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9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-41/2002 ordered by 1 to 2

INDEX

disposal date - 13/03/02

O.A.T.A No. 230/2001

R.A/C.P No.

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16. Counter Reply.

SECTION OFFICER (Judl.)

uuitre300

FORM NO.4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO230....OF 2001.

Applicant (S) *Tashi Namgye*

Respondent (S) *UOI & APS.*

Advocate for Applicants (s) *Mr. G.K. Bhattacharya*
Mr. B. Choudhury.

Advocate for Respondent (s) *Mr. C. S. C. A. K. Choudhury*

Notes of the Registry

Date

Order of the Tribunal

28.6.01

We have heard Mr. G.K. Bhattacharya, learned counsel for the applicant.

The application is admitted.
Issue notice fixing on 1-8-2001.

We have also heard learned counsel on question of the interim order. It appears that applicant Tashi Namgye was initially appointed on adhoc basis as U.D.C. vide order dated 14.8.89. He was regularised as U.D.C. on temporary basis vide letter dated 26.12.96. By order dated 24.7.98, the applicant was selected for the post of Divisional Accountant (on deputation basis) in the pay scale of Rs. 5000-150-8000/- in the combined cadre of Divisional Accountants under the administrative control of the office of the Accountant General (A&E) Meghalaya etc. The applicant was posted to the Divisional Accountant at Seppa, P.W.D., Arunachal Pradesh. The

This application is not comm-
but not in the Commission
Petition is not in the
M. P. No. 774142
for Rs. 774142
IPO/BD No. 774142
Dated 26.6.2001

Dy. Registrar

Stet. taken

Contd..

28.6.01

period of deputation was for one year which was subsequently extended for another two years. The applicant is now aggrieved by the order dated 30-5-2001 by which he has been repatriated to the parent department with effect from 30-6-2001. Learned counsel has invited our attention to the judgment of this Tribunal dated 22-6-2001 by which several matters relating to regularisation / absorption of Divisional Accountant, serving on deputation basis, has been decided. The learned counsel also relies on order by the State Govt. of Arunachal Pradesh dated 12-1-2001 which indicates that all the Divisional Accountant totalling 91, serving on deputation basis are being absorbed. The learned counsel has submitted that at this juncture, if repatriated, he shall suffer irreparable loss and injury. It is stated that the applicant is one of the 91 persons mentioned in the order dated 12-1-2001.

Considering this aspect we direct that applicant shall be allowed to continue on the post on deputation till next date.

K. K. Sharma
Member


Vice-Chairman

bb

1-8-01

On the prayer of the learned counsel for the respondents further 4 weeks time is granted.

List on 30-08-2001 for order.

In the meantime, the interim order dated 28-06-01 shall continue.

K. K. Sharma
Member


Vice-Chairman

mb

MB
1/8/01

Order dtd 28/6/01 along with the application prepared and sent to D/S for issuing the Respondent No 2 to 5 by Regd. A/P & Respondent No. 1 by. Special Post vide No. dtd. 28/6/01 & DINo 2384 W 2387 dtd 4/7/01.

Cop of order dtd 1/8/01 Communicated to the Hon'ble Counsel vide D/No _____ dtd _____

2/8/01

(3)

O.A. 230/2001

Notes of the Registry	Date	Order of the Tribunal
<p>Pl. comply order dated 30-8-01.</p> <p>NS 30/8/2001.</p> <p>Order dtd. 30.8.2001 Order dtd. communicated to the parties counsel.</p> <p>30 29.8.01</p> <p>B. 11. 2001</p> <p>An affidavit in opposition on behalf of Respondent No. 1 has been submitted.</p> <p><i>[Signature]</i></p>	<p>30.8.01</p> <p>mb 28.9.01 NS 30/8/01</p> <p>mb</p>	<p>Mr. A. Deb Roy, stated that in view of the situation prevailing in Shillong, he could not obtain the necessary instructions. List on 28/9/01 for order. The interim order dated 28.6.01 shall continue.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>List again on 19/11/01 to enable the respondents to file written statement.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p>

Notes of the Registry

Date

Order of the Tribunal

(3)

O.A. 230 of 2001

Notes of the Registry

Date

Order of the Tribunal

19.11.01

Written statement has been filed.
List for hearing on 2.1.02. In the meantime
the applicant may file rejoinder if any
within 2 weeks.

ICUShan
Member

[Signature]
Vice-Chairman

lm

2.1.02

Prayer has been made by Miss U.Das,
learned counsel for the applicant for adjourn-
ment to obtain necessary instructions on
the matter. Mr.A.Deb Roy, learned Sr. C.G.S.
C. appearing for the respondents stated that
he has already received all the instructions.
However, on the prayer of learned counsel
for the applicant the case is adjourned for
7 days to enable the applicant to obtain
necessary instructions.

List on 11.1.2002 for hearing.

ICUShan
Member

[Signature]
Vice-Chairman

mb

11.1.2002

Heard learned counsels for the
parties. Hearing concluded. Judgment delivered
in open Court, kept in separate sheets.

The application is dismissed in
terms of the order. No order as to costs.

ICUShan
Member

[Signature]
Vice-Chairman

bb

13.2.2002

Copy of the
order has been
sent to the office
for issuing the same
to the applicant as
well as to the Bar
Advocate for the
Respondent

Notes of the Registry

Date

Order of the Tribunal

No 'B' part file with this
records. *30/7/02*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 230, 234 & 276 of 2001.

Date of Order : This the 11th January, 2002

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

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

O.A.No. 230/2001 :

Shri Tashi Namgye
S/O Sangka Dondu
Divisional Accountant
Office of the Executive Engineer
Seppa P.W.D. Division
Arunachal Pradesh. . . . Applicant.

By Sr.Advocate Mr.G.K.Bhattacharyya, Mr.G.N.Das &
Mr.B.Choudhury.

- Versus -

1. Accountant General (A & E)
Meghalaya etc.
Shillong (Meghalaya).
2. State of Arunachal Pradesh
(Represented by the Secretary to the
Govt. of Arunachal Pradesh, P.W.D.
Naharlagun, A.P.).
3. Chief Engineer, P.W.D.
Arunachal Pradesh
Naharlagun, A.P.
4. Director of Accountants and Treasuries
Arunachal Pradesh
Naharlagun, A.P.
5. Executive Engineer
Seppa P.W.D. Division
Arunachal Pradesh. . . . Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

O.A.No.234/2001 ;

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.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma,
Mr.U.K.Nair & Ms.U.Das.

- Versus -

1. Union of India
Through the Controller & Auditor General
of India, 10, Bahadur Shah Jafar Marg
New Delhi-110002.
2. The Accountant General (A & E)
Meghalaya ec.
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.

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

O.A.No. 276/2001 :

Shri Radheshyam Das
Divisional Accountant in the Office of
the Executive Engineer, R.W. Division
Pasighat, P.O: Pasighat
Arunachal Pradesh. . . . Applicant.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma &
Mr.U.K.Goswami.

- Versus -

1. 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
Itanagar.
4. The Chief Engineer
Department of Power
Government of Arunachal Pradesh
Itanagar.
5. The Executive Engineer
R.W. Division, Pasighat
Arunachal Pradesh
P.O: Pasighat.

6. The Executive Engineer, Basar
I & F C Division, Basar
Arunachal Pradesh.
7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Itanagar, Arunachal Pradesh. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

All these three applications are taken together since it involves the common question of facts and common question of law.

1. The applicants in all the applications are on deputation in the posts of Divisional Accountants under the Administrative Control of the Accountant General (A & E) Meghalaya etc, Shillong. On expiry of the deputation period by different orders the applicants were repatriated to the parent department. By order dated 17.12.99 the applicant in O.A.234 of 2001 was repatriated to his parent department i.e. Chief Engineer, (Power) Itanagar. Similarly, by order dated 30.5.2001 the applicant in O.A.230 of 2001 was repatriated to his parent department i.e. Chief Engineer, P.W.D., Arunachal Pradesh, Itanagar, so also the applicant in O.A.276 of 2001 vide order dated 11.6.2001 was repatriated to his parent department i.e. Chief Engineer, (Power), Department of Power, Arunachal Pradesh, Itanagar. The legitimacy of the orders of repatriation is challenged in all these applications

2. We have heard Mr.S.Sarma, Mr.B.Choudhury and also Mr.M.Chanda appearing for the applicants and Mr.A.Deb

Roy, learned Sr.C.G.S.C appearing for the respondents. The learned counsel for the applicants strenuously argued that the applicants served for many years under the respondents before the orders of repatriation were issued and infact they opted for absorption and when the process was going on by the impugned orders the applicants were in a most illegal fashion repatriated to their parent departments. The learned counsels for the applicants also brought our attention as to the steps taken by the State of Arunachal Pradesh to take over the cadre of the Divisional Accountants Officers/Divisional Accountants of the Works Department totalling 91 posts. We are, however, informed by the learned counsel for the applicants that the Cabinet further approved the approved the proposal to take over the administrative control of Senior Divisional Accounts Officers, Divisional Accounts Officers and Divisional Accountants belonging to PWD, Rural Works Department, Public Health Engineering, Irrigation and Flood Control Department and Power Department of Arunachal Pradesh from the administrative control of the Accountant general, Meghalaya.

