

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A.T.A No. 200/2001

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET

APPLICATION NO 200 (T) OF 2001.
(in C.R. 6037/98)

Applicant (s) R. Prathapan

Respondent (s) UOI & ORs.

Advocate for Applicants (s) Mr B.R. Sharma & P.K. Tiwari

Advocate for Respondent (s) Cesc.

Notes of the Registry

Date

Order of the Tribunal

25.5.2001.

12.6.01

On the request of the learned counsel for the applicants, list this case along with the connected cases on 22-6-2001 for orders.

ICL Sharma
Member

[Signature]
Vice-Chairman

Heard counsel for the parties.
Judgment delivered in open court, kept in separate sheets.

The application is disposed of in terms of the order.

No order as to costs.

ICL Sharma
Member

[Signature]
Vice-Chairman

Received an application from the Hon'ble Gauhati High Court vid Court's order dated 2.4.2001 in bb N.P.(C) NO. 374/2000. 22.6.01

laid before Hon'ble Court for orders.

DR

30/5/01
So [Signature]

29/7/01

bb

17.7.01

Copy of the Judg^t has been sent to the D/Sec. for issuing the same to the L/Adm. for the parties.

ssb

IN THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

Civil Rule ☒

No. 6037 of 1998

R. Prathapan

Appellant

Petitioner

Versus

State of A.P. & Ors

Respondent

Opposite-Party

Appellant
For
Petitioner

Mr. B. K. S. Konra
Mr. P. K. Tiwari
Ms. Helen C. D.

Respondent
For
Opposite-Party

G. A. (P.P.)

Mr. G. Sarma,
Mr. B. Rajkumar. (For Respondent No. 3)

| Noting by Officer or Advocate | Serial No. | Date | Office notes, reports, orders or proceedings with signature |
|----------------------------------|---------------|------|--|
| 1 | 2 | 3 | 4 |

01-12-98

RECEIVED
D. Grewar
Passed over for the day

By order

[illegible]

Noting by Office or Advocate

Serial
No.

Date

Office notes, reports, orders or proceeding
with signature

BEFORE

HON'BLE JUSTICE SMTI M SHARMA

3.12.98

Heard Mr BK Sarma, counsel for the petitioner and Mrs N Saikia, GA, AP.

Let the records be called for.

Let a rule issue calling upon the respondents to show cause as to why writ should not be issued, as prayed for; and/or why such further or other orders should not be passed as to this court may deem fit and proper.

Rule is returnable by eight weeks.

Govt Advocate accepts notice for respondents 1, 2, 5 and 6. Petitioner shall take step on the other respondents by regd post.

Till the returnable date petitioner shall not be released from the present post of Divisional Accountant in the office of the Executive Engineer, Ziro Civil Division, Department of Power, District Lower Subansiri, Arunachal Pradesh.

RULE RETURNABLE BY *eight*

weeks.

Mazumdar/

GA accepts notice for respondents 1, 2, 5, 6, and to comply by regd/post.

communicate the order immediately.

[Signature]
JUDGE

communication order

sent to dispatch tree.

22/12/

| Noting by office or Advocate. | Serial | Date | Office notes, reports, orders, or proceeding with signature. |
|--|--------|------|--|
| 6/4/99 | | | 3 |
| Notice sent Despatch Section for issue to Respondents No. 3 & 4 by Reg. A/D. | | | |
| JHS 6/4/99 | | | |
| Acceptance has been filed on behalf of Respondents No. 1, 2, 5 and 6. | | | |
| JHS 6/4/99 | | | |
| 4-9-99 | | | |
| An Affidavit in Opposition on behalf of the Respondent No. 3. has been filed on 20-7-99. | | | |
| - And Learned Advocate Mr. G. Sarma and Mr. B. Rajkhowa has entered appearance on behalf of the Respondent No. 3. | | | |
| JHS 4/9/99 | | | |

id

C.R. 6037/98

⑤

| Noting by Office or Advocate. | Sl. No. | Date | Office Notes, Reports, Orders or proceeding with Signature. |
|-------------------------------|---------|------|---|
|-------------------------------|---------|------|---|

27/5/2K

Mr. A. Sarma

" M. Seka advs.

have entered the
appearance on
behalf of. Respon-
dent No. 3 vide
vakalatnama filed.

Co

CR 6037/98

| Noting by Office or Advocate. | Sl. No. | Date | Office Notes, Reports, Orders or proceeding with Signature. |
|-------------------------------|---------|------|---|
|-------------------------------|---------|------|---|

List next week.

Hand
12/1/2001

AS
12.1.2001

12-1-2001

ay

List the matter to in the next week.

BZ.

B. Lamaze

Supervisor Mr. B. Lamaze

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. From 200. (T). to 208(T) of 2001.

DATE OF DECISION. 22-6-2001.

Mr. R. Prathapan & Ors.

PETITIONER(S)

Mr. B.K. Sharma, Mr. P.K. Tiwari & Ors. - ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Mr. A. Deb Roy, Sr.C.G.S.C.

Mr. B.C. Pathak & Ors.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. R.R.K. TRIVEDI, VICE-CHAIRMAN.

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the judgment ?
 4. Whether the Judgment is to be circulated to the other Benches ?
- Judgment delivered by Hon'ble Vice-Chairman

22/6/2001

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application Nos. From 200(T) to 208(T) of 2001.

Date of Order : This is the 22nd Day of June, 2001.

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN.

HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

O.A.No.200/2001(T) (in C.R.6037/98):

R. Prathapan . . . Applicant.

By Advocate Mr.B.K.Sharma & Mr.P.K.Tiwari.

- Vs -

State of Arunachal Pradesh & Ors . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O.A.No.201/2001(T) (in W.P.(c)1117/2000 :

Shri Habung Lalin . . . Applicant.

By Advocate Mr. Tagia Michi

- Vs -

Union of India & Ors. . . Respondents.

Mr.B.C.Pathak, Addl.C.G.S.C.

O.A.No.202/2001(T) (in W.P.(c)374/2000

Sri Keshab Chandra Das . . . Applicant.

By Advocate Mr.Amitava Roy & Mr.S.Dutta

- Vs -

State of Arunachal Pradesh & Ors . Respondents.

Mr. A. Deb Roy, Sr.C.G.S.C.

O.A.No.203/2001(T) (in W.P.(c)257/2000):

Sri Gamboh Hagey . . . Applicant.

By Advocate Mr.M.Chanda & Mr.S.Dutta

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.

Mr.B.C.Pathak, Addl.C.G.S.C.

O.A.204/2001(T) (in W.P.(c)373/2000) :

Shri Rathindra Kumar Deb . . . Applicant.

By Advocate Mr.Amitava Roy & Mr.S.Dutta

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.

Mr. A. Deb Roy, Sr.C.G.S.C.

O.A.205/2001(T) (in W.P.(c) 376/2000) :

Shri Utpal Mahanta . . . Applicant.
By Advocate Mr.A.Roy & Mr.S.Dutta

- Vs -

The State of Arunachal Pradesh & Ors. . . Respondents.
Mr. A.Deb Roy, Sr.C.G.S.C.

O.A.206/2001(T) (in W.P.(c) 496/2000) :

Hage Mubi Tada . . . Applicant.
By Advocate Mr.A.Roy, Mr.M.Chanda & Mr.S.Dutta

- Vs -

Union of India & Ors. . . Respondents.
Mr.A.Deb Roy, Sr.C.G.S.C.

O.A.207/2001(T) (in W.P.(c) 876/2000) :

Malay Bhushan Dey . . . Applicant.
By Advocate Mr.B.C.Das & Mr.S.Dutta

- Vs -

Union of India & Ors. . . Respondents.
Mr.A.Deb Roy, Sr.C.G.S.C.

O.A.No.208/2001(T)(in W.P.(c)375/2000) :

Shri Hage Tamin . . . Applicant.
By Advocate Mr.A.Roy, Mr.M.Chanda & Mr.S.Dutta.

