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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 238/2005

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SECTION OFFICER (Judl.)

Shila  
06.11.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 238/05

Misc. Petition No.                     

Contempt Petition No.                     

Review Application No.                     

Applicant(S): P.K. Paul

Respondant(S): U.D. Das

Advocate for the Applicant(S): M. Chanda, S. Nath

Advocate for the Respondant(S): CASE

Notes of the Registry	Date	Order of the Tribunal
	9.9.05	Present: Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman. Heard Mr. M. Chanda learned counsel for the applicant and Mr. G. Baishya, learned Sr. C.G.S.C. for the Respondents. Issue notice to the Respondents. Post the matter alongwith O.A. Nos. 114 of 05 and 115 of 05.  Vice-Chairman
	28.9.05	Mr. M. Chanda learned counsel for the applicant is present. Ms. U. Das learned Addl. C.G.S.C. on behalf of Mr. G. Baishya learned Sr. C.G.S.C. seeks for further time to file written statement. post the matter on 8.11.05.  Vice-Chairman

1. Application is in form

is for Rs. 0.

d. PO/B/

206158680

D 29.8.05

Registrar

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Steps taken on 27/9/05

27/9

Notice & order sent to D/Section for issuing to resp. Nos 1 to 8 by regd. A/D Post. Cons D/No=1462 to 1469

8.11.2005

No. Wks has been  
filed.

By  
7-11-05

1  
10/11

revised  
G.P. 10/11

Notice for resp.

No-6 received

back as per served  
with a Remark "

Incomplete Add-  
not known)

mb

14.12.2005

13-12-05

- ① Service report are  
awaited.
- ② Notice for respondent  
No-6 Returned un-  
Served.
- ③ No. Wks has been filed.

By

④ On 114/05 & 115/05 are  
fixed before me near

mb

⑤ No appearance filed  
by the Govt of A.P.

10.12.2005

10.12.2005

10.12.2005

Mr. S. Nath, learned  
counsel for the applicant is  
present. Mr. G. Baishya, learned  
Sr. C.G.S.C. appearing for the  
respondents No. 1 and 2 and that  
sought for some more time to  
file written statement. Though  
notices were issued to the  
Respondents No. 3 to 8 - The State  
of Arunachal Pradesh and its  
Officers, they have not entered  
appearance. In the circumstances,  
post this matter on 14.12.2005  
alongwith O.A. Nos. 114/2005 and  
115/2005. In the meantime, counsel  
for the applicant will ensure that  
notices are served on the Respond-  
ents No. 3 to 8.

Vice-Chairman

Mr. S. Nath, learned counsel  
for the applicant is present. Mr.  
G. Baishya, learned Sr. C.G.S.C.  
for the respondents seeks further  
time to file written statement.  
Counsel for the applicant submits  
that connected matters O.A. Nos.  
114/2005 and 115/2005 in which  
written statement has already been  
filed and this case may also be  
posted along the said cases. Post  
before the next Division Bench  
alongwith these cases.

Vice-Chairman

06.03.2006

Post before the next avail-  
able Division Bench.

Vice-chairman (J) Vice-Chairman(A)

O.A 238/2005

Notes of the Registry	Date	Order of the Tribunal
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21.7.06 Wls filed by the Respondent Nos. 1 & 2.	03.08.2006	Post before the next Division Bench.  Member Vice-Chairman
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Wls have been filed. 20.3.07	21.3.2007	Heard learned counsel for the parties. Order passed, kept in separate sheets. The O.A. is disposed of in terms of the order. No costs. Member Vice-Chairman
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Received G. Srinivas Sudhakar 29.03.07  29.7.07 Copy of the order handed over to the L/Adm for the parties.	/bb/	
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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application Nos. 114/2005, 115/2005 & 238/2005