3. The core question involved as to the legitimacy as well as the competence of the authority for reverting the applicants. The applicants came under the Accountant General (A&E), Meghalaya on deputation. They are holding the permanent posts in the respective parent department. At the end of the deputation period they are repatriated.

Nothing illegality is discernible from the orders of repatriation.

4. The applicants might have sought for absorption in the borrowing department as per the Recruitment Rules. 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 till the final decision of the Govt. is taken. There will be no bar for absorbing the applicants, if the borrowing department decide even after these persons are repatriated. In this circumstances, we do not find any merit in these applications. Accordingly, the applications are dismissed.

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

Interim orders if any stand vacated.

Sd/VICE CHAIRMAN

Sd/ MEMBER (Adm)

28 JUN 2001

गुवाहाटी न्यायालय

Guwahati Bench

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

(An application U/s 19 of the Administrative Tribunals
Act, 1985).

O.A. NO. 230 /2001 .

Shri Tashi Namgye Applicant.

-Vs-

Accountant General & Ors. ... Respondents.

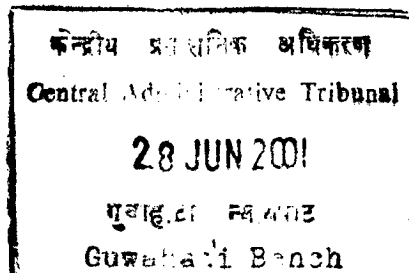
I N D E X

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Filed by :-

Bikram Choudhury

(Advocate)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI.

(An application U/s 19 of the Administrative Tribunals Act, 1985).

O. A. NO. 2301 /2001 .

Shri Tashi Namgey

Son of Sangka Dongdu

Divisional Accountant

Office of the Executive Engineer

Seppa P.W.D. Division

Arunachal Pradesh .

... Applicant.

-Versus-

1) Accountant General (A & E),

Meghalaya etc.

Shillong (Meghalaya) .

2) State of Arunachal Pradesh

(Represented by the Secretary to the

Govt. of Arunachal Pradesh, P.W.D.,

Naharlagun, A.P.).

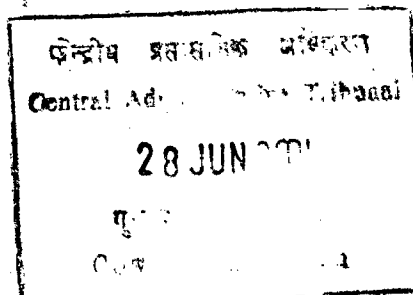
3) Chief Engineer , P.W.D. ,

Arunachal Pradesh

Naharlogun, A.P.

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FILED BY THE APPLICANT
Through Bikram Choudhury
28.6.01 Advocate



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4) Director of Accounts and Treasuries ,
Arunachal Pradesh
Naharlogun, A.P.

5) Executive Engineer
Seppa P.W.D. Division
Arunachal Pradesh .

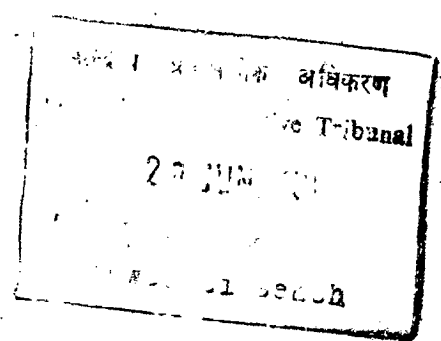
...Respondents.

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

1) Illegal and arbitrary action of the Respondent No.1 whereby the applicant is sought to be repatriated to his parent department, namely, P.W.D., Arunachal Pradesh, Itanagar with effect from 30.06.2001 without considering the case of the applicant and others who are similarly situated for extending the period of deputation for a further period of two years from the date of the expiry of their respective tenure of the deputationists including the present petitioner in the interest of public service in pursuance of the OM No. DA/TRY/15/99 dated 15.11.99 (Annexure-IV, Page 26).

2) Order No. DACELL/14 dated 30.05.2001 as communicated by the Respondent No.1 under cover of his OM No. DA Cell/10-1/93-94/99-2000/151-157 dated 31.05.2001 whereby the petitioner has been repatriated to his parent department, namely, P.W.D., Arunachal Pradesh, Itanagar, with effect from 30.6.2001. (Annexure-V, Page 28)

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2 : JURISDICTION OF THE TRIBUNAL :-

The applicants declare that the subject-matter of the order against which they want redressal is within the jurisdiction of the Tribunal .

3 : LIMITATION :-

The applicants further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985 .

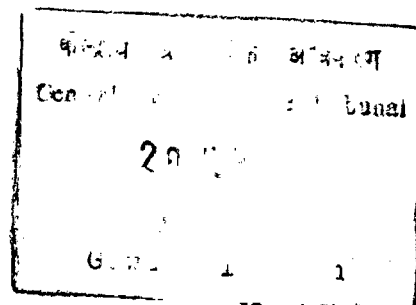
4 : FACTS OF THE CASES :-

1) That the applicant before this Hon'ble Tribunal is a permanent resident of Tawang district in Arunachal Pradesh and is a citizen of India and as such he is guaranteed by all the rights and privileges of the Constitution of India and other legal rights accrued thereunder .

2) That the applicant begs to state that the State of Arunachal Pradesh came into existence in the year 1987 . In the month of September, ' 89, the ~~petitioner~~ applicant had come to know that a post of Upper Division Clerk was lying vacant in the Electrical Division of P.W.D., Bomdila, West Kameng District. On the basis of an application, the applicant was appointed on adhoc basis as a Upper Division Clerk vide order No. SE/Coord/4/88/8607-10 dated 14.9.89 . The said

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for



adhoc appointment order, the applicant was subsequently regularised by the Superintending Engineer of the Cable Circle and Co-ordinator, P.W.D., Itanagar in the office of the Executive Engineer, Bomdila Division, P.W.D. vide letter No. SE/Coord/4/96/567-71 dated 26.12.96. The said order of regularisation had the approval of the Departmental Promotion Committee which was held on 15.11.96.

A copy of the order dated 26.12.96 is enclosed herewith and marked as

Annexure-I.

3) That the applicant begs to state that the case of the applicant is that the Accountant General, Meghalaya, Arunachal Pradesh etc., Shillong i.e., the Respondent No.1, invited applications from the candidates who were willing to serve temporarily as Divisional Accountant either in Manipur, Tripura and Arunachal Pradesh in Public Works Department for a period of one (1) year on deputation basis. In fact, a circular bearing No. DSCELL/2-49/97-98/Vol.II/245 dated 20.1.98 was issued whereby the said applications were invited for the post of Divisional Accountant. According to the said Circular, Upper Division Clerk of the said Public Works Department of the States of Manipur, Tripura and Arunachal Pradesh having a minimum 8(eight) years of working experience as U.D.C. and holding the post equivalent to Sr. Accountant or Accountant were eligible to apply for the said post of Divisional Accountant. It was also

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made clear that the deputationists will be selected on the basis of selection made through competitive examination which would be held on 26th and 27th March '98 .

A copy of the circular dated 20.1.98 is enclosed herewith and marked as Annexure-II.

4) That in pursuance of the aforesaid circular dated 20.1.98 , the applicant through proper channel applied for the post of Divisional Accountant. He appeared in the written examination which was held on 26th and 27th March '98 and finally he was selected by the Respondent No.1 for the post of Divisional Accountant in the pay scale of Rs. 5,000/- in the combined cadre of Divisional Accountant under the Administrative Control of the office of the Accountant General, Meghalaya , Shillong . The applicant who was earlier posted in the Office of the Executive Engineer, Bomdila, PWD, was appointed as Divisional Accountant and posted in the office of the Executive Engineer, Seppa, P.W.D., Arunachal Pradesh . Copy of the said order of appointment was issued by the Respondent No.1 vide letter No.DA-Cell/2-49/94-95/1043-1049 dated 24.7.98 .