- Vs -

The State of Arunachal Pradesh & Ors. . . Respondents.
Mr.A.Deb Roy, Sr.C.G.S.C.

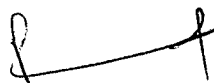
O R D E R

R.R.K.TRIVEDI J.(V.C.) :

We have heard Mr. M. Chanda for the applicants
and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

2. In all the aforesaid O.A.s the questions of law and facts involved are similar and they can be disposed of by a common

contd.. 3



order, against which learned counsel for the parties have no objection.

3. The applicants of the present O.A.s are serving in different capacities under the State of Arunachal Pradesh. The applicants are serving on the basis of deputation. They are mainly involved with Divisional Accountant in the organisation, ^{under} ~~and~~ administrative control of Accountant General (A&E), Arunachal Pradesh and Meghalaya. After expiry of the period of deputation, ^{order} have been passed for repatriation to their original department. Agrieved by the order of repatriation the applicants ~~have~~ filed the Writ Petitions in High Court, which have been transferred to this Tribunal.

4. Learned counsel for the applicant has submitted that by order dated 15-11-1999, the Government of Arunachal Pradesh has extended the period of deputation for a period of two years from the date of expiry of their present respective tenure, in the interest of public service. The operative part of the order reads as under :

"The Govt. of Arunachal Pradesh is of the view that requisitment and posting of the DAO/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 Depts 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."

Thus the period of expiry stands extended by order dated 15th Nov'99 from the date of expiry. In the meantime the State of Arunachal Pradesh has taken a decision to absorb the

contd.. 4



deputationist applicants in the State Cadre by order dated 12-1-2001, copy of which has been filed as Annexure-9. The letter is being reproduced below:

"To,

The Accountant General(A&E)
Arunachal Pradesh, Meghalaya, etc.,
Shillong-793 001.

Subj: Transfer of the Cadre of Divisional
Accounts Officer/Divisional Accountants
to the State of Arunachal Pradesh -
regarding.

Sir,

It was under active consideration of the Government of Arunachal Pradesh for sometime to take over the Cadre of the Divisional Accounts Officers / Divisional Accountants of the Works Department totaling 91 (Ninety one) posts from the existing combined cadre being controlled by you. Now, the Government of Arunachal Pradesh has decided to take over the above said Cadre under the direct control of the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, with immediate effect.

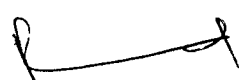
Persons those who are borne on regular basis in the cadre and opt to come over to Arunachal Pradesh state Cadre, will be taken over on status quo subject to acceptance of the state Government. It is also decided that henceforth no fresh Divisional Accountant(s) on deputation will be entertained. Cases of those who are presently on deputation and serving in this state shall be examined at this end for their future continuation even after completion of the existing term of deputation.

It is, therefore, requested to take necessary action at your level so that the process of the transfer of the Cadre along with the willing personnel can be completed immediately.

Formal notification is under issue and shall be communicated in due course.

Yours faithfully,

(Y. Megu)
Director of Accounts & Treasuries
& Ex-Officio Dy. Secy. (Finance),
Govt. of Arunachal Pradesh,
NAHARLAGUN.



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5. As the State Government has extended the period of deputation and further has taken a decision to absorb the applicants in the State Cadre by order dated 12-1-2001, in our opinion, nothing is left to be decided by this Tribunal in these O.A.s. The order of repatriation impugned in these O.A.s stands ^{superseded} ~~suspended~~ by order dated 15-11-1999, filed ⁱⁿ ~~in~~ Annexure-7.

The applications are accordingly, disposed of. It is made clear that if change in the present situation arises, it ^{shall be} ~~is~~ open to the applicants to approach this Tribunal.

There shall, however, be no order as to costs.

1<1C Sharma
(K.K. SHARMA)
ADMINISTRATIVE MEMBER

R
(R.R.K. TRIVEDI)
VICE CHAIRMAN

15

District : Lower Subansiri

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

(Civil Extra-Ordinary Jurisdiction)

Civil Rule No. 6037 of 1998

R. Prathapan

... Petitioner

- Versus -

State of Arunachal Pradesh

& Ors.

... Respondents

CATEGORY CODE : CR-10060

Other Service matter

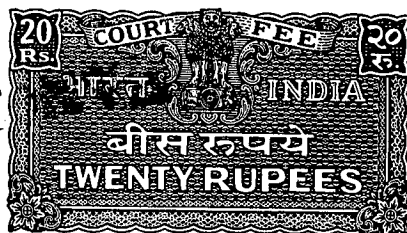
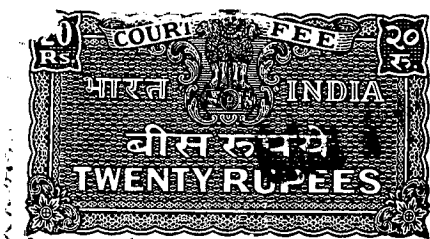
I N D E X

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Filed by :

P.K. Tiwari

(P.K. Tiwari)
Advocate



Filed by
R. Prathapan, petitioner
through
H. V. &
Advocate.

District : Lower Subansiri

IN THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)

(CIVIL EXTRA-ORDINARY JURISDICTION)

Civil Rule No. 6037 of 1998

Category Code No. : CR 10060 —
Other Service Matters

To

The Hon'ble Shri N.C. Jain, B.A.LL.B., the Chief
Justice (Acting) of the Gauhati High Court and His
Lordship's Companion Justices of the said Hon'ble
Court.

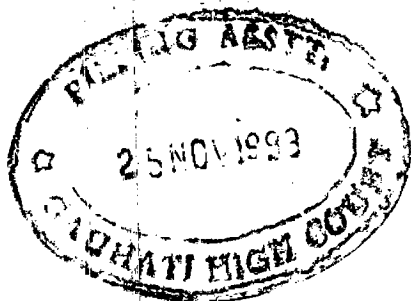
IN THE MATTER OF :

An application under Article 226 of
the Constitution of India for issue
of a Writ in the nature of Mandamus
and/or any other appropriate Writ,
Order or Direction of like nature.

- AND -

IN THE MATTER OF :

Challenge to the legality of the
letter contained in Memo No. DA
Cell/RP/PC/Depth/1168 dated 13.8.98
issued by the Senior Accounts
Officer of the office of the
Accountant General (A & E),
Meghalaya, Shillong intimating the
Chief Engineer, Power, Itanagar,
Arunachal Pradesh that the order of



repatriation of the Petitioner, repatriating him to his parent department will be issued in the month of November and necessary arrangement be made to ensure the release of the Petitioner on 31.12.98.

- AND -

IN THE MATTER OF :

For permanent absorption of the Petitioner as Divisional Accountant in the organisation and administrative control of Accountant General (A & E), Meghalaya, Shillong

- AND -

IN THE MATTER OF :

For enforcement of Petitioner's fundamental right under Article 14 and 16 of the Constitution of India.

- AND -

IN THE MATTER OF :

R. Prathapan, son of Shri V. Raghavan, presently working as Divisional Accountant in the office of the Executive Engineer (Civil), Ziro Civil Division, Department of Power, P.O. Ziro, District Lower Subansiri, Arunachal Pradesh.

... Petitioner

- VERSUS -


- (1. The State of Arunachal Pradesh, through the Secretary, Department of Power, Government of Arunachal Pradesh, Itanagar
- (2. The Chief Engineer, Power, Government of Arunachal Pradesh, Itanagar
3. The Accountant General (A&E), Meghalaya, Shillong-793001.
4. Senior Accounts Officer in the office of the Accountant General (A&E), Meghalaya, Shillong.
- (5. The Secretary to the Government of Arunachal Pradesh, Public Works Department, Itanagar, Arunachal Pradesh.
6. The Chief Engineer, Eastern Zone, Public Works Department, P.O. Itanagar, Arunachal Pradesh.

