounts of the Division (in triplicate) which the relieving official should examine and forward to the Accountant General (A&B) Meghalaya etc, Shillong through the Divisional Officer, who will record such observations thereon as he may consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving Officer.

Authority :- Sr. DAG (Admn) order dt. 5-11-99 at P/ 49 N in the file No. DA Cell/10-1/93-94/98-99/Vol-V.

Sd/-  
Sr. Deputy Accountant General (Admn)

Memo No. D/Cell/10-1/93-94/99-2000/

1663-1668 dt 13/11/2000

Copy forwarded for information and necessary action to

1. The Chief Engineer

(Power) Arunachal Pradesh  
Itanagar

He is requested to arrange for posting of Shri/Smt. Binit K. Das

Divisional Accountant on

deputation on his repatriation to his parent Department.

The concerned Executive Engineer has been asked to release

Shri/Smt. Binit K. Das on or before

10.2.2000

2. The Superintending Engineer

3. The Executive Engineer

4. The Accountant General (H&E)

5. The Executive Engineer

Ziro PWD Ziro  
Arunachal Pradesh

He is requested to release

Shri/Smt. Binit K. Das, SA on deputation

of his Division on or before 10.2.2000 as his

term of deputation expires. He is also requested to

instruct Shri/Smt. Binit K. Das

to report to his/her parent Department i.e. Office of the

Chief Engineer (Power) Itanagar

on his/her release from your department. It may be noted

that no further extension of period of deputation will be granted to Shri/Smt. Binit K. Das

under any circumstances to avoid any complicity.

6. The Executive Engineer, Ziro Electrical Div. Ziro

He is requested to direct Shri/Smt. Tapash K. Das  
Bamerjee D/DAO of his/her Division to look after the

work of the Divisional Accountant of the Office of the

Executive Engineer, Ziro PWD, Ziro; AP

in addition to his/her normal duties with effect from

10.2.2000 until further order.

Contd....3

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- 3 -

7. Shri/Smti

Tapash K. Banerjee

DAO Grade II/II/Divisional Account of the Office of the

Executive Engineer

Ziro Electrical Divn; Ziro; AP

He/She is directed to look after the work  
of the Divisional Account of the Office of the Executive  
Engineer

w.e.f. 10/2/2000 A.M. in addition to his/her  
normal duties, untill further order.

8. Shri/Smti

Binit K. Dal

Divisional Accountant on deputation, O/o the Executive

Engineer

Ziro PWD; Ziro; AP

He/She is hereby asked to report to his/her parent

Department, i.e. O/o the Chief Engineer

(Power)  
Arunachal Pradesh; Itanagar.

9. Personal File of Shri/Smti

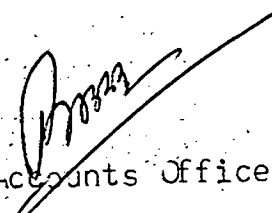
Binit K. Dal

10. Personal File of Shri/Smti

Tapash K. Banerjee

11. S.C. File.

12. E.O. File.

  
Senior Accounts Officer.

**The Central Administrative Tribunal**  
GUWAHATI BENCH : GUWAHATI


ORDER SHEET  
APPLICATION NO. 67/2000 OF 199

Applicant(s) Sri Bisith Kr. Das

Respondent(s) Union of India and others

Advocate for Applicant(s) Mr. B.K. Sharma

Advocate for Respondent(s) Mr. S. Sarma,  
Mr. U.K. Goowari  
C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
	17.2.00	<p>Present : Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.</p> <p>Application is admitted. Issue usual notices. Returnable on 16.3.2000.</p> <p>Mr. B.K.Sharma, learned counsel for the applicant prays for an interim order of stay of the impugned Annexure-7 order of repatriation, dated 17.12.1999. Mr. A. Deb Roy, learned Sr. C.G.S.C. submits that he has not received any instruction.</p> <p>Issue notice to show cause as to why the order of repatriation shall not be suspended pending disposal of this application. Notice is returnable on 16.3.2000. Meanwhile the order of repatriation dt. 17.12.99 shall remain suspended.</p>

TRUE COPY

Section officer (Judicial)  
21/2/2000

Central Administrative Tribunal  
Guwahati Bench, Guwahati

Sd/VICECHAMAN