A copy of the said letter dated 24.7.98 is enclosed herewith and marked as Annexure-III.

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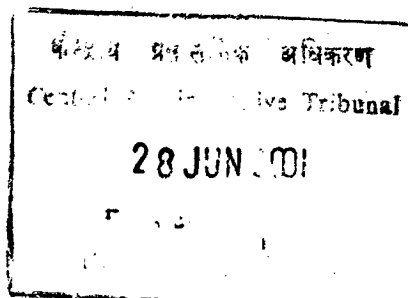
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5) That the applicant begs to state that the applicant was initially appointed as Divisional Accountant as a deputationist for a period of one year but, subsequently, extension has been made on yearly basis. It may be pointed out that there was all together 38 Public Works Divisions under P.W.D., Arunachal Pradesh and correspondingly there were 38 posts of Divisional Accountant which are manned by the deputationists. According to the State Government, without prior consultation, the recruitment as well as posting of Divisional Accountant were made by the Respondent No.1 though the said posts were borne in the establishment of the Executive Engineer and paid from the State exchequer. However, the pay scale enjoyed by the said Divisional Accountant were enhanced without the prior approval of the State of Arunachal Pradesh which had caused a great problem in the form of pay and allowances to the said 38 Working Divisional Accountants. So the Government of Arunachal Pradesh was of the view that the serving Divisional Accountant in the Public Works Department on deputation basis may be allowed extension for further period of 2(two) years from the date of expiry of the present respective tenure in the interest of public service since the Govt. of Arunachal Pradesh has not yet finally decided regarding recruitment as well as posting of Divisional Accountant for 38 working Divisions of Public Works Department. The aforesaid decision of the Government was communicated to the Respondent No. 1 by the Joint Director of Accounts in the Directorate of Accounts, Govt. of Arunachal Pradesh i.e. Respondent No.4 vide letter No. DA/TRY /15/99 dated Naharlagun, the 15th November, '99.

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It will be pertinent to mention here that the Joint Director of Accounts, while endorsing a copy of the said letter dated 15.11.99 to the Chief Engineer, P.W.D., A.P. and others, requested them to give continuation to the serving Divisional Accountants who are on deputation for a further period of 2(two) years on expiry of their present term of deputation and meanwhile they were requested to direct the Executive Engineer concerned not to accept joining report of new appointee in the rank of Divisional Accountants without consulting the State Govt./Directorate of Accounts and Treasuries, Naharlagun.

A copy of the letter dated 15th November, 1999 is enclosed herewith and marked as Annexure-IV,

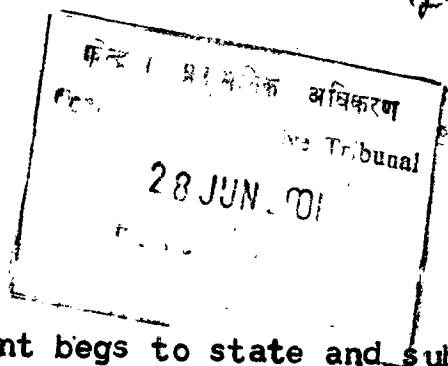
6) That the applicant begs to state that in spite of receipt of the aforesaid letter of request made by the Respondent No.4 in letter dated 15th November '99, the Respondent No.1 vide order No.DA.Cell/14 dated 30.5.2001 decided to repatriate the applicant to his parent department with effect from 30.6.2001. The applicant was requested to report for further duty to the Chief Engineer, P.W.D., Arunachal Pradesh, Itanagar. A copy of the said letter was also forwarded to the Chief Engineer, P.W.D., Arunachal Pradesh, Respondent No.3 to arrange the posting of the applicant.

A copy of the order dated 30.5.2001 is enclosed herewith and marked as Annexure-V.

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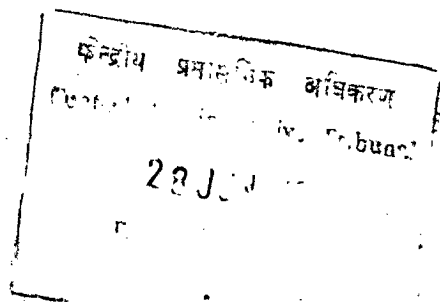
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- 7) That the applicant begs to state and submit that though the applicant has been working on deputation, his appointment is against a permanent post in a substantive capacity. In the instant case, the applicant, being a deputationist, is being replaced by another deputationist and as such there is no reason as to why the applicant should be considered for permanent absorption to the post wherein he is presently working.
- 8) That the applicant begs to state that in the instant case, the Respondent No.1 has failed to take into account of the letter dated 15th November, 1999 which has been addressed to Respondent No.1 by Respondent No. 4 with a request to grant extension of the serving Divisional Accountant under the Public Works Department on deputation basis for a further period of two years from the date of expiry of the present respective tenure in the interest of public service. It may be further pointed out that the Respondent No.4 while forwarding the copy of the said letter dated 15th November '99 to Respondent No.2 with a further request to give continuation to the serving Divisional Accountant who were on deputation for further period of two years on the expiry of the present term on deputation. It may also be further pointed that the Chief Engineer, PWD, Itanagar, Respondent No.3 was further directed to direct the Executive Engineer concerned not to accept the joining report of the new appointee of Divisional Accountant without consulting the State

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for.



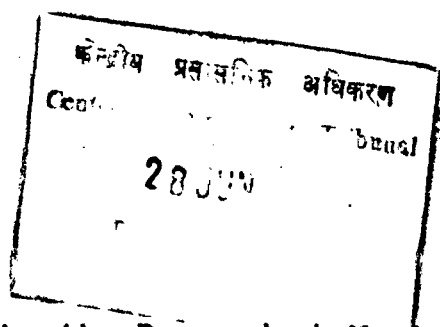
Government/Director of Accounts, Treasury, Naharlagun. At this juncture, it may be pointed out that the pay scale of the deputationists who were working as Divisional Accountant is much higher than that of the Accountant or Upper Division Clerk . The Government of Arunachal Pradesh has not yet decided about the said anomalies in pay scale and, accordingly, request was made to continue their existing deputationists for another term of two years. But the said aspect of the matter was completely over looked by the Respondent No.1 while issuing the impugned order of repatriation and, as such, the impugned order dated 30.5.2001 is bad in law and liable to be set aside and quashed .

9) That the applicant begs to state in the instant case, in case the applicant is repatriated to his parent department, then the applicant had to join as Upper Division Clerk or a Senior Accountant or Accountant whose pay scale is much lower than that of the Divisional Accountant. Considering this aspect of the matter, in order to prevent such anomaly in the pay scale, the Govt. of Arunachal Pradesh requested the Respondent No.1 to allow the serving deputationists for another period of 2 years from the date of expiry of the tenure till necessary arrangement has been made in this regard. In fact, the Chief Engineer, Respondent No.3 was directed not to allow any new deputationist to work in the post of Divisional Accountant without the approval of the Respondent No.4 or Respondent No.2 . The aforesaid factors were never

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taken into consideration by the Respondent No.1 while passing the impugned order of repatriation dated 30.5.2001 and as such, the said order was passed without application of mind on irrelevant consideration and same is therefore liable to be set aside and quashed .

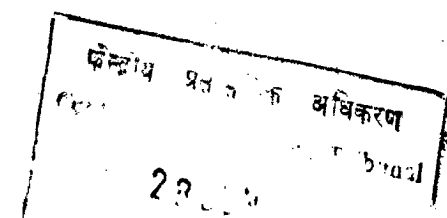
10) That the applicant submits that the Respondent No.1 without application of mind arbitrarily, whimsically, capriciously and discriminatorily issued the order of repatriation and failed to take into consideration the relevant factors including the request made by the State Government for extension of the serving deputationists to prevent anomalies in their pay scale. As a result, the said impugned order of repatriation is bad in law and the same is liable to be set aside and quashed .

11) That the applicant begs to submit that in case the applicant joins the parent department in case of repatriation, then the applicant would have to join as a Upper Division Clerk on Accountant and as a result, he would draw a lesser pay scale than of a Divisional Accountant. This will amount to reduction in rank and the same is not permissible under the law as the same amounts to infringement of Articles 14,16 and 21 of the Constitution of India and, as such, the impugned order of repatriation is liable to be set aside and quashed .

12) That the applicant submits that the Respondent No.1 has illegally passed the impugned order of repatriation without following the procedures established

contd...