... Respondents

The Petitioner abovenamed

MOST RESPECTFULLY SHEWETH :

1. That the Petitioner in the present petition is seeking his permanent absorption as Divisional Accountant in the organisation and administrative control of Accountant General (A&E), Meghalaya, Shillong. Though this Petitioner has worked for nearly


Secretary to the Government
Arunachal Pradesh
Itanagar

six and half years as Divisional Accountant in the organisation and administrative control of Accountant General (A&E) Meghalaya, Shillong, but he is not being permanently absorbed in the aforesaid capacity. Now the efforts are on to repatriate the Petitioner to his parent department in the office of the Superintending Engineer, Along Civil Circle, PWD, Along, District West Siang. What makes the likely repatriation of the Petitioner disturbing is the fact that though he is being repatriated to his parent department of Public Works, Government of Arunachal Pradesh, but his place in the present deputation post is likely to be taken by the deputationist only. Hence present case is the case where one deputationist is replaced by another deputationist. Instead of permanently absorbing the Petitioner to the deputation post wherein he has worked for nearly six and half years by repatriating him to his parent department, the Respondents are only bringing the person on deputation to work in the place of Petitioner. It is also noteworthy that the Petitioner is competent to be permanently absorbed in the deputation post of Divisional Accountant. Moreover, though he worked in deputation but his appointment was against the permanent post in a substantive capacity. Hence there is no reason as to why the Petitioner should not be considered for permanent absorption to the post wherein he is presently working. Hence the present writ petition.

FACTS OF THE CASE :

2. That the Petitioner was appointed in the Public Works Department of Government of Arunachal as Works Inspector, Grade-II on 5.1.70. He was subsequently promoted as Lower Division Clerk on 23.8.73 and was further promoted as Upper Division Clerk with effect from 31.1.83.

3. That the Petitioner consequent on his selection for the post of Junior Grade Divisional Accountant in the cadre of Divisional Accountant under the administrative control of the Accountant General (A&E), Meghalaya was appointed as Divisional Accountant in the office of the Executive Engineer, Rural Works Division, Basar, Arunachal Pradesh vide office of the Accountant General (A&E), Meghalaya, Shillong office order dated 24.10.89. It is pertinent to mention that the aforesaid appointment of the Petitioner was on deputation.

Copy of the office order dated 24.10.89 is annexed as ANNEXURE-1.

4. That though the aforesaid appointment of the Petitioner was on deputation for the period of one year, but the same was subsequently extended from 15.11.90 to 10.3.93. However, on expiry of the aforesaid term, the Petitioner was repatriated to his parent department i.e. the Public Works Department of Arunachal Pradesh vide order No. DA Cell/178 dated 22.2.93 and memo No. DA Cell/10-1/92-93/2750-56 dated 25.2.93 issued by the office of the Accountant General (A&E), Meghalaya, Shillong.

5. That the Petitioner was repatriated by the aforesaid order to his parent department of PWD. At the relevant point of time, there were other similarly situated colleagues of the Petitioner who being aggrieved by the order of the repatriation assailed the same before this Hon'ble Court and this Hon'ble Court was pleased to stay the impugned order repatriation in those cases.

Though the Petitioner does not at present have the copy of the interim orders passed by this Hon'ble Court in the aforesaid cases, but the Petitioner craves leave of this Hon'ble Court to furnish the same at the subsequent stage of the case.

6. That the Petitioner was once again called for written test and viva-voce for selection to the post of Divisional Accountant vide call letter No. DA Cell/2-49/93-94/2379 dated 13.10.95 issued by the office of the Accountant General (A&E), Meghalaya, Shillong. Pursuant to the aforesaid call letter, the written test and viva-voce of the Petitioner was conducted at Shillong in the office of Accountant General (A&E) from 27.10.95 to 1.11.95.

7. That the Petitioner performed very well in the aforesaid examination and he secured the second position. In the select list which was published for the aforesaid purpose, the name of the Petitioner appeared at Sl. No. 2. On the basis of the performance of the Petitioner, he was once again considered for the candidature of Divisional Accountant and accordingly, the office of the Accountant General (A&E), Meghalaya,

Shillong issued the appointment order to him vide order No. DA Cell/207 dated 27.12.95 contained in Memo No. DA Cell/2-49/94-95/2397-2407 dated 27.12.95. Pursuant to this order, the Petitioner was posted on deputation as Divisional Accountant in the office of the Executive Engineer, Imphal, Generation and Distribution Division (Electricity), Imphal, Manipur.

Copy of the order dated 27.12.95 is annexed as ANNEXURE-2.

8. That in compliance of the aforesaid order, the Petitioner joined as Divisional Accountant in the office of the Executive Engineer, Imphal Electrical Division No.1, Imphal, Manipur on 29.1.96. The Petitioner rendered his services at Imphal for a period of nearly one and half years and thereafter he was transferred and posted to Ziro in the office of the Executive Engineer (C), Ziro Civil Division, Department of Power, Ziro, Arunachal Pradesh vide order No. DA Cell/135 dated 4.7.97. It is made clear that this order of transfer of the Petitioner was as deputationist in the post of Divisional Accountant. It was just that as Divisional Accountant, he was transferred from the office of the Executive Engineer, Imphal Electric Division No.1, Manipur to the office of the Executive Engineer, Ziro Civil Division, Department of Power, Ziro, Arunachal Pradesh. However, he remained in the organisation and administrative control of the office of the Accountant General (A&E), Meghalaya, Shillong.

Copy of the order of transfer on deputation dated 4.7.97 is annexed as ANNEXURE-3.

9. That since then the Petitioner has been working as Divisional Accountant on deputation in the office of the Executive Engineer, Ziro Civil Division (Power), Ziro, Arunachal Pradesh. It is pertinent to mention that while working as Divisional Accountant in the office of Executive Engineer, Ziro Civil Division (Power), the services of the Petitioner were extended from time to time. Firstly upto 31.12.97 followed by yet another extension for a further period of one year upto 31.12.98. For the said purpose, the office of the Accountant General (A&E), Meghalaya, Shillong wrote letters to the Chief Engineer (Eastern Zone), PWD, Itanagar, the head of Petitioner's parent department, for concurrence and for extension of the period of deputation of the Petitioner. In these letters, it was stated that the office of Accountant General (A&E), Meghalaya is in the need of the service of the Petitioner and as such, extension of his services is required. The parent department of the Petitioner accordingly gave the concurrence and as a result, the period of deputation of the Petitioner was extended upto 31.12.98.

Copies of the letters written by the office of the Accountant General, Meghalaya, Shillong dated 6.5.97 and 1.5.98 are annexed as ANNEXURES-4A and 4B respectively.

10. That when the Petitioner was working as Divisional Accountant on deputation in the department of Power, office of the Executive Engineer, Ziro Civil Division

in the organisation and administrative control of the office of the Accountant General, Meghalaya, the Senior Accountant of the office of the Accountant General, Meghalaya, Shillong vide letter dated 13.8.98 wrote to the Chief Engineer (Power), Itanagar, Arunachal Pradesh that as Petitioner will complete his period of deputation in December 1998, therefore, the order of his repatriation to his parent department will be issued from the office of Accountant General during the month of November 1998 and as such necessary arrangement to post the Petitioner in his parent cadre be made as Petitioner is likely to be released on 31.12.98.

Copy of the letter dated 13.8.98 is annexed as ANNEXURE-5.

11. That though on the one hand the office of the Accountant General (A&E) Meghalaya is losing its sleep over the fact that the Petitioner is completing the period of his deputation by 31.12.98 and therefore arrangements have to be made for his repatriation to his parent department, on the other hand, the steps are also being taken to bring in persons on deputation in the similar capacity in which the Petitioner is presently working on deputation. In fact in such similar cases recently certain appointments have been made replacing one deputationist by another deputationist.

Copies of few such orders making appointments to the post of Divisional Accountant on deputation basis issued in the last few months are annexed as ANNEXURE-6 colly.