Date of Order: This, the 21st day of March 2007

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE-CHAIRMAN

THE HON'BLE SHRI TARSEM LAL, ADMINISTRATIVE MEMBER

1. Lendi Chatung  
S/o Late Lendi Sala  
O/o the Executive Engineer, Along Electrical Division  
Department of Power, Along.
  2. Tonkeswar Borah  
S/o Late Golap Chandra Borah  
O/o the Executive Engineer  
Tezu Public Works Division.
  3. Sanchayan Kumar Dam  
S/o Late Subodh Kumar Dam  
O/o the Executive Engineer  
Seppa Electrical Division.
  4. Love Rao  
S/o Luxmi Rao  
O/o the Executive Engineer  
Hydro Power Development Department.
  5. Jummi Kamum  
S/o Sri T. Kamum  
Irrigation & Flood Control Department  
Daporijo Division, Upper Subansiri  
Daporijo.
  6. Dilip Kumar Dey  
O/o the Executive Engineer  
Public Works Department, Boleng  
East Siang District.
  7. Tashi Namgye  
O/o the Executive Engineer  
P.W.D. Division Sepa  
East Kameng District, Seppa.
  8. Lani Bhusan Karmakar  
S/o Late K.M. Karmakar  
P.W.D. Division, Dimpurijo  
Upper Subansiri District.
- Applicants in O.A. No. 114/2006
1. Shri L. Appal Swami  
S/o Late L.A. Naidu  
Presently working as Divisional Accountant  
O/o the Executive Engineer

PHE & Water Supply Division, Khunsa  
Dist:- Tirap, Arunachal Pradesh.

2. M.V.Kartikayan Nair  
S/o K.P.V.Nair  
Working as Divisional Accountant  
O/o the Executive Engineer  
Kalaktang P.W.Division  
Dist: West Kameng, Arunachal Pradesh.

3. Shri Santanu Ghosh  
S/o Late S.R.Ghosh  
Working as Divisional Accountant  
O/o the Executive Engineer  
RWD, Yingkiong, Upper Siang  
Arunachal Pradesh.

Applicants in O.A.115/2005

1. Shri Pradip Kumar Paul  
S/o Late Paresh Chandra Paul  
Divisional Accountant  
O/o the Executive Engineer  
Irrigation and Flood Control, Resource Division  
Panchamukh, P.O: Agartala  
West Tripura - 799 003.

Applicant in O.A. No.238/2005

By Advocates S/Shri M.Chanda, S.Nath & G.N.Chakraborty.

- Versus -

1. Union of India  
Through the Comptroller & Auditor General of India  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E)  
Arunachal Pradesh, Meghalaya, Mizoram etc.  
Shillong - 793 003.
3. The State of Arunachal Pradesh  
Represented by the Secretary to the  
Government of Arunachal Pradesh  
Department of Power, Itanagar.
4. The Commissioner, Finance Department  
Government of Arunachal Pradesh  
Itanagar - 791 111.
5. The Chief Engineer (T&D)  
Department of Power  
Government of Arunachal Pradesh  
Itanagar.
6. The Chief Engineer, Public Works Department  
Government of Arunachal Pradesh  
Itanagar.

7. The Chief Engineer  
Public Health Engineering Department  
Government of Arunachal Pradesh  
Itanagar.
8. The Chief Engineer, Rural Works Department  
Government of Arunachal Pradesh  
Itanagar.
9. The Chief Engineer, IFCD  
Government of Arunachal Pradesh  
Itanagar.
10. The Chief Engineer  
Hydro Power Development Department  
Itanagar.
11. The Director of Accounts & Treasuries  
Government of Arunachal Pradesh  
Naharlagun - 791 110.

Respondents in O.A. Nos. 114/2005 & 115/2005

1. Union of India  
Through the Comptroller & Auditor General of India  
10 Bahadur Shah Zafar Marg  
New Delhi.
2. The Accountant General (A&E)  
Arunachal Pradesh, Meghalaya, Mizoram etc.  
Shillong - 793 003.
3. The State of Arunachal Pradesh  
Represented by the Secretary to the  
Government of Arunachal Pradesh  
Department of Power, Itanagar.
4. The Commissioner, Finance Department  
Government of Arunachal Pradesh  
Itanagar - 791 111.
5. The Chief Engineer, I&FCD  
Government of Arunachal Pradesh  
Itanagar.
6. The Chief Engineer, I&FCD  
Government of Tripura  
Agartala.
7. The Chief Engineer  
PWD (R&B), Agartala  
Tripura.
8. The Director of Accounts & Treasuries  
Government of Arunachal Pradesh  
Naharlagun - 791 110.

Respondents in O.A. No. 238/2005

By Mr. G. Baishya, Sr. C.G.S.C. & Mr. A. Buzarbaruah, Govt. Advocate  
State of Arunachal Pradesh.