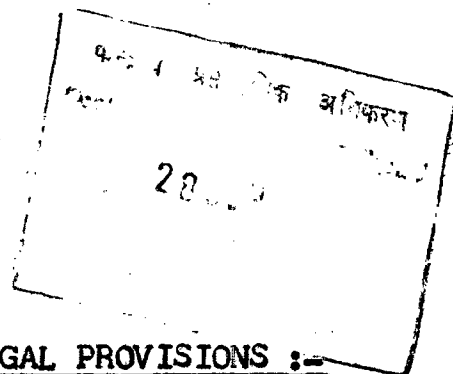
fah



by law and in violation of the existing circulars governing the services of the deputationists. Moreover they also failed to take into account the request made by the State Government and, therefore, under any circumstances the impugned order of repatriation is liable to be set aside and quashed .

13) That the applicant begs to state that as on date of filing of the present application, the applicant is still holding the post of Divisional Accountant in the Office of the Executive Engineer, P.W.D., Seppa on the basis of deputation. A prima facie case has been made out for causing interference with the impugned order of repatriation. Therefore, unless and untill the interim order so prayed for is not granted, irreparable loss and injury shall be caused to the applicant. Balance of convenience lies in favour of the applicant .

14) That the applicant begs to state that he has now come to know that the Govt. of Arunachal Pradesh in the month of January 2001 has taken a decision to take over the cadre of the Divisional Accounts Officer/Divisional Accountant under the Public Works Department from the existing combined cadre being controlled by the Accountant General i.e. Respondent No. 1. Apart from deciding to take over the persons borne on the regular basis in the cadre, the 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 the completion of existing term of their deputation. This decision of the Govt. was conveyed by the Director of Accounts and Treasuries and Ex-Officio Deputy Secretary(Finance) under the Govt. of Arunachal Pradesh to the Respondent No.1 .



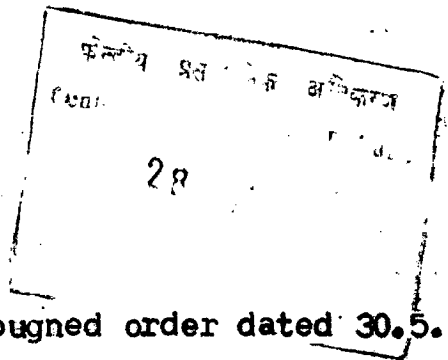
5 : GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

I) For that the action of the respondent -authorities in denying consideration of the case of the applicant as per the request made by the Govt. of Arunachal Pradesh to extend the period of deputation for a further period of two years from the date of the expiry of the respective tenure of the deputationists including the applicant in pursuance of OM No. DA/TRY/15/99 dated 15.11.99 (present tenure of the applicant will expire on 28.7.2001 is illegal arbitrary and highly discriminatory and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant relief otherwise due to him .

II) For that the applicant , if repatriated to his parent department at this juncture, will have to join as Upper Division Clerk only and in such a contingency he would draw a lesser pay scale than that of a Divisional Accountant . This will amount to reduction in rank which is not permissible under the law inasmuch as the same will amount to infringement of the provisions contained in Article 14,16 and 21 of the Constitution of India and as such the impugned order of repatriation is bad in law and liable to be set aside and quashed .

III) For that the applicant is sought to be repladed by another deputationist in the rank of Divisional Accountant without considering his case for absorption and as such the action of the authorities is bad in law and liable to be set aside .

contd....

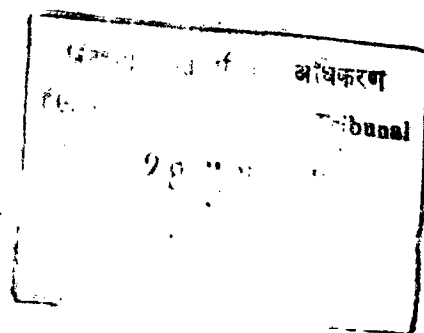


IV) For that the impugned order dated 30.5.2001 issued by the Respondent No.1 directing repatriation of the applicant to his parent department, (PWD), Arunachal Pradesh) with effect from 30.6.2001^m will create serious Civil consequences and as such the action of the authorities is bad in law and liable to be set aside .

V) For that the applicant will have to join as U.D.C. on repatriation to his parent department whose pay scale is much lower than that of the Divisional Accountant and as such it will create serious anomalies in the pay scale to be given to the applicant on repatriation and that was ^{why} the State Govt. of Arunachal Pradesh took up the matter with the Respondent No.1 requesting him to allow the serving deputationists for another period of 2 years from the date of expiry of the present tenure till necessary arrangements are made by the State Govt. in this regard . The Respondent No.3 was also directed by the State Govt. to ensure that no new deputationist to work in the post of Divisional Accountant is allowed without approval of the Respondent No.2 and 4 .The Respondent No.4 ,while issuing the impugned order date 30.5.2001, never took into consideration these factors and the impugned order was passed arbitrarily and without proper application on irrelevant consideration and as such the order is liable to be set aside and quashed .

VI) For that in view of the decision now taken by the Govt. of Arunachal Pradesh to take over the cadre of the Divisional Accounts Officer/Divisional Accountants,

contd....



the applicant is entitled to continue in the post of Divisional Accountant till a decision was taken and as such the impugned order is bad in law and is liable to be set aside .

VII) For that the applicant had joined on 27.7.98 and as such he would be completing the deputation period of 3 years on 27.7.2001 and as such the impugned order holding that the period of deputation would expire on 30.6.2001 is apparently erroneous and is liable to be set aside .

VIII) For that in any view of the matter the impugned order is bad in law and is liable to be set aside .

6 : DETAILS OF THE REMEDIES EXHAUSTED :-

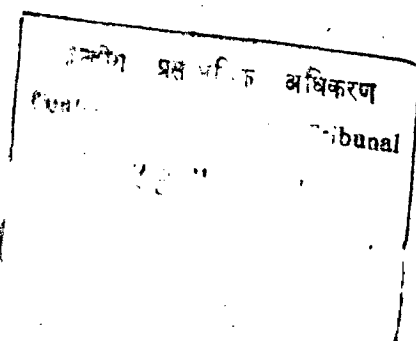
The applicant has got no remedy as the impugned order of repatriation was passed by the Respondent No.1 unilaterally without taking into consideration the difficulties advanced by the State Govt. in this regard repatriating the applicant with effect from 30.06.2001 .

7 : MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :-

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other Bench

contd...

fel.



of the Tribunal nor any such application, writ petition or suit is pending before any of them .

8 : RELIEF SOUGHT :

It is , therefore , prayed that Your Lordships would be graciously pleased to admit this application, call for the entire records of the case, ask the opposite parties to show cause as to why the impugned order dated 30.05.2001 (Annexure-V) should not be set aside and quashed and as to why the applicant should not be allowed to continue till a decision was taken by the State Govt. and after perusing the causes shown , if any and hearing the parties, set aside the impugned order dated 30.05.2001 (Annexure-V) and direct the respondents, to allow the applicant to continue till a decision was taken in this regard and/or pass any other order/~~as per~~ orders as Your Lordships may deem fit and proper.

And for this act of kindness the applicant, as in duty bound, shall ever pray .

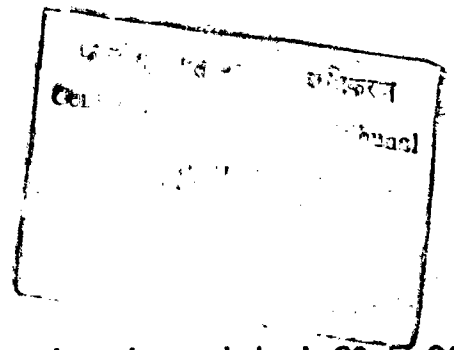
9 : INTERIM ORDER, IF ANY, PRAYED FOR :-

It is further prayed that Your Lordships would also be pleased to stay the operation

contd...

for

16.



of the impugned order dated 30.5.2001 passed by the Respondent No.1 (Annexure-V) till this application is finally disposed of by this Hon'ble Tribunal and further allow the applicant to hold the post of Divisional Accountant in the office of the Executive Engineer, PWD, Seppa Division, Arunachal Pradesh until further orders and/or pass such order/further order or orders which Your Lordships, in the interim, may deem fit and proper.

And for this act of kindness, the applicant, as in duty bound, shall ever pray.

10: Does not arise. The application will be presented personally by the Advocate of the applicant.

11: PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :-

L.P.O. No. 66774142. dated 26.6.01. issued by the Guwahati Post Office payable at Guwahati is enclosed.

12 : LIST OF ENCLOSURES :-

As stated in the Index.

contd...