12. That the Petitioner is aggrieved because instead of absorbing him permanently as Divisional Accountant in the office of the Accountant General (A&E), Meghalaya, Shillong, he is being replaced by other deputationist. The Petitioner has worked as Divisional Accountant for nearly six and half years. His appointment as Divisional Accountant was against a permanent post and there is no reason as to why he cannot be absorbed in the said capacity. In this connection, it is noteworthy that the Petitioner's appointment as Divisional Accountant was made after carrying out selection in accordance with law. Since the Petitioner was duly qualified and he was selected for such appointment, he was accordingly sent on deputation as Divisional Accountant.

13. That as stated above, the Department is seriously considering to bring on deputation another person in place of the Petitioner to work as Divisional Accountant. Such a move on the part of the administration is wholly unacceptable inasmuch as the Petitioner is not only duly qualified but he has also worked as Divisional Accountant for a long time. In view of the fact that the Petitioner has a considerable experience to work as Divisional Accountant, his replacement by another person who will be brought on deputation is not only arbitrary but also unreasonable.

14. That an employer has to be model to be a model employer more so when such an employer is the State itself. It is unjust to throw out a person who has

rendered more than six and half years of service in the same cadre especially when such a service was rendered on the basis of a thorough process of selection pursuant to which the person was found fit for an appointment as Divisional Accountant and he rendered his services in the said capacity for long six and half years.

15. That the intimation with regard to the repatriation of the Petitioner vide order dated 13.8.98 is illegal inasmuch as the Petitioner had joined in the post on deputation basis only on 29.1.96 in the present tenure and his term of deputation expires only on 28.1.99. The haste made by the Respondents smacks of vindictiveness and the same is highly illegal. In all fairness, the Respondents should at least wait upto 28.1.99. Moreover in the facts and circumstances of the case, interests of the Respondents would be better served if the Petitioner is allowed to continue in his capacity as Divisional Accountant in his present place of work.

16. That in this petition, the Petitioner has made out a prima facie case of arbitrariness on the part of the Respondents. Petitioner has a strong case for being permanently absorbed as Divisional Accountant either in his present capacity as Divisional Accountant in the office of the Executive Engineer, Ziro Civil Division, Department of Power, Arunachal Pradesh or as Divisional Accountant in any of the office of the Accountant General (A&E), Meghalaya, Shillong. An interim direction by this Hon'ble Court that pending disposal

of this petition the Petitioner may not be disturbed from his present post of Divisional Accountant in the office of the Executive Engineer, Ziro Civil Division, Department of Power, would not adversely affect the interest of the Respondents and they would not be prejudiced in any way, whereas on the other hand, if such an interim direction is not given in favour of the Petitioner, the very writ petition itself would be rendered infructuous. Hence the balance of convenience is in the favour of passing such an interim order.

17. That the Petitioner has no other appropriate alternative remedy than the one sought for herein and the reliefs if granted by this Hon'ble Court would be just, adequate, proper and effective.

18. That the Petitioner demanded justice but the same was denied to him. Hence the Petitioner files this petition bonafide and for securing the ends of justice.

PRAYER

In the premises aforesaid, it is most respectfully prayed that this Hon'ble Court may be pleased to -

- (i) Issue a writ of Certiorari quashing the letter dated No. DA Cell/RP/PC/Deptn./1168 dated 13.8.98
- (ii) Issue a Writ of Mandamus directing the Respondents especially the Respondents No. 1,2 and 3 to

permanently absorb the Petitioner as
Divisional Accountant in the
organisation and administrative
control of Accountant General (A&E),
Meghalaya, Shillong

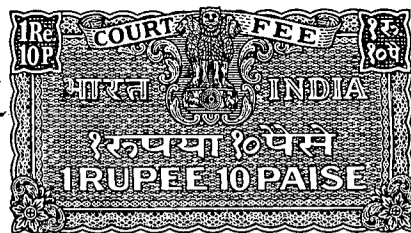
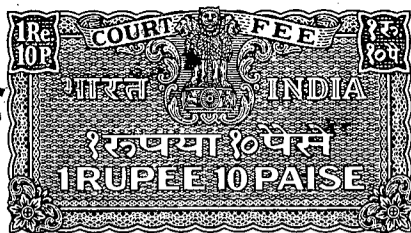
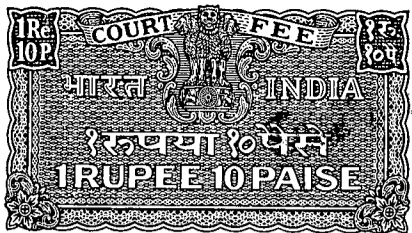
(iii) pass such other order/orders as may
be deemed fit and proper in the
facts and circumstances of the case

- AND -

Pending disposal of the petition, be
further pleased to direct the Respondents
especially the Respondents No. 1, 2 and 3
not to release the Petitioner from his
present post of Divisional Accountant in
the office of the Executive Engineer,
Ziro Civil Division, Department of Power,
District Lower Subansiri, Arunachal
Pradesh.

And for this, your Petitioner as in duty bound,
shall ever pray.

Affidavit.....



- 14 -

29

A F F I D A V I T

I, R. Prathapan, aged about 48 years, son of Shri V. Raghavan, presently working as Divisional Accountant in the office of Executive Engineer, Ziro Civil Division, Department of Power, District Lower Subansiri, Arunachal Pradesh, do hereby Solemnly affirm and state as follows :

1. That I am the Petitioner in the instant petition and as such well conversant with the facts and circumstances of the case and therefore competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs 1,2,3,5,6,12,13,15,16,17,18 are true to my knowledge ; those made in paragraphs 4,7,8,9,10,11 are matters of records which I verily believe to be true and the rest are my humble submissions before this Hon'ble Court. The annexures are true copies of the originals.

And I sign this affidavit on this the 25th day of November 1998 at Guwahati.

Identified by me :

Satya Nath Baruah
Advocate's Clerk. 25/11/98

R. Prathapan
Deponent

sworn and affirmed before me this 25th days of Nov 1998
The declarant is identified by Satya Nath Baruah personally known to me I certify that the declarant and explained the contents of the affidavit and the declarant seemed perfectly to understand them

[Signature]
Commissioner of Affidavits
Guwahati High Court
Guwahati

- 15 -

ANNEXURE- 1

ANNEXURE "A"

30

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA, ETC.: SHILLONG.
E.O.N.-WM-1/DA Cell/169

Dated 26/10/87

Consequent on his selection for the post of Junior Grade Divisional Accountant in the pay scale of Rs.1400-40-1600-50-2300-EB-60-2600/- in the cadre of Divisional Accountant under Administrative Control of the Accountant General (A&E) Meghalaya etc., Shillong, Shri R. Pratapan at present working in the O/O the E.E. Capital Division "A" PWD A.P. Itanagar

is posted on deputation as Divisional Accountant in the O/O the E.E. Rural Works Division Basar A.P. Basar

2. The period of deputation of Shri R. Pratapan will be one year in the first instance.

3. The pay and deputation (Duty) allowance in respect of Shri R. Pratapan will be governed by the Govt. of India, Ministry of Personal, Public Grievances and Pensions (Department of Personal and Training) letter No. 2/12/87-Estt (Pay-II) dated 29-4-88 and as amended and modified from time to time, while on deputation, Shri R. Pratapan

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) allowance. Shri R. Pratapan

on deputation should exercise option in this regard within a period of one month from the date of joining in the new assignment (i.e. post of deputation). The option once exercised by Shri R. Pratapan shall be final.

Contd.....2/-

The Dearness Allowances, C.E.A., Children Education allowances, P.A., L.T.C., Leave Duration etc. will be governed by the Government of India, Ministry of Finance O.M. No. P.1(5) P-IV(A)/52 dated 1.12.52 (incorporated as Annexure to Govt. of India's Decision No-1 in Appendix B1 of Choudhury's CSR, Vol-IV (1st Edition) and as amended and modified from time to time.

5. Shri **N. PRATAPAN** (on deputation) will be liable to be transferred to any place within the states of **Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura** in the cadre of District Accountant under the Accountant General (A&E) Meghalaya at Shillong.

6. Prior concurrence of this office must be obtained by the District Officer before Shri **N. Pratapan** (on deputation) is entrusted with additional charges, appointed, promoted or transferred to a post/Station other than that cited in this Establishment order.