**ORDER (ORAL)**

**SACHIDANANDAN, K.V.(V.C.):**

There are 8 Applicants in O.A.114/2005, 3 in O.A.115/2006 and one in O.A.238/2006. All the cases are taken up together since reliefs sought for are common. All the Applicants are regular employee of the PWD of Arunachal Pradesh and are presently working as Divisional Accountant under the different units of PWD on deputation basis under the administrative control of Respondent No.2. It was further contended that as it was under active consideration of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountants/Divisional Accounts Officers totaling 91 (Ninety One) posts from the existing combined cadre being controlled by the Respondent No.2 and now the Respondent No.3 had decided to take over the said cadre and place thus under the direct control of the Respondent No.11 with immediate effect. However, orders of repatriation have been passed when they were anticipating their regular absorption in the higher pay scale, cadre, rank and status even though the resultant vacancies were going to be filled up by bringing other persons on deputation. Hence these Original Applications (O.A.114 & 115 of 2005) seeking the following similar main reliefs:-

- "8.1 The applicants are entitled to consideration of their cases for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005.
  - 8.2 The respondents are liable to consider the cases of the applicants for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005 and
- ✓



any action to repatriate the applicants prior to such consideration is arbitrary, unfair and bad in law.

In O.A. No.238/2005 the sole Applicant has sought the following main reliefs:-

- "8.1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Account in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005.
- 8.2 The respondents are liable to consider the case of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated July' 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law."

2. Respondents have filed their written statements. Applicants also submitted additional affidavits in the cases. We have heard Mr.M.Chanda, learned counsel for the Applicants and Mr. Buzarbaruah, learned counsel for the Government of Arunachal Pradesh. Paragraph 5 of the written statement filed by the Respondent No.11, which is relevant for this cases, is reproduced herein below:-

- "5. .... the State of Arunachal Pradesh through its Principal Secretary (Finance) Government of Arunachal Pradesh has formulated a scheme for taking over the Administrative control of the cadres of Senior DAO/DAO Grade-I/DAO Grade-II and DA of working divisions alleging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of Accountant General (A&E) Meghalaya, Arunachal Pradesh, etc. Shillong. The said scheme has been sent to the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc Shillong for taking over of the

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administrative control of the cadre of Divisional Accountant from the later vide office letter dated 30.7.2005. This has been done in consonance to cabinet decision taken on 28.11.2001."

3. When the matter came up for hearing, learned counsel for the Applicants Mr.M.Chanda submits that there are developments in these cases and the Government of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc. Shillong and the proposal is under active consideration, but final approval is awaited. He further submitted that considering the development took place in all these matters Applicants will be satisfied if they are permitted to submit comprehensive representation with a direction to the concerned Respondents to consider and dispose of the same and take a decision within a time frame. Counsel for the Respondents has no objection in adopting such course of action.

4. Accordingly, we direct the Applicants to make individual comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the said Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter.

5. All the O.A.s are disposed of accordingly. No order as to costs.

Sd/VICE CHAIRMAN  
Sd/MEMBER (A)

Central Administrative Tribunal  
- 8 SEP 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A. No. 238 /2005

Shri Pradip Kumar Paul.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 16.07.1999- Applicant was selected and appointed for the 3<sup>rd</sup> time as Divisional Accountant on deputation basis under the Respondent No. 2, and presently working in the office of the Executive Engineer, Irrigation and Flood Control Resource Division, Panchmukh, Agartala, Tripura. He stated that the applicant is now altogether working for about 15 years with break in the post of Divisional Accountant on deputation basis. (Annexure-1)
- 12.01.2000- The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh had informed the Respondent No. 2 that the Govt. of Arunachal Pradesh is under active consideration to take over the cadre of Divisional Accounts/ Divisional Accounts Officer. (Annexure-2)
- 01.02.2005- Applicant approached the Hon'ble Gauhati High Court for setting aside the orders of repatriation as well as for issuance of a direction upon the respondents to permanently absorb the applicant in the post of Divisional Accountant in consideration of the long period of services rendered. The Hon'ble High Court dismissed the writ petitions vide common judgment and Order dated 01.02.05. (Annexure-3)
- 28.03.2005- Respondent No. 2 has issued a letter to the Respondent No. 4, in response to his letter dated 24.03.05, wherein it has been intimated the confirmation of the Headquarters i.e. Respondent No. 1 on the matter of extension of deputation period of 31 Divisional Accountants (including the present applicant). It has also been communicated therein that for the present and in view of the developments, the judgment of the High Court in respect of the 12 Divisional Accountants (including the present applicant) is not being implemented. (Annexure-4)
- The applicant reasonably apprehend that they may be ousted at any point of time without being considered for absorption in the light of the decision communicated through the letter dated 28.03.05.