VERIFICATION

I, Shri Tashi Namgey, son of Sangka Dondu, aged about 33 years, resident of village:- Jamkhar, P.O. and P.S. Tawang in the district of Tawang in Arunachal Pradesh do, hereby verify that the contents in paragraphs in 1, 8, 9, 13 and 14. are true to my personal knowledge and those in paragraphs 2, 3, 4, 5 and 6. are believed to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 28th day of June, 2001 at Guwahati

Place:-Guwahati.

Date :-28.6.01.

TASHI NAMGEY

SIGNATURE OF THE APPLICANT.

.....

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE SUPERINTENDING ENGINEER: CAPITAL CIRCLE-CUM' COMDR.
P.O.E.:A.F.: ITANAGAR: 791 111:

INQ: SE/COORD/4/96/

Dated, Itanagar the _____/96.

M E M O R A N D U M

As per approval of D.P.C. held on 16-11-96 the
Adhoc appointment order of UDC issued vide order No. SE/COORD/
4/88/8607-10 Dtd 14-09-89 in respect of

SHRI TASHI NAMGEY, s/o, ~~xxx~~ Sri Sangka Dongu,

is hereby regularised on temporary basis as UDC on the following
terms and conditions:-

1. An initial pay of R. 1200/- P.M. in the scale of
pay of R. 1200-30-1560-EP-40-2040/- P.M. plus other allowances
as admissible under rules.
2. The regularisation will take effect from the date
he/she actually joins duty as per this order.
3. No Travelling allowances will be paid to the
appointee for joining duty.
4. Gratuity or Pension will be admissible as per
CCS rules as amended from time to time.
5. He/she is liable to serve in any place where-
ever Arunachal Pradesh, PWD, operates.
6. His/Her appointment will be purely temporary and
liable to terminate on 1(One) month's notice from either side.
7. He/she is required to take oath of allegiance to
the Constitution of India on the date of joining.
8. He/she is required to produce 2(Two) Nos Character
Certificates from the District Sub-Divisional Magistrate or
from the Gazetted Officers known to him/her for last 3(Three)
years to this appointment, before joining.
9. He/she will be on probation for a period of 1(One)
year.
10. Original Certificate and Testimonials in support
of his/her qualification and age and Scheduled Tribes Certifi-
cates should be produced at the time of joining the post.
11. Candidate for appointment against the direct
recruitment quota should possess a Degree from a recognised
University in Arts, Science or Commerce. This is relaxable upto
Higher Secondary School i.e. Class-XII examination passed in
the case of indigenous Tribal Candidate from Arunachal Pradesh.
12. The adhoc services shall not be counted for
fixing his/her seniority.
13. He/she should produce his/her 2(Two) Nos Photo-
graphs of Passport size on the date of joining the post.
14. ✓ His/Her regularisation/appointment will be sub-
jected to his/her being declared medically fit for Govt. service
by a Govt. Medical Officer(D.M.O./Civil Surgeon).
15. He/she should not have more than one spouse
living at any time through out his/her service.
16. Seniority will be maintained as per merit list
of interview.
17. His/Her service will be terminated if he/she is
found to be addicted in Drugs, Alcohol.

P.T.O.

18. His/Her regularisation/appointment will be subjected to the production of Scheduled Tribes Certificate if he/she belongs to Arunachal Pradesh Schedule Tribe.
19. He/she should be Indian National.
20. The formal appointment order will be issued after completion of required formalities on his/her joining by the Superintending Engineer(Coord).
21. In case it is proved after the acceptance of the appointment that he/she is a dismissed employee and disqualified by the Union/State Govt. for future employment under any Govt. service or he/she obtained employment using false certificates etc. he/she will be dismissed from service without any remuneration.
22. The age should not be less than 18 years and not more than 28 years as on 01-01-96 (Relaxation 5 years for SC/ST) as per requisition to Employment Exchange.
23. If he/she accepts the order on the terms given above he/she should report for duty to the office of the Executive Engineer, Bomdila Division, PWD, AP, Bomdila, within 30(Thirty) days from the date of issue of this order failing which this appointment will be treated as cancelled.
24. He/she has to undergo induction training of departmental procedures for 2(Two) weeks compulsorily.
25. Other rules and regulations not enforced herein but promulgated by Govt. from time to time will be applicable in his/her case.

Issued
confidential

SUPERINTENDING ENGINEER(COORD).

To,
SHRI TASHI NAMGEY,
C/C EE. Bomdila Division,
PWD, AP, Bomdila.

NO:SE/CCORD/4/96/567-71
Copy to:-

Dated, Itanagar, the 26-12-96.

1. The Chief Engineer (Civil),
XXXXXXXXXXXXXXXXXXXXXXX,
XXXXXXXXXXXXXXXXXXXXXXX,
2. The Superintending Engineer,
Rupa Circle, PWD, AP, Rupa,
2. The Executive Engineer,
Bomdila Division, PWD, AP,
Bomdila.
4. E-II Section.
5. Office Order File.

Original Certificate may please be verified before accepting the joining report of the candidate. A Passport size Photograph of the candidate is enclosed herewith for verification before accepting the joining report. The date of joining of the candidate may please be intimated in due time as per this order.

SUPERINTENDING ENGINEER(COORD).

30/12/96

Attested by
Boudhiney
Advocate

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

Circular No. DA Cell/2-49/97-98/Vol-II/245

dated: 20-1-98

Application are invited from the candidates who are willing to serve temporarily as Divisional Accountant either in Manipur, Tripura and Arunachal Pradesh in the Public Works Department for a period of 1 (one) year on deputation basis. The interested candidates who fulfill the following terms and conditions may apply to this office (DA Cell Section) through their concerned Chief Engineer or the Accountant General as the case may be. so as to reach this office on or before 15-03-98.

a) Upper Division Clerks of State Public Works Department of States of Manipur, Tripura and Arunachal Pradesh having a minimum of 8 (eight) years working experience as Upper Division Clerk and holding the Post equivalent to Sr. Accountant or Accountant of this office.

OR

b) Accountant or Sr. Accountant of the offices of the Accountant General (A&E) Manipur, Tripura or Meghalaya etc., having a minimum of 8 (eight) years working experience of works in Audit Section or DA Cell Section.

Proforma:-

1. Name & Designation in full :-
(in Block Capital letter)
2. Date of birth :-
3. Date of entry into Govt. Service and designation of Post held at the time of entry:-
4. Date of Promotion in the cadre of U.D.C. :-
5. Date of Promotion in the Present Grade :-
6. Educational Qualification (Minimum Qualification - 10+2 standard passed) :-
7. Whether passed any Departmental Examination or completed any Accounts Training :-
8. Whether belongs to SC/ST community. :-
9. Present basic Pay, DA, ADA and other allowances :-

contd/---

10. Particulars of experience in Public Work Accounts/works Audit/ :-
DA Cell Section mentioning the period in years and in months.

11. Remarks. :-

Signature of the Candidate

Place :-

Date :-

(Three signatures of the candidate
to be attested by the Gazetted Officer)

1.....
2.....
3.....

Terms & Conditions:-

1. The period of deputation will be 1 year only.
2. The deputationists will be posted against the State of their origin.
3. No application will be considered unless the same is recommended by the Chief Engineer or Supdt. Engineer (in the absence of Chief Engineer) or by the Accountant General (A&E) concerned.
4. Those selected for appointment on deputation to the post of Divisional Accountant will be governed by the standard terms and condition envisaged in OM NO.2/12/87-Estt(Page-II) date 29.4.1988 circulated vide Headquarters letter No.581-Audit.I/133-85/IV-88(88) dt.24.6.1988.
5. The deputationists elect to draw pay of the Post of Divisional Accountant in the Scale of Rs.5000-150-8000 or Basic pay of his parent cadre Post plus personal pay, if any, plus deputation(duty) allowances as per existing rules in force.
6. If any, Court cases are pending/contemplated or disciplinary action taken against any candidate, he/she is not eligible to apply.
7. Selection for appointment as DA on deputation will be made through a Competitive Examination which will be held in Shillong, as per scheduled below :-

DATE	TIME	SUBJECTS	Full Marks	Pass Marks
26-03-98	10 AM to 1.PM	English	100	40
		General	100	40
	2 PM to 5.PM	Accounts	100	40
27-03-98	10 AM to 1 PM	P.W.Practical (Without Books)	100	40

Contd/-

It may be noted by the candidate that who fulfills the eligibility criteria and whose application has duly been recommended by the Chief Engineer concerned is to appear in the Written test as specified above. It may also be noted that no ADMIT CARD or Examination Circular will be issued separately. However, they are directed to contact DA Cell Section of this office one day earlier of the date of Examination to collect their Roll No. and also for venue of Examination.