(Authority:- A.O's order at P/7 N of the File No. LA6 (A&E)/Conf/2-40/89-90.

Sd/-
Deputy Accountant General (A&E)

Memo No. WM-1/LA/Cell/10-1/86-87/2170-80 Dated. 24/10/89

Copy forwarded for information and necessary action to:-

1. The Accountant General (A&E) Assam, Shillong.
2. The Accountant General (A&E) Manipur, Imphal.
3. The Accountant General (A&E) Tripura, Agartala.
4. The Chief Engineer, **Itanagar**

Itanagar

He is requested to release Shri **N. Pratapan** immediately with a direction to report for duties to his place of posting (on deputation) under intimation to this office.

.....

The Executive Engineer, Capital Division 'A'

PWD A.P. Itanagar

He is requested to release Shri R. Pratapan

Immediately with direction to report for duties to his place of posting (on Deputation) under intimation to this office.

The Executive Engineer, Rural Work Division Basar

A.P. Basar

He is requested to forward the joining report of Shri

R. Pratapan

(on Deputation)

to this office for further action at this end.

Shri R. Pratapan

O/o the E.E. Capital Division 'A' PWD

A.P. Itanagar

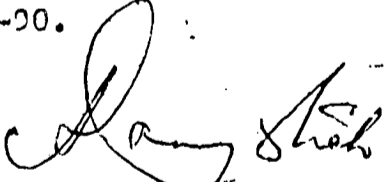
He should take over the new assignment after obtaining release order from the present Employer/Parent Department within one month from the date of issue of this memo. Order

E.O. File.

S.C. File.

Personal file of the deputationist.

File No. DAG (A & E)/Confdl/2-40/80-90.



Deputy Accountant General (A&E).

13-10-81

.....

OFFICE OF THE ACCOUNTANT GENERAL (J&E) MEGHALAYA, ARUNACHAL
PRADESH AND MIZORAM
SHILLONG.

EO No.DA Cell/ 207

Dated: 27.12.95

Consequent on his selection for the post Divisional Accountant (on deputation basis) in the pay scale of Rs.1400-40-1600-50-2300-60-2500/= in the combined cadre of Divisional Accountants under the administrative control of the Office of the Accountant General (J&E), Meghalaya etc, Shillong, Shri

1. R. Prathapan, UDC at present working
in the Office of the Supdtg. Eng. Along Civil Circle
PWD Along AP
is posted on deputation as Divisional Accountant

in the office of the Executive Engineer, Jorpha
Generation and Distribution Divn (Elect)
Jorpha, Manipur
2. Shri R. Prathapan should

join 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 a change of the place of posting will be entertained under any circumstances whatsoever.

3. The period of deputation of Shri R. Prathapan
will be for a duration of 1 (one) Executive
year only from the date of joining in the Office of the Engineers, Jorpha Generation & Distribution
Divn (Elect) Jorpha, Manipur

4. The Pay and deputation (duty) allowances in respect of
Shri R. Prathapan

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) dtd.29.4.1988

contd...P/2...

and as amended and modified from time to time. While on deputation, Shri R. Prathapan 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) allowance. Shri R. Prathapan

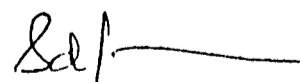
R. Prathapan on deputation, should exercise option in this regard within a period of 1(one) month from the date of joining the assignment (i.e. the aforesaid post of deputation). The option once exercised by Shri R. Prathapan

R. Prathapan shall be treated as final and ~~an~~ cannot be altered/changed later under any circumstance whatsoever.

5. The Dearness Allowance, CCA, Children Education ~~allowance~~, Allowance, T.A., LTC, Leave, Pension, etc will be governed by the Govt. of India, Ministry of Finance OM No. F1(6) E-IV(11)/62 dtd. 7.12.1962. (Incorporated as Annexure to Govt. of India decision No. 1 in Appendix 31 of Choudhury's C.S.R Volume IV(13th Edition) and as amended and modified from time to time.)

6. Shri R. Prathapan on deputation will be liable to be transferred to any place within the State of Arunachal Pradesh, Manipur and Tripura, in the combined cadre of Divisional Accountants under the administrative control of the Accountant General (I & E), Meghalaya etc, Shillong.

7. Prior concurrence of this office must be obtained by the Divisional Officer before Shri R. Prathapan (on deputation) is entrusted additional charges, appointed or transferred to a Post/Station other than that cited in this Establishment Officer.


Sr. Accounts Officer,
1/c DA Cell.

Memo No. DA Cell/2-49/94-95/2397-2407 Dated: 27.12.95

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, (EZ), Itanagar, Arunachal Pradesh

He is requested to release Shri R. Prathapan, U.D.C. immediately with the direction to report for duty to his place of posting on deputation under intimation to this office.

REGISTERED: 15) The Executive Engineer, Supdg Engineer, Aling Civil Circle, Aling, Arunachal Pradesh. He is requested to release immediately Shri R. Prathapan

with the direction to report for duty to his place of posting on deputation under intimate to this office.

REGISTERED: 6) The Executive Engineer, Imphal Generation & Distribution Divn. (Electrical), Imphal, Manipur. He is requested to intimate the date of joining of Shri R. Prathapan

REGISTERED: 7) Shri R. Prathapan, o/o the Supdg Engineer, Aling Civil Circle, Aling, Arunachal Pradesh

8. E.O. File

9. S.C. File

10. P.C. File

11. File of the deputationist.

p/mh -
Sr. Accounts Officer,
i/c DA Cell.

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

No. DA Cell/ 135

Dated: 4/7/97

O R D E R

Shri/Smti. R. Pratapan - Deputy
~~Divisional Accountant/Divisional Accounts Officer, Grade-I/II~~
and Divisional Accountant (or Provisional), Office of the

Ex. Engr. Imphal Elec. Divn. NO. I

Mamphai

is transferred and posted to

Ex. Engr. Ziro Civil Divn.

(Power) Ziro. AP

Vice Shri

P. C. Bara - DDO

is transferred.

2. The transfer is in Public interest

[Authority: AG's orders at P/ 11
of File No. DA Cell/2-2/96-97/]

Sd/
Senior Accounts Officer,
i/c DA Cell

Memo No. DA Cell/2-2/96-97/Part/ 1274-1277

Dt. 4/7/97

1. The Executive Engineer,

Imphal Elec. Divn. NO. I. Imphal.

is requested to releases Shri

R. Pratapan (Deputy)

_____ immediately without waiting for a
substitute. Shri

R. Pratapan

_____ is to move first. A copy of the
released order may please be sent to this office. He is also
requested to write the C.R of the relieved Divisional
Accountant and submit it to the concerned State Deputy
Accountant General's for review.

2. The Executive Engineer,

Ziro Civil Divn. (Power)

The date of joining of Shri/Smti

Pratapan.

may please be intimated to this office.

3. Shri/Smti

R. Pratapan - Deputy

O/o the Executive Engineer,

Imphal Elec. Divn. NO. I

Imphal, Mamphai He/She is requested to submit
his/her handing over memorandum to his/her Divisional Officer
under intimation to this office.

4. E.O. File

5. S.C. File.

6. P.C. File of Shri/Smti

Sd/
Senior Accounts Officer,

REGISTERED

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA: JETP: SHILLONG.

No.DA Cell/10-1/93-94/Vd.V/ 272 Dt.

To

The Chief Engineer, (EZ)

- PWD; Itanagar.

Sub : Concurrence for extending the period of deputation upto

31.12.1997 in respect of Shri ~~Smti~~ R. Balhapan
.....

Sir,

I am to invite a reference to this Office letter No.DA Cell/
10-1/92-93/ 2972 dt. 3.1.96 and to state that this office
is further in need of the Service of Shri ~~Smti~~ R. Balhapan..... as Divisional Accountant (on deputation)
for a further period of 1 year i.e. upto 31.12.1997 on exis-
ting terms and condition of the deputation. On receipt of concurr-
ence from your end in this regard, the period of deputation will
be extended upto 31.12.1997 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,

Senior Deputy Accountant General(A&E)

Memo No.DA Cell/10-1/93-94/ 273-276 Dt. 06 MAY 1997

Copy forwarded to :-

1) The Executive Engineer, Imphal. Generation & Distribution (Electrical); Imphal.....