Pradip Kumar Paul.

15.07.2005- Respondent No. ~~41~~ <sup>8</sup> vides his letter bearing No. DA/TRY/15/99/ Part dated 15.07.05, addressed to the Respondent No. 2, requested the office of the Respondent No. 2 to reconsider its decision on repatriation of the deputationists. It is also informed by the Respondent No. ~~8~~ <sup>11</sup> that the scheme for taking over the administrative control of the cadre of DAs/DAOs by the Government of Arunachal Pradesh is being submitted to the office of the Respondent No. 2 within a fortnight for perusal and necessary approval. (Annexure- 5)

Dated nil' July- Govt. of Arunachal Pradesh submitted a scheme to the Respondent No. 2, for taking over the administrative control of cadre of Divisional Accountants comprising Sr. DAOs/DAOs Grade I & II and Divisional Accountants. (Annexure-6)

### P R A Y E R S

Under the facts and circumstances stated above, the applicant humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s) upon making the following declarations:

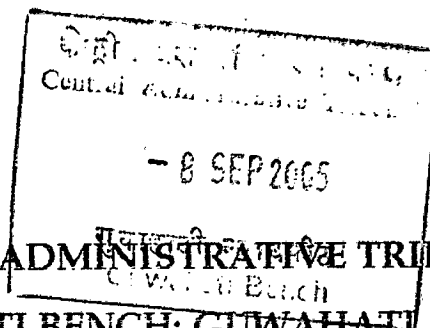
1. The applicant are entitled to consideration of their cases for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil' 2005.
2. The respondents are liable to consider the cases of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil' 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law.
3. Cost of the application.
4. Any other relief(s) to which the applicant are entitled as deemed fit and proper by the Hon'ble Tribunal.

#### Interim order prayed for.

During pendency of this application, the applicant pray for following interim relief (s):

1. That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar for the respondents to extend the relief (s) prayed for, to the applicant and accordingly, the respondents be restrained from repatriating the applicant without considering their cases for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil' 2005.

*Indip Kumar Paul.*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 338 /2005

Shri Pradip Kumar Paul. : Applicant.

-Versus -

Union of India & Others. : Respondents.

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Filed by

*Subrata Nath*  
Advocate.

Date :

*Pradip Kumar Paul*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A No. 238 /2005

14  
Filed by the applicant  
through Subordinate  
Judge  
09.09.05

**BETWEEN:**

1. Shri Pradip Kumar Paul  
S/o Late Paresh Chandra Paul,  
Divisional Accountant,  
O/o The Executive Engineer,  
Irrigation and Flood Control, Resource Division  
Panchamukh, P.O- Agartala,  
West Tripura- 799003.

... Applicant.

**-AND-**

1. Union of India,  
Through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E)  
Arunachal Pradesh, Meghalaya, Mizoram etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
Represented by the Secretary to the  
Government of Arunachal Pradesh,  
Department of Power, Itanagar.
4. The Commissioner, Finance Department  
Government of Arunachal Pradesh,  
Itanagar.
5. The Chief Engineer, I & FCD  
Government of Arunachal Pradesh,  
Itanagar.

Pradip Kumar Paul.

6. The Chief Engineer, I & FCD,  
Government of Tripura,  
Agartala.
7. The Chief Engineer,  
PWD (R&B),  
Agartala,  
Tripura.
8. The Director of Accounts & Treasuries,  
Government of Arunachal Pradesh,  
Naharlagun-791110.

... Respondents.

#### DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made:

This application is made praying for a direction upon the respondents, more particularly on the respondents No. 1, 2 & 3 for consideration of absorption of the applicant as regular Divisional Accountant, in the light of the decision contained in D.O letter dated 28.03.2005 issued by the respondent No. 2 addressed to respondent No. 4 as well as the decision of Govt. of Arunachal Pradesh contained in letter No. DA/TRY/15/99/Part dated 15<sup>th</sup> July, 2005 and also in the light letter/Memo No. DA/TRY-27/2000 dated July' 2005 and also for a further direction upon the respondents to allow the applicant to continue to work as Divisional Accountant with the present status till the completion of the process of absorption, and the process of handing over and taking over of the Accounts set up is completed.

*Indip Kumar Paul*

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

- 4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges granted by the constitution of India. The applicant is presently working as Divisional Accountant under the administrative control of the respondent No. 2 on deputation basis and he is now posted in Office of the Executive Engineer in the resource Division, Agartala, P.O.-Agartala, Tripura.
- 4.2 That the applicant was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, the Rural Works Department was bifurcated by the Government of Arunachal Pradesh following a policy decision and created two separate independent departments, that is, Public Health Engineering Department (in short PHED) and Irrigation and Flood Control Department (in short IFCD) after bifurcation. The applicant is placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh. Therefore, IFCD is the parent department of the present applicant.
- 4.3 That the applicant is presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. In this connection it may be stated that the applicant in pursuant to a requisition sent by the office of the

Pradip Kumar Paul



Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, applied for the post of Divisional Accountant under the administrative control of Respondent No. 2. Be it stated that the respondent No. 2 vide circular bearing No. D/Cell/2-49/97-98/Vol. II/245 dated 20.01.98, invited application from the candidates who are willing to serve as Divisional Accountant available in the administrative control of respondent No. 2. The applicant who was then serving in the office of the IFCD, Itanagar and applied for the said post and thereafter was selected for the third term for the said post on deputation basis. Consequent to his selection for the post of Divisional Accountant he was appointed as Divisional Accountant vide appointment letter bearing No. E.O. No. DA Cell/68 dated 16.07.1999. In the said appointment letter it is stated that the appointment will be for duration of 1 year and the applicant is liable to be posted under the administrative control of Respondent No. 2 in any vacant post of Divisional Accountant. However, the said period of deputation is normally extended from time to time with the consent of the parent organization of the applicant i.e. the State of Arunachal Pradesh.

It is relevant to mention here that the applicant was earlier also in two occasions selected and appointed to the post of Divisional Accountant under the administrative control of Respondent No. 2 during the year 1989 to 1995 again in the year 1996 to 1999 and this is the third occasion when the applicant is found suitable for appointment for the post of Divisional Accountant. It will be pertinent to mention here that the applicant while working as UDC, in his parent department came on deputation to a higher post carrying higher scale of pay of Rs. 5,000-8,000/- under the Respondent No. 2, i.e. A.G (A&E), Shillong. Such expectation of the applicant as Divisional Accountant has been well recognized by the authorities. As such the applicant is now altogether working for about 15 years with break in the post of Divisional Accountant on deputation basis

Poojip Kumar Paul

Copy of the appointment letter dated 16.07.99 is annexed herewith as Annexure- 1.

4.4 That the applicant in the present Original Application is seeking his permanent absorption as Divisional Accountant in the organization and administrative control of Director of Accountants & Treasuries, Government of Arunachal Pradesh. Though this applicant has worked for nearly 15 years in three different occasions as Divisional Accountant in the organization 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 applicant to his parent department of IFCD, Govt. of Arunachal Pradesh, what makes the likely repatriation of the applicant to his parent department of IFCD, Govt. of Arunachal Pradesh, but his place is 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 applicant to the post of presently being held by him, wherein he has worked for nearly 15 years by repatriating him to his parent department, the respondents are only bringing a person on deputation to work in the place of applicant. It is also noteworthy that the applicant is competent to be permanently absorbed in the deputation post of Divisional Accountant. Moreover, though he worked on deputation but his appointment was against the permanent post in a suitable capacity and his such appointment was pursuant to a selection. Hence the present original application.

4.4 That it is stated that initially, there was a move on the part of the Respondent No. 3 to take over the entire accounts set up from the administrative control of the respondent No. 2 in the manner as the Government of Assam had taken it over, which is evident from letter bearing No. DA/TRY/15/99 dated 12<sup>th</sup> January'2000. In the said letter, the respondent no. <sup>8</sup>11, while addressing the aforesaid letter to the respondent

Poojip Kumar Paul

No. 2 - had contended that as it was under active consideration of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountants/ Divisional Accounts Officers totaling 91 (Ninety One) posts from the existing combined cadre being controlled by the respondent No. 2 and now the respondent No. 3 had decided to take over the said cadre and place thus under the direct control of the respondent No. <sup>8</sup>11 with immediate effect.