Sd/-
Sr. Deputy Accountant General

Memo No. DA Cell/
Copy forwarded to:-

- 1) The Chief Engineer
.....with the request to circulate this circular among the staff working in all the Divisions. under his control and to forward all the original applications to this office for necessary action.
- 2) Accountant General (A&E). Tripura. Agartala with 30 spare copies for circulation in his office.
- 3) Accountant General (A&E) Meghalaya, etc. Shillong (Estt. Section) with 30 spare copies for circulation.
- 4) The Executive Engineer, *Bondila P.W.D. Bondila*
.....with the request to circulate this circular among the staff working in their divisions. under his control and to forward all the Advance copy of application to this office for necessary action. Please instruct the applicants to appear in the Written Test as scheduled above. But their appointment to the post of Divisional Accountant on deputation is subject to obtain qualifying Pass marks as prescribed above and their original applications are finally forwarded by the Chief Engineer, concerned.

[Signature] 20.1.98
Senior Accounts Officer,
i/c D.A. Cell.

NO. MD/E-1/5/97-98/

Copy forwarded to the Assistant Engineer, P.W.D. *Bondila* / Rupa / Sirang / Divisional Accountant / HA for information and circulation among the UDC working under them *pleam*.

[Signature] 21/1/98
KEE

Attested by
[Signature]
Advocate

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

E.O. NO. DA CELL/96

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 Divisional Accountants under the administrative control of the office of the Accountant General (A&E) Meghalaya etc., Shillong, Shri

Tashi Namgye, Uxe at present working in the Office of the Executive Engineer; Bomdila Division; PWD, Bomdila; Arunachal Pradesh

is appointed to the post of Divisional Accountant on deputation basis and posted in the Office of the Executive Engineer, Seppa PWD, Arunachal Pradesh

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

3. Shri Tashi Namgye, Uxe will have to join to the post of Divisional Accountant in the O/o the Executive Engineer, Seppa PWD, Seppa, Arunachal 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 Tashi Namgye is directed

to submit his acceptance to the offer of appointment (Acceptance letter is to be addressed to the A.G. (A&E) 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 Seppa PWD, Seppa, Arunachal Pradesh

for onwards transmission to the Accountant General (A&E) Meghalaya etc., Shillong.

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

6. The period of deputation of Shri Tashi Namgye

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 Tashi Namgye

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 Tashi Namgye 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 Tashi Namgye

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 Tashi Namgye

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.1 in Appendix 3A of Choudhury's G.S.R. Volume IV (13th Edition) and as amended and modified from time to time).

10. Shri Tashi Namgye 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.

Contd...B/3.....

11. Prior concurrence of this office must be obtained by the Divisional Officer before Shri Tashi Namgye (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 DA Cell.

Memo No. DA Cell/2-49/94-95/1043-1049

Dt. 24.7.98

Copy forwarded for information and necessary action to :-

1. The Chief Engineer PW Deptt; Itanagar Govt. of Arunachal Pradesh. Itanagar. He is requested to release Shri Tashi Namgye and instruct him to join in the O/o the Executive Engineer, Seppa PWD; Seppa, Arunachal Pradesh. He is also requested to forward to this office the copy of the release order.

2. The Chief Engineer,

3. The Executive Engineer, Bamdila Division PW D; Bamdila; Arunachal Pradesh. He is requested to release Shri Tashi Namgye and instruct him to join in the O/o the Executive Engineer, Seppa PWD; Seppa, Arunachal Pradesh.

4. The Executive Engineer, Seppa PWD; Seppa, Arunachal Pradesh. He is requested to intimate the date of joining of Shri Tashi Namgye.

He is also requested to forward the offer of acceptance of

Shri Tashi Namgye as mentioned

Para 5 of this appointment letter. Unless the offer of

acceptance is submitted by Shri Tashi Namgye

he is not to be allowed to join in his Division.

5. Shri Tashi Namgye O/o the

Executive Engineer, Bamdila Division; PW D; Bamdila

He is directed to join within 30 days, in the O/o the

Executive Engineer, Seppa PWD; Seppa, Arunachal Pradesh

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 Tashi Namgye

7. E.O. File.

8. S.C. File.

Senior Accounts Officer.

Witnessed by
Advocate

-26- ANNEXURE:- 12

GOVT OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS & TREASURIES : NAHARLOGUN

(THROUGH FAX/SPEED POST)

No DA/TRY/15/99

Dated Naharlogun the 15th Nov '99

To,

The Accountant General (A&E)
Meghalay, 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/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

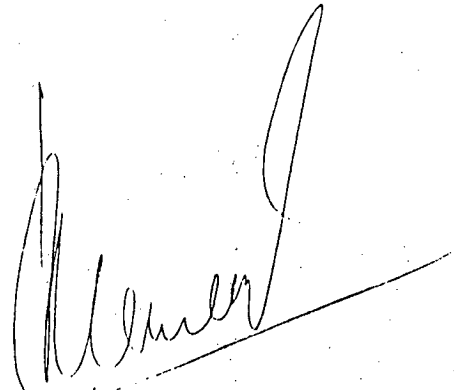
Copy to :-

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 P.S to the Commissioner PWD/RWD/PHED/IFCD/Power for information

Contd...2..

Attested by
Shrawan Kumar
Advocate

4. 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 apointee(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

- 28 -

Regd. with A/D

ANNEXURE :- 2

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

No.DA CELL/ 14

Dated :- 30-5-2001

On expiry of the period of deputation to the post of Divisional Accountant under the Administrative Control of the Accountant General (A&E) Meghalaya etc., Shillong, Sri Tashi Namgey at present posted in the Office of the Executive Engineer, Seppa Division P.W.D., Arunachal Pradesh is repatriated to his parent Department i.e. Chief Engineer, P.W.D., Arunachal Pradesh, Itanagar with effect from 30-06-2001 (A/N).

On being relieved of his duties on 30.06.2001 (AN) from the Office of the Executive engineer, Seppa Division, P.W.D. Arunachal Pradesh he is to report for further duties to the Chief Engineer P.W.D. Arunachal Pradesh Itanagar.

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 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&E) 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 :- A.G's order dated 17.05.2001 at p/83N in the file No.DA Cell/10-1/93-94/98-99/Vol.V.

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

Contd...

Attested by :-
Advocate

-29-

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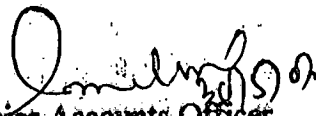
- 2 -

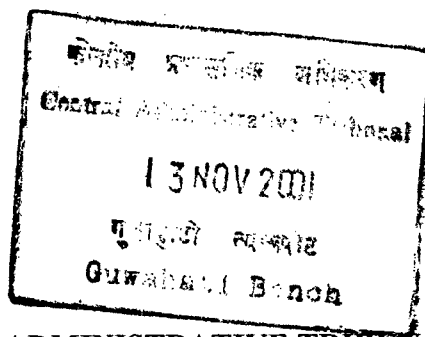
Memo No. DA Cell/10-1/93-94/99-2000/151-157

Dated:- 31 MAY 2001

Copy forwarded for information and necessary action to:-

1. The Commissioner and Secretary, P.W.D. Department Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, P.W.D. Arunachal Pradesh, Itanagar. He is requested to arrange for posting of Shri Tashi Namgey, Divisional Accountant on Deputation, on his repatriation to his parent Department. The concerned Executive Engineer has been asked to release Shri Tashi Namgey on or before 30.06.2001.
3. The Executive Engineer, Seppa, P.W.D. Division Arunachal Pradesh. He is requested to release Shri Tashi Namgey of his Division on or before 30.06.2001 as his term of deputation expires. He is also requested to instruct Shri Tashi Namgey to report to his parent Department. It may also be noted that no further extension of period of deputation will be granted to Shri Tashi Namgey under any circumstances to avoid any complicity.
4. *with A/D* Shri Tashi Namgey, Divisional Accountant on deputation O/o the Executive Engineer Seppa Division, P.W.D. Arunachal Pradesh. He is hereby asked to report to his parent Department i.e. O/o the Chief Engineer, PWD Arunachal Pradesh, Itanagar.
5. Personal File of Shri Tashi Namgey, DA (on deputation).
6. E.O. File.
7. S.C. File.