2) The Chief Engineer (Power) Manipal, Imphal.

3) Shri/Smti R. Balhapan

4) the Executive Engineer, Imphal (Generation & Distribution (Elect.)); Imphal

4) P.C. File of Shri R. Balhapan.

Senior Accounts Officer,
i/o DA Cell

REGISTERED

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

No. DA CELL/10-1/93-94/Vol.V/253

Dated

To :-

The Chief Engineer, (E2)

Itanagar, Arunachal Pradesh

Sub :-

CONCURRENCE FOR EXTENDING THE PERIOD OF DEPUTATION UPTO

31-12-98

IN RESPECT OF SHRI/SMT

R. Prathapan DA on deputation

Sir,

I am to invite a reference to the office letter No. DA. CELL/10-1/93-94/2297-2407 dt. 27-12-95 and to state that this office is further in need of the service of Shri/Smt R. Prathapan as Divisional Accountant (on deputation) for a further period of 1 year i.e. upto 31-12-98 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 31-12-98 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.

It may please be noted that no further extension will be sought for/granted beyond the period 31-12-98 Shri/Smt R. Prathapan will be released on or before 31-12-98. You are also requested to make advance arrangement for posting of Shri/Smt R. Prathapan as and when he is repatriated and joined in his parent Department.

Yours faithfully,

By Accountant General (Admn)

Memo No. DA Cell/10-1/93-94/254-255

Dated

01 MAY 1998

Copy forwarded to :-

1. The Executive Engineer, Civil (Power) Ziro

Arunachal Pradesh

2. The Chief Engineer, (Power) Itanagar

Arunachal Pradesh

3. Shri/Smt R. Prathapan DA on deputation

C/O E.E. Ziro Civil (Power) A.P.

4. P.C. file of Shri/Smt R. Prathapan

Senior Accounts Officer.

- 24 -

ANNEXURE-5

OFFICE OF THE ACCOUNTANT GENERAL (AG) MEGHALAYA ETC., SHILLONG

No. DA Cell/ RP/PC/Deptn/ 1168

Date:

To,

13-8-98

The Chief Engineer, Power

Itanagar

Arunachal Pradesh

Sub: Repatriation of Shri R. Prathapan, DA on deputation
Sir,

I am to state that Shri R. Prathapan, DA on deputation who had been appointed as Divisional Accountant on deputation during Jan '96 joined as Divisional Accountant on deputation on 29-1-96. Shri Prathapan will complete maximum admissible period of deputation i.e. 3 years during the month of Dec '98. Order of repatriation, repatriating Shri Prathapan to his Parent Department will be issued from this office during the month of Nov '98.

You are hereby requested to make necessary arrangement to post him in his Parent Cadre as soon as he joins. Shri Prathapan is likely to be released on 31-12-98.

This is for your advance intimation to make necessary arrangement for his posting.

Yours faithfully,

Sd/-

Sr. Accounts Officer

Memo No. DA Cell/ RP/PC/Deptn/ 1169-70

Dated: 13-8-1998

Copy forwarded for information and necessary action to:

1. The Executive Engineer, Civil (Power)

Ziro

Arunachal Pradesh

. Shri Prathapan

is to be released on 31-12-98. Order of repatriation, repatriating Shri Prathapan DA on deputation will be issued one month before the date of repatriation/release.

2. Shri R. Prathapan DA on deputation,
O/O The Executive Engineer, Civil Divn.

Power, Ziro

Arunachal Pradesh

Imalini
Sr. Accounts officer
i/c DA Cell

OFFICE OF THE ACCOUNTANT GENERAL (AGL) MEGHALAYA, SFC, SHILLONG.

B.C. NO. D. CELL/95

Dated. 24.7.98

Consequent on his selection for the post of Division 1 Accountant (on deputation) basis) in the Pay scale of Rs. 5000-150-8000/- in the combined cadre of Division 1 Accountants under the administrative control of the office of the Accountant General (AGL) Meghalaya etc., Shillong, Shri

Jumi Ramum UDC.

at present working in the Office of the Executive Engineer, Basar Pw Divn
Basar; AP.

is appointed to the post of Divisional Accountant on deputation basis and posted in the Office of the Executive Engineer, Daporijo J&FC
Divn; Daporijo; AP.

2. This offer of appointment is subject to the acceptance of all the terms and conditions stipulated in this appointment letter

3. Shri Jumi Ramum

will have to join to the post of Divisional Accountant in the O/o the Executive Engineer, Daporijo J&FC Divn
Daporijo; AP.

within 30 days, from the date of issue of this order, failing which this offer of appointment as Divisional Accountant on deputation, will automatically stand cancelled and position may be offered to some other eligible and selected candidate.

4. No request for extension of joining time, shall ordinarily be entertained.

5. Before joining as Divisional Accountant on deputation Shri Jumi Ramum is directed

to submit his acceptance to the offer of appointment (Acceptance letter is to be addressed to the A.G. (AGL) Meghalaya etc., Shillong) and in the letter of acceptance to the offer

he will also have to intimate clearly that he has accepted all the terms and conditions stipulated in the appointment letter.

The letter of acceptance is to be submitted to the Executive Engineer, Daporijo J&FC Divn; Daporijo; AP.
for onwards transmission to the Accountant General (AGL) Meghalaya etc., Shillong.

Contd...P/2.....

1741

18/8/98

E-11

E-11
17/8/98S(E)
2/17/98

- 2 -

6. The period of deputation of Shri Juni Ramum will be for a duration of 1(one) year only, from the date of joining as Divisional Accountant on deputation and no way he shall accrue any right to claim for Permanent absorption as Divisional Accountant. The period of deputation may be extended upto 3 years, if his service is considered to be needed. But in no case, the period of deputation will be extended beyond the period 3 years.
7. No representation for change of place of posting will be entertained, under any circumstances.
8. The pay and deputation (duty) allowances in respect of Shri Juni Ramum will be governed by the Government of India, Ministry of Finance 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 Juni Ramum 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 personnel pay, if any, plus deputation (duty) allowance. Shri Juni Ramum, on deputation, should exercise option in this regard within a period of 1(one) month from the date of joining the assignment (i.e. the aforesaid post of deputation). The option once exercised by Shri Juni Ramum shall be treated as final and cannot be altered/changed later under any circumstance whatsoever.
9. The Dearness Allowances, CCA, Children Education Allowance, T.A., L.T.C., Leave, Pension, etc will be governed by the Govt. of India, Ministry of Finance OM No.F1(6)E-IV(A) 62 dtd.7.12.1962 (incorporated as Annexure to Govt. of India decision No.L in Appendix 31 of Choudhury's G.S.R.Volume IV (13th Edition) and as amended and modified from time to time).
10. Shri Juni Ramum on deputation will be liable to be transferred to any place within the State of Arunachal Pradesh, Manipur and Tripura, in the combined cadre of Divisional Accountants under the administrative control of the Accountant General(A&D) Meghalaya etc., Shillong.

Contd...P/3.....

(119)

- 3 -

11. Prior concurrence of this office must be obtained by the Divisional Officer before Shri Jumi Kamum (on deputation) is entrusted additional charges, appointed or transferred to a Post/Station other than that cited in this Establishment Officer.

Senior Accounts Officer,
i/c Dn Cell.