It was further contended in the said letter that henceforth no fresh Divisional Accountants on deputation would be entertained however, cases of those who were presently on deputation and serving in the State would be examined for their future continuation even after completion of the term of deputation. Accordingly, the respondent No. 2 was requested to take necessary action so that the process of transfer of cadre alongwith the willing personnel could be completed immediately.

The respondent No. <sup>8</sup>11 also contended that that the formal notification in that regard was under issue and would be communicated in due course.

A copy of the letter-dated 12.01.2000 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure -2.

4.5 That it is stated that in view of the categorical stand of the respondent No. 3 that the entire account set up would be taken over by them with an opportunity to the incumbent/applicant to opt for absorption in the new cadre, the applicant anticipated his regular absorption in the higher pay-scale, cadre, rank and status. But unfortunately, the respondent No. 2 had issued orders repatriating the applicant even though the resultant vacancies were going to be filled up by bringing other persons on deputation.

4.6 That in the aforesaid circumstance, the action of the respondents amounted to replacing a person on deputation by another person on

Pandip Kumar Paul

deputation and this was done notwithstanding the fact that the process of taking over the Accounts Cadre by the respondent No. 3 was under way.

- 4.7 That when the matter rested at that stage, the applicant submitted representations to the respondents seeking consideration of his absorption in the light of the decisions of the respondent No. 3 as mentioned herein above and therefore, sought continuation as Divisional Accountant till the process of taking over was completed.
- 4.8 That the applicant while serving as such, the office of the respondent No. 2 issued the impugned order of repatriation bearing letter No. DA Cell/2-46/92-93/2000-01/Vol. I/1216 dated 25.02.2002. However, the applicant against the said order of repatriation approached the Hon'ble Gauhati High Court through W.P. (C) No. 172 (AP)/2003, praying for setting aside and quashing the proposed action of the respondents to repatriate the applicant by the impugned order dated 25.02.02 to his parent department and also prayed for a direction upon the respondents to permanently absorb the applicant as Divisional Accountant in the organization and administrative control of Director of Accountants and Treasuries, Government of Arunachal Pradesh.
- 4.9 That the W.P. (C) No. 172 (AP)/2003 filed by the applicant along with other similar cases were taken up by the Hon'ble High Court together for hearing and after having heard the matters at length, the Hon'ble High Court came to the findings that (a) the order of putting an employee on deputation does not confer upon him any right for permanent absorption, (b) the question of absorption of a person on deputation is dependant on the decisions of the lending and the borrowing departments, (c) the orders of repatriation passed against the applicant after expiry of the term did not disclose any illegality or infirmity nor did those violate any statutory rule or regulation and therefore, (d) no fundamental right of the petitioners (applicant herein) was violated.

Indip Kumar Paul

- 4.10 That In the aforesaid circumstance, the Hon'ble High Court did not find any merit in the prayers of the applicant and accordingly, dismissed the writ petitions vide Judgment & Order dated 01.02.2005.

A copy of the aforesaid Judgment & Order is annexed herewith for perusal of Hon'ble Tribunal as Annexure - 3.

- 4.11 That it may be mentioned at this stage that still there are 19 (nineteen) cases pending before the Gauhati High Court where the similar question in respect of some other Divisional Accounts are involved. It may not be out of place to mention that in 9 (nine) cases, this Hon'ble Tribunal had directed the respondents to consider the cases of the applicant therein for their permanent absorption. However, the Respondent No. 2 has preferred Writ Petitions against those Orders of this Hon'ble Tribunal before the High Court. The other 12 Writ Petitions have been filed by other Divisional Accountants challenging the respective Orders of their repatriations and all these 19 cases are awaiting decision.