Senior Accounts Officer.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
(BENCH AT GUWAHATI)**

IN THE MATTER OF :

O.A. No. 230/2001

Shri Tashi Namgey

Applicant

-VERSUS-

Accountant General (A&E), Meghalaya etc. Shillong,
Respondent No. 1 and Others

IN THE MATTER OF :

An affidavit in opposition on behalf of Respondent 1 i.e.
Accountant General (A&E), Meghalaya etc. Shillong.

Written Statements

The humble Respondents No. 1 submit the Written Statements as follows :-

1. That with regard to the Statement made in paragraphs 1,2,3 and 4 of the application, the Respondent has no comments to offer.
2. That with regard to the statement made in paragraphs 4(1) and 4(2) of the application the Respondent 1 humbly submits that he has no comment on these two Paras. Contents made in these two Paras are matter of records.
3. That with regard to the Statement made in paragraphs 4(3) of the application the Respondent No. 1 humbly submit that a circular bearing No. DA Cell/2-47/97-98/Vol.II/245 dated 20.1.1998 was issued inviting application from the interested candidate for consideration to serve temporarily as Divisional Accountant on deputation initially for a period of 1 (one) year. Shir Tashi



Namgey who applied for the post was considered for appointment as Divisional Accountant on deputation initially for 1 (one) year. The applicant who had accepted terms and condition of the appointment (Annexure III of the application), joined as Divisional Accountant on deputation in the Office of the Executive Engineer, Seppa PWD, Seppa, Arunachal Pradesh on 28.7.1998 (FN).

4. That with regard to the Statement made in paragraph 4(4) of the application the Respondent has no comment to offer, what applicant has stated is a matter of record.
5. That with regard to the statement made in paragraphs 4(5), 4(6) and 4(7) the Respondent 1 humbly state that the Recruitment Rules and norms as applicable to this posts under the answering Respondent being formal and laid down can in no way be substituted whereby the deputationist by attempting to misuse the due process of law by misleading this Hon'ble Tribunal is seeking extension of deputation period for two years as well as permanent absorption to the post of Divisional Accountant. As per Recruitment Rules which came into force w.e.f. 24.9.1988, the period of deputation cannot be extended beyond 3 (three) years so the question of extending the deputation period does not arise. It may also be stated that the appointment of Divisional Accountant on deputation is only a stop gap arrangement. Thus the extension of deputation could not be considered and was communicated accordingly vide letter No. DA Cell/10-1/93-94/1999-2000/151-157 dated 30.5.2001.



Further to state that Respondent 1 has right to bring fresh deputationist as per existing Rules, till regular Divisional Accountant are appointed through Staff Selection Commission. This brings the discretionary power of the Respondent 1 which cannot be questioned by the Petitioner and also matter of Government policy. Hence the Petitioner's claim for considering the permanent absorption as Divisional Accountant is not tenable in Rule.

The Hon'ble Apex Court while laying down the law in Ratial B. Soni reported in AIR 1990 SC 1132 (1991) 15 ATC (85) and State of Punjab Verses Inder Singh (1997) 8 SCC 372 :: 1998 SCC (L&S) 34 and Kunal Nanda Verses Government of India AIR 2000 SC 2076 held that

"a person on deputation can be reverted to his parent department at any time and does not get any right to be absorbed in the deputation post".

Further the applicant was reverted back to his parent Department in the Government of Arunachal Pradesh, as his full tenure of deputation of 3 (three) years in keeping with the terms of his appointment letter dated 30.5.1997, had expired and hence the

"Order of repatriation is not violative of Article 14 of the Constitution"

as has been held by the Hon'ble Apex Court in State of M.P. Vrs Ashok Deshmukh (AIR) 1988 SC 1240)

(Copy of the Recruitment Rules published in Gazette of India dated 24.9.1988 is annexed as Annexure I).

A handwritten signature in black ink is written over a circular official stamp. The signature appears to be 'A. S. Chell'. The stamp is faint and mostly illegible, but it is a circular seal with some text around the perimeter.

6. That with reference made in paragraphs 4 (8) it is most respectfully submitted that with regard to extension of 2 (two) years of deputation terms cannot be acceded as per the Recruitment Rules 1988, the period of deputation cannot be extended beyond three years. also terms and condition offered to him for appointment as Divisional Accountant on deputation had been accepted by the Petitioner. The applicant was reverted to his parent Department in the Government of Arunachal Pradesh as his term of Deputation of three years had expired in terms of the appointment order dated 24.7.1998, appointing the applicant as Divisional Accountant on Deputation. Accordingly the Petitioner was served repatriation order dated 30.5.2001 was reasonable and not arbitrarily in the light of what has been explained to the Hon'ble Tribunal in above 4(5),4(6) and 4(7).

(Appointment order dated 24.7.1998 is annexed as Annexure II)

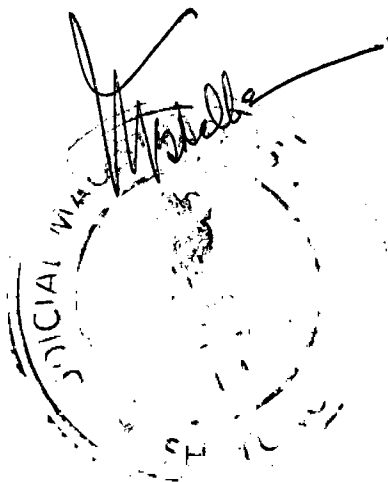
7. That with reference to the statement made in Paragraph 4(9), 4(10), 4(11), 4(12) and 4(13) it is most respectfully submitted that the Petitioner is a regular employee of the Government of Arunachal Pradesh and appointed as Divisional Accountant on Deputation for a specified period, and his Appointment order dated 24.7.1998 it was clearly mentioned that in no case, the period of deputation will be extended beyond the period of 3 (three) years. As per the terms of appointment the Petitioner is to revert back automatically to his parent department and Pay and Allowances as deputationist will govern by the existing Rules in force.

That it would not be out of place at this stage to mention that, identical applications viz. OA No. 122 of 2000 and OA No. 67 of 2000 (Shri S.K.



Dam and Shri Binith Kr. Das Vrs. Union of India and Others) which were pending before this Hon'ble Central Administrative Tribunal, Guwahati Bench have recently been dismissed by the Hon'ble Tribunal. It is denied that repatriation of the applicant from the deputation post to his parent cadre/post/Department is violative of Article 14, 16 and 21 of the Constitution.

8. That with regard to Statement made in paragraphs 4(14) it is most humbly submitted that this office till date has not yet received any Gazette or any letter from the Government of Arunachal Pradesh regarding taking over the cadre by the Government of Arunachal Pradesh as stated by the applicant contents of this para are misleading and have nothing to do with the instant issue.
9. That with regard to the statements made in paragraph 5 for grounds of relief with legal provisions in the application, the Respondent 1 submit that all of them are misleading and false and thus denied. The applicant was on deputation with Respondent No.1 and the terms of deputation being clear that beyond three years his continuation will not be considered and the applicant having accepted these terms and conditions must revert back to his parent Department in the Government of Arunachal Pradesh. His claim for extension of two years deputation terms and absorption in the services of Respondent No. 1 does not arise in the light of what has been stated above.



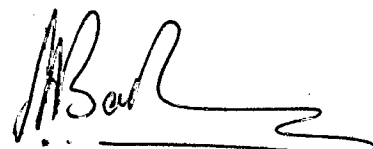
A handwritten signature is written over a circular official stamp. The stamp contains the text 'OFFICIAL USE' and 'SECRETARY'.

10. That with regard to the reliefs sought by the applicant in paragraph 6, the Respondent No. 1 submit that the applicant is not entitled to any of the remedies sought for and the Applicant is liable to be dismissed.

That in view of the facts and circumstances stated above, the Respondent No.1 most respectfully and humbly pray that the present Application as filed be dismissed, costs imposed in favour of the answering Respondent. The interim order dated 28.6.2001 granted in this case be vacated and the order dated 30.5.2001 be allowed to be implemented without any further delay.

VERIFICATION

I Shri S.A. Bathew, Sr. Dy. Accountant General (Admn), O/o The Accountant General(A&E), Meghalaya etc. Shillong do hereby solemnly declare that the statements made above in the Written Statements are true to my knowledge, belief and information and I sign the Verification on the 19th day of July 2001 at Shillong.


(S. A. Bathew)
DEPONENT

Identified by


ADVOCATE



Solemnly affirmed and sworn before me this day the
14TH SEPTEMBER 2001 by the deponent abovenamed on being identified
by Shri L. KHYRIEM, Advocate, Shillong.

[Signature]



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

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 affect 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 added years of service ad- missible under rule 30 of the Central Civil Ser- vice (Pen- sion) Rules 1972
1.	2.	3.	4.	5.	6.