Memo No. Dn Cell/2-49/94-95/1035-1042 Dt. 27.7.98

Copy forwarded for information and necessary action to :-

1. The Chief Engineer, PH Deptt, Itanagar, Arunachal Pradesh. He is requested to release Shri Jumi Kamum and instruct him to join in the O/o the Executive Engineer, Daporijo I & FC. He is also requested to forward to this office the copy of the release order.
2. The Chief Engineer, I & FC Deptt, Govt. of Arunachal Pradesh, Itanagar.
3. The Executive Engineer, Basar PWD, Basar, Arunachal Pradesh. He is requested to release Shri Jumi Kamum and instruct him to join in the O/o the Executive Engineer, Daporijo I & FC.
4. The Executive Engineer, Daporijo I & FC. He is requested to intimate the date of joining of Shri Jumi Kamum. He is also requested to forward the offer of acceptance of Shri Jumi Kamum as mentioned in Para 5 of this appointment letter. Unless the offer of acceptance is submitted by Shri Jumi Kamum he is not to be allowed to join in his Division.
5. Shri Jumi Kamum O/o the Executive Engineer, Basar PWD, Basar, AP. He is directed to join within 30 days, in the O/o the Executive Engineer, Daporijo I & FC. He is also directed to submit his acceptance of offer as mentioned in Para 5 of this appointment letter and arrange to forward the same to this office.
6. P.C. File of Shri Jumi Kamum.
7. E.C. File.
8. S.C. File.

Senior Accounts Officer.

OFFICE OF THE ACCOUNTANT GENERAL (AGL) MEGHALAYA SPC. SHILLONG.

E.C. NO. DR. CELL/ 97

Dated. 24.07.98

Consequent on his selection for the post of Division 1 Accountant (on deputation) basis) in the Pay scale of Rs. 5000-150-8000/- in the combined cadre of Division 1 Accountants under the administrative control of the office of the Accountant General (AGL) Meghalaya etc., Shillong, Shri B. D. Bhattacharjee; U.S.C. at present working in the Office of the Executive Engineer; Barar PWD; Barar; A.P. is appointed to the post of Divisional Accountant on deputation basis and posted in the Office of the Executive Engineer, Mechuka PWD; Mechuka; A.P.

2. This offer of appointment is subject to the acceptance of all the terms and conditions stipulated in this appointment letter.

3. Shri B. D. Bhattacharjee will have to join to the post of Divisional Accountant in the O/o the Executive Engineer, Mechuka PWD; Mechuka; Amunochal Pradesh within 30 days, from the date of issue of this order, failing which this offer of appointment as Divisional Accountant on deputation, will automatically stand cancelled and position may be offered to some other eligible and selected candidate.

4. No request for extension of joining time, shall ordinarily be entertained.

5. Before joining as Divisional Accountant on deputation Shri B. D. Bhattacharjee is directed to submit his acceptance to the offer of appointment (Acceptance letter is to be addressed to the A.G. (AGL) Meghalaya etc., Shillong) and in the letter of acceptance to the offer he will also have to intimate clearly that he has accepted all the terms and conditions stipulated in the appointment letter. The letter of acceptance is to be submitted to the Executive Engineer Mechuka PWD; Mechuka; A.P. for onwards transmission to the Accountant General (AGL) Meghalaya etc., Shillong.

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E.C.

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6. The period of deputation of Shri B. D. Bhattacharye

will be for a duration of 1(one) year only, from the date of joining as Divisional Accountant on deputation and no way he shall accrue any right to claim for Permanent absorption as Divisional Accountant. The period of deputation may be extended upto 3 years, if his service is considered to be needed. But in no case, the period of deputation will be extended beyond the period 3 years.

8. No representation for change of place of posting will be entertained, under any circumstances.

9. The pay and deputation (duty) allowances in respect of Shri B. D. Bhattacharye

will be governed by the Government of India, Ministry of Finance Grievances and Pension (Department of Personnel and Training) letter No.2/12/87-Estt(Pay-II) dated 29.4.1980.

and as amended and modified from time to time. While on deputation Shri B. D. Bhattacharye 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) allowance. Shri B. D. Bhattacharye

on deputation, should exercise option

in this regard within a period of 1(one) month from the date of joining the assignment (i.e. the aforesaid post of deputation). The option once exercised by Shri B. D. Bhattacharye

shall be treated as final and cannot be altered/changed later under any circumstance whatsoever.

9. The Dearness Allowance, CCA, Children Education Allowance, T.A., L.T.C., Leave, Pension, etc will be governed by the Govt. of India, Ministry of Finance OM No.F1(6)E-IV(A) 62 dtd.7.12.1962 (incorporated as Annexure to Govt. of India decision No.L in Appendix 31 of Choudhury's G.S.R. Volume IV, (13th Edition) and as amended and modified from time to time).

10. Shri B. D. Bhattacharye

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

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11. Prior concurrence of this office must be obtained by the Divisional Officer before Shri B. S. Bhattacharyee (on deputation) is entrusted additional charges, appointed or transferred to a Post/Station other than that cited in this Establishment Officer.

Senior Accounts Officer,
i/c D. Cell.

Memo No. DA Cell/2-49/94-95/1050-1056

Dt. 27.7.98

Copy forwarded for information and necessary action to :-

1. The Chief Engineer P. N. Sengupta; Itanagar, A.P.
Govt. of Arunachal Pradesh, Itanagar. He is requested to release Shri B. S. Bhattacharyee and instruct him to join in the O/o the Executive Engineer, Meehuka P. N. Sengupta; A.P.. He is also requested to forward to this office the copy of the release order.
2. The Chief Engineer, _____
3. The Executive Engineer, Basar P. N. Sengupta; Basar, Arunachal Pradesh.
He is requested to release Shri B. S. Bhattacharyee and instruct him to join in the O/o the Executive Engineer Meehuka P. N. Sengupta; Meehuka; A.P..
4. The Executive Engineer, Meehuka P. N. Sengupta; Meehuka, Arunachal Pradesh. He is requested to intimate the date of joining of Shri B. S. Bhattacharyee. He is also requested to forward the offer of acceptance of Shri B. S. Bhattacharyee as mentioned Para 5 of this appointment letter. Unless the offer of acceptance is submitted by Shri B. S. Bhattacharyee he is not to be allowed to join in his Division.
5. Shri B. S. Bhattacharyee; i/c the Executive Engineer, Basar P. N. Sengupta; Basar, A.P..
He is directed to join within 30 days, in the O/o the Executive Engineer, Meehuka P. N. Sengupta; Meehuka, A.P.. He is also directed to submit his acceptance of offer as mentioned in Para 5 of this appointment letter and arrange to forward the same to this office.
6. P.C. File of Shri B. S. Bhattacharyee
7. E.O. File.
8. S.C. File.

Senior Accounts Officer.

DISTRICT : LOWER SUBANSIRI

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM & ARUNACHAL PRADESH)

IN THE MATTER OF :

Civil Rule No. 6037/98

R.PrathapanPetitioner

-Versus-

State of Arunachal Pradesh and Ors.

.....Respondents.

-AND-

IN THE MATTER OF :

Affidavit in opposition on behalf
of Respondent No.3 the Accountant
General (A&E), Meghalaya, Shillong
and on behalf of Respondent No.4
Sr. Accounts Officer, O/ o the
Respondent No.3.

Contd.....

ISSUANCE OF AFFIDAVIT

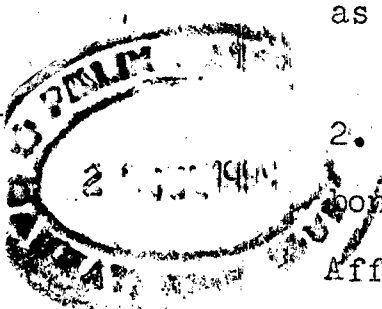
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7/13 by Sameer Advocate
19.7.99



10599/57

I, Shri J. K. Sellate, son of Shri Lalbieksang, aged about 33 years, presently working as Deputy Accountant General (A & E), in the Office of The Respondent No.3 do hereby solemnly affirm and declare as follows :

1. That a copy of application in the above noted civil rule had been served upon the respondent No. 3 & 4 and myself being authorised to defend the case before this Hon'ble Gauhati High Court, I do hereby file this Affidavit in opposition as desired by this Hon'ble Court as per order dated 3/12/98.



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 both the Respondents.