1.	2.	3.	4.	5.	6.
\$/	Personal Accountant	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 requi- red for direct recru- its:	Whether age and educational qua- lifications pre- scribed for direct recruits will apply in case of promo- tees.	Period of probation, if any.
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7.	8.	9.	10.
Between 18 and 25 years Note: The crucial date for determin- ing age limit shall be as advertised.	Bachelor's degree of a recognised University. Note: The educational qualifications is relaxable under the or- ders of the Comptroller and Auditor General of India for specified ca- tegories 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 depu- tation/transfer and percentage of the vacancies to be filled by various methods.	11.	12.
	In case of recruitment by promotion/deputation/trans- fer grades from which pro- motion/deputation/transfer to be made.	

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 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 Entitle-ment 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.

10

147 38-
52

- 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.

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.

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)

ANNEXURE:- II 39-

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

E.C. NO. D. CELL/96

Dated. 24.07.98

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

Tashi Namgyi, Uxc at present working in the Office of the Executive Engineer, Bamdila Seppa PWS, Bamdila; Arunachal Pradesh

is appointed to the post of Divisional Accountant on deputation basis and posted in the Office of the Executive Engineer, Seppa PWS, Arunachal Pradesh

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

3. Shri Tashi Namgyi Uxc will have to join to the post of Divisional Accountant in the Office of the Executive Engineer, Seppa PWS, Seppa, Arunachal 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 as 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. Tashi Namgyi is directed to submit his acceptance to the offer of appointment (Acceptance letter is to be addressed to the A.G. (A&E) 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

Seppa PWS, Seppa, Arunachal Pradesh for onwards transmission to the Accountant General (A&E) Meghalaya etc., Shillong.

The period of deputation of Shri

Tashi Namgye

6-40-54

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

Tashi Namgye

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 29.4.1983.

and as amended and modified from time to time. While on deputation Shri Tashi Namgye 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 Tashi Namgye

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 Tashi Namgye

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 Choudhary's G.S.R.Volume IV (13th Edition) and as amended and modified from time to time).

10. Shri Tashi Namgye

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.

Prior concurrence of this office must be obtained
 of the Divisional Officer before Shri Tashi Namgye
 (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 DA Cell.

Memo No. DA Cell/2-49/94-95/1043-1049

Dt.

24.7.98

Copy forwarded for information and necessary action to :-

1. The Chief Engineer PW Deptt: Itanagar
 Govt. of Arunachal Pradesh, Itanagar. He is requested to
 release Shri Tashi Namgye and instruct
 him to join in the O/o the Executive Engineer, Seppa PWD;
Seppa; Arunachal Pradesh. He is also requested
 to forward to this office the copy of the release order.
2. The Chief Engineer,
3. The Executive Engineer, Bamdila division
PWD; Bamdila; Arunachal Pradesh
 He is requested to release Shri Tashi Namgye
 and instruct him to join in the O/o the Executive Engineer
Seppa PWD; Seppa; Arunachal Pradesh.
4. The Executive Engineer, Seppa PWD; Seppa;
Arunachal Pradesh. He is requested to intimate the
 date of joining of Shri Tashi Namgye.
 He is also requested to forward the offer of acceptance of
 Shri Tashi Namgye as mentioned
 Para 5 of this appointment letter. Unless the offer of
 acceptance is submitted by Shri Tashi Namgye
 he is not to be allowed to join in his Division.
5. Shri Tashi Namgye O/o the
 Executive Engineer, Bamdila division; PWD; Bamdila
 He is directed to join within 30 days, in the O/o the
 Executive Engineer, Seppa PWD; Seppa; Arunachal Pradesh
 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 Tashi Namgye
7. E.O. File.
8. S.C. File.

A.P. 41/2002

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 230, 234 & 276 of 2001.

Date of Order : This the 11th January, 2002

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

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

O.A.No. 230/2001 :

Shri Tashi Namgye
S/O Sangka Dondu
Divisional Accountant
Office of the Executive Engineer
Seppa P.W.D. Division
Arunachal Pradesh. . . . Applicant.

By Sr.Advocate Mr.G.K.Bhattacharyya, Mr.G.N.Das &
Mr.B.Choudhury.

- Versus -

1. Accountant General (A & E)
Meghalaya etc.
Shillong (Meghalaya).
2. State of Arunachal Pradesh
(Represented by the Secretary to the
Govt. of Arunachal Pradesh, P.W.D.
Naharlagun, A.P.).
3. Chief Engineer, P.W.D.
Arunachal Pradesh
Naharlagun, A.P.
4. Director of Accountants and Treasuries
Arunachal Pradesh
Naharlagun, A.P.
5. Executive Engineer
Seppa P.W.D. Division
Arunachal Pradesh. . . . Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

✓ O.A.No.234/2001 ;

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.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma,
Mr.U.K.Nair & Ms.U.Das.

- Versus -

1. Union of India
Through the Controller & Auditor General
of India, 10, Bahadur Shah Jafar Marg
New Delhi-110002.
 2. The Accountant General (A & E)
Meghalaya ec.
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.

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

✓ O.A.No. 276/2001 :

Shri Radheshyam Das
Divisional Accountant in the Office of
the Executive Engineer, R.W. Division
Pasigha, P.O: Pasighat
Arunachal Pradesh.

. . . Applicant.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma &
Mr.U.K.Goswami.

- Versus -

1. 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
Itanagar.
4. The Chief Engineer
Department of Power
Government of Arunachal Pradesh
Itanagar.
5. The Executive Engineer
R.W. Division, Pasighat
Arunachal Pradesh
P.O: Pasighat.

6. The Executive Engineer, Basar
I & F C Division, Basar
Arunachal Pradesh.
7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Itanagar, Arunachal Pradesh.

. . . Respondents

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

O R D E R

CHOWDHURY J.(V.C.) :

All these three applications are taken together since it involves the common question of facts and common question of law.

1. The applicants in all the applications are on deputation in the posts of Divisional Accountants under the Administrative Control of the Accountant General (A & E) Meghalaya etc, Shillong. On expiry of the deputation period by different orders the applicants were repatriated to the parent department. By order dated 17.12.99 the applicant in O.A.234 of 2001 was repatriated to his parent department i.e. Chief Engineer, (Power) Itanagar. Similarly, by order dated 30.5.2001 the applicant in O.A.230 of 2001 was repatriated to his parent department i.e. Chief Engineer, P.W.D., Arunachal Pradesh, Itanagar, so also the applicant in O.A.276 of 2001 vide order dated 11.6.2001 was repatriated to his parent department i.e. Chief Engineer, (Power), Department of Power, Arunachal Pradesh, Itanagar. The legitimacy of the orders of repatriation is challenged in all these applications

2. We have heard Mr.S.Sarma, Mr.B.Choudhury and also Mr.M.Chanda appearing for the applicants and Mr.A.Deb

9 Roy, learned Sr.C.G.S.C appearing for the respondents. The learned counsel for the applicants strenuously argued that the applicants served for many years under the respondents before the orders of repatriation were issued and infact they opted for absorption and when the process was going on by the impugned orders the applicants were in a most illegal fashion repatriated to their parent departments. The learned counsels for the applicants also brought our attention as to the steps taken by the State of Arunachal Pradesh to take over the cadre of the Divisional Accountants Officers/Divisional Accountants of the Works Department totalling 91 posts. We are, however, informed by the learned counsel for the applicants that the Cabinet further approved the approved the proposal to take over the administrative control of Senior Divisional Accounts Officers, Divisional Accounts Officers, and Divisional Accountants belonging to PWD, Rural Works Department, Public Health Engineering, Irrigation and Flood Control Department and Power Department of Arunachal Pradesh from the administrative control of the Accountant General, Meghalaya.

3. The core question involved as to the legitimacy as well as the competence of the authority for reverting the applicants. The applicants came under the Accountant General (A&E), Meghalaya on deputation. They are holding the permanent posts in the respective parent department. At the end of the deputation period they are repatriated.

Nothing illegality is discernible from the orders of repatriation.

4. The applicants might have sought for absorption in the borrowing department as per the Recruitment Rules. 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 till the final decision of the Govt. is taken. There will be no bar for absorbing the applicants, if the borrowing department decide even after these persons are repatriated. In this circumstances, we do not find any merit in these applications. Accordingly, the applications are dismissed.

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

Interim orders if any stand vacated.

Sd/VICE CHAIRMAN

Sd/MEMBER (Admn)

TRUE COPY
G.M.

NS 30/01/02
H.S. 29/1/02