3. That with regard to the contents made in paragraph 1 of the application, I beg to state that the petitioner is not entitled for absorption as per the existing rules.

4. That with regard to the contents made in paragraph 2, I beg to state that these are matter of records.

contd.....

5. That with regard to the contents made in paragraph 3 of the writ application, I beg to state that these are matter of records.

6. That with regard to the contents made in paragraph 4 of the writ application, I beg to state that these are matter of records.

7. That with regard to the contents made in paragraph 5 of the application, I beg to state that the petitioner is not entitled to any benefit of the Hon'ble High Court's order in view of the fact that this Hon'ble High Court in Civil Rule No.1374/93 Kanakeswar Hazarika - Vs - Union of India and others held that High Court has got no jurisdiction as only Central Administrative Tribunal can adjudicate such kind of cases.

A copy of the said order is enclosed herewith and marked as Annexure R.1.

8. That with regard to the contents made in paragraph 6 of the writ petition I beg to state that these are matter of records.

9. That with regard to the contents made in paragraph 7, I beg to state that these are matter of records.

Contd.....

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10. That with regard to the contents made in paragraph 8 of the writ petition, I beg to state that these are matter of records.

11. That with regard to the contents made in paragraph 9 of the writ petition, I beg to state that these are all matter of records.

12. That with regard to the contents made in paragraph 10, I beg to state that the petitioner was rightly intimated that no more extension can be given to him beyond 31.12.98 as per existing recruitment and deputation rules. Instead of carrying out the order, the petitioner had approached this Hon'ble High Court and obtained a stay order misleading this Hon'ble High Court.

13. That with regard to the contents made in paragraph 11, I beg to state that as per recruitment rule, the petitioner can not be kept in deputation for more than 3 (three) years. Moreover, the recruitment rule speaks of appointment of Divisional Accountant through Staff Selection Commission. The petitioner can not claim any benefit of further extension or absorption under the existing rules.

Contd.....

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COMMISSIONER OF AFFIDAVIT

14. That with regard to the contents made in paragraph 12, I beg to state that the petitioner is not at all entitled for absorption in view of the existing recruitment rules.

15. That with regard to the contents made in paragraph 13, I beg to state that the Respondents have every right to bring fresh deputationist as per existing rule till regular Divisional Accountants are appointed through Staff Selection Commission. The petitioner can not question the action of the respondents in such a metter.

16. That with regard to the contents made in paragraph 14, I beg to state that the petitioner has got no any legal claim and same is liable to be dismissed.

17. That with regard to the contents made in paragraph 15 of the writ application, I beg to state that there is no any sort of vindictiveness on the part of the respondents at all and what has been done, is legal and correct. The allegation levelled against the respondents to the effect that the order of repatriation is illegal is illbased and false. The Hon'ble Supreme Court holds that the petitioner as a deputationist cannot claim absorption at all - Case No. AIR 1990 S.C. 1132 and State of Punjab Vrs. Inder Singh: (1997) 8 SCC 372.

Contd.....

18. That with regard to the contents made in paragraph 16 of the writ petition, I beg to state that the petitioner has hopelessly failed to bring out the prima-facie case in his favour and there being no any arbitrariness, the writ petition is liable to be dismissed and the interim order ~~gxxx~~ granted on 3.12.98 needs review.

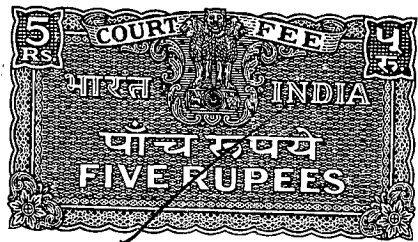
19. That with regard to the contents made in paragraph 17 of the writ petition, I beg to state that that the petitioner does not deserve any relief from this Hon'ble High Court and only remedy is to carry out the impugned orders dated 15.12.98^{of} the respondents.

20. That with regard to the contents made in paragraph 18 of the writ petition, I beg to state that the petitioner never sought for justice and the contents in this paragraph are mischivious. And as such he is not entitled to any relief.

21. That the present writ application is liable to be dismissed solely on the ground of jurisdiction. This Hon'ble High Court lacks jurisdiction to adjudicate the case of the petitioner who is purely a central govt. employee on deputation.

Contd...

COMMISSIONER OF AFFIDAVIT



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22. That this writ petition is liable to be dismissed for non-joinder of necessary parties.

23.. That this writ petition is filed malafide and that too obtained an interim order misleading this Hon'ble High Court for which it is a fit case for prosecuting the petitioner.

24. That this Affidavit-in-opposition is filed bonafide and in the interest of justice.

25. That the contents made in paragraph 1 of this Affidavit in opposition is true to my knowledge and those made in paragraphs 2 to 20 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Gauhati High Court. And I swear this Affidavit on 2nd day of July, 1999 at Guwahati/Shillong.

Identified by :

Deponent.

(J.K. Sellate)

उप महालेखाकार (लिखा व हकदारों)
Deputy Accountant General (A&B)

महालेखाकार का कार्यालय

Office of the Accountant General

मेघालय, मिजोरम और अरुणाचल प्रदेश

Meghalaya, Mizoram & Arunachal Pradesh

पिनकोड- 793001.

Shillong-793001.

(S. N. Singh),
Advocate, Shillong.

Solemnly affirmed before this the 2nd day of July 1999. The declare Identified by Mr. S. N. Singh, Adv. is personally known to me. I Certified that I read over and explained contents to the declarant and that the declarant seemed perfectly understand them.

Commissioner of Affidavit
Gauhati High Court
Shillong Bench.

CR 1371/93

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| Serial | Date | Office notes, reports, orders, or proceeding with signature. |
|---------|------|--|
| 26.2.97 | | <p><u>BEFORE</u></p> <p>HON'BLE MR JUSTICE A.K.PATNAIK</p> <p>Heard Mr.N.Dutta learned counsel for the petitioner and Mr Katakai learned Central Govt Standing Counsel.</p> <p>Mr. Dutta submits that in this writ petition, the prayer of the petitioner was for regularisation in service as Divisional Accountant and for quashing the order dated 7.5.93 of the Senior Deputy Accountant General (A&E) repatriating the petitioner to his parent service under the Govt of Arunachal Pradesh. While admitting ^{entertaining} this writ petition this court had passed an interim order dated 28.5.93 staying the said order dated 7.5.93 of the Senior Deputy Accountant General (A&E).</p> <p>But it has now been clarified by the Apex Court as well as this court that matters relating to initial recruitment and regularisation in service are also within the jurisdiction of the Central Administrative Tribunal constituted under the 1985 ACT. This being the position, the petitioner wants to withdraw this writ petition and file the application before the appropriate Bench of the Central Administrative Tribunal for necessary relief within a month. Mr. Dutta however prays that till then the petitioner should not be repatriated as per the impugned order dated 7.5.93.</p> <p>In view of the said submission of Mr Dutta, this writ petition is permitted to be withdrawn for filing an application before</p> |



Signature
 Secretary to Arunachal Pradesh
 GO the Arunachal Pradesh
 Discharge the Standing

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Noting by Office or Advocate

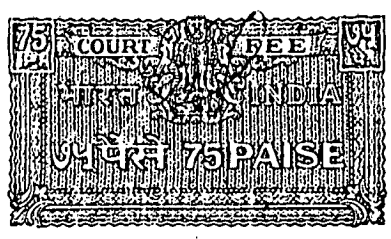
Serial No.

Date

Office notes, reports, orders or proceeding with signature

26.2.97

VS. 1.05



before the Central Administrative Tribunal within one month and for a period of one month the order dated 7.5.93 of the Senior Deputy Accountant General (A&E) Meghalaya repatriating the petitioner shall remain in-operative. ✓

Sd/- A.K. Pattnaik
Judge

Secretary to Government
12/3/97
12/3/97
12/3/97

Verified to be true Copy
Sauri Kanta Karmakar
Superintendent (Copying) 12.3.97
GAUHATI HIGH COURT
Authorized U/S 78 Act 1 of 1973

12/3/97