- 4.12 That consequent to passing of the aforesaid Judgment and Order dated 01.02.2005 by the Gauhati High Court; the Respondent No. 2 has now issued a letter-dated 28.03.2005 to the Respondent No. 4 in response to his D.O. letter No. DA CELL/1-8/Court Case/2000-2001/1909 dated 24.03.2005 and thereby has intimated confirmation of the Headquarters i.e. Respondent No. 1 on the matter of extension of deputation period of all 31 Divisional Accountants (including applicant herein). It has been communicated therein that for the present and in view of the developments, the judgment of the High Court in respect of the 12 Divisional Accountants (including applicant herein) is not being implemented and the 19 Divisional Accountants might be requested to withdraw their respective cases from the Court consequent to which their continuity on deputation will be considered. It has, thus, demonstrated the willingness of Respondent No. 2 extend the period of deputation of all

Pradip Kumar Paul

the 19 Divisional Accountants subject to withdrawal of their cases from Courts. It has also been communicated through the letter dated 28.03.2005 that on the question of absorption of all these 31 Divisional Accountants, the Headquarters has informed that modalities would be worked out and the persons on deputation may be communicated accordingly.

A copy of aforesaid letter dated 28.03.2005 is annexed herewith for perusal of Hon'ble Tribunal and marked as Annexure-4.

- 4.13 That the applicant states that notwithstanding the aforesaid stand of the Respondent No. 2, steps are being taken to repatriate them to their parent cadre. Although the aforesaid letter of the Respondent No. 2 demonstrates a situation where the persons similarly situated like the present applicant would be considered for their continuation/permanent absorption as Divisional Accountants subject to withdrawal of Court cases, the cases of the present applicant are going to be ignored in an arbitrary and unfair manner. The applicant, therefore, reasonably apprehend that he may be ousted at any point of time without being considered for absorption in the light of the decision communicated through the letter dated 28.03.2005.

It is ought to be mention that the applicant presently working in the State of Tripura, against a regular post of Divisional Accountant, under the administrative control of Respondent No. 2. As such, there is no difficulty to consider the case of the applicant for absorption against any regular vacancy including the vacancy now holding by the applicant either in the state of Tripura or in the State of Arunachal Pradesh where more than 12 posts of Divisional Accountants are lying vacant. Be it stated that the applicant is already holding a regular post of Divisional Accountant on deputation basis.

- 4.14 That the Respondent No. <sup>8</sup>~~11~~ (Director of Accounts & Treasuries, Government of Arunachal Pradesh, Naharlagun) vides his letter bearing No. DA/TRY/15/99/Part dated 15.07.2005 addressed to the Respondent

Pandip Kumar Paul

No. 2, requested the office of the Respondent No. 2 to reconsider its decision on repatriation of the deputationists. In the said letter the Respondent No. <sup>8</sup>11, also informed the Respondent No. 2 that the scheme for taking over the administrative control of the cadre of DAs/DAOs by the Government of Arunachal Pradesh is being submitted to the office of the Respondent No. 2 within a fortnight for perusal and necessary approval. It is stated that from the letter dated 15.07.2005, it is quite clear that the Govt. of Arunachal Pradesh has shown its willingness to take over the cadre of DAs/DAOs, therefore, from the letter dated 28.03.05 as well as from the letter 15.07.05 it is made clear that both the borrowing department and lending department has shown their willingness for permanent absorption of the Divisional Accountants/Divisional Accounts Officers. Be it stated that the Comptroller and Auditor General also sought an option from the State of Tripura regarding taking over the entire Accounts set up under the administrative control of the Govt. of Tripura as such there is no difficulty to absorb the applicant to the post of Divisional Accountant either in the State of Tripura or in the State of Arunachal Pradesh. In this connection it may be stated that the State of Arunachal Pradesh i.e. the parent department of the applicant have already decided to take over the entire Accounts set up and to that effect scheme have already been submitted by the Govt. of Arunachal Pradesh to the Accountant General (A&E), Meghalaya, Shillong vide letter/memo bearing No. D.A/TRY-27/2000 dated nil July' 2005. It is ought to be mentioned here that in the similar process the State of Assam has taken over the entire Accounts set up from the administrative control of the Accountant General (A&E), Assam and the cadre of Divisional Accountant are now exclusively under the administrative control of State of Assam.

In view of the categorical decision of the Govt. of Arunachal Pradesh communicated to the Accountant General (A&E), Meghalaya, Shillong vide letter dated 15.07.2005 and memo dated nil July' 2005, the

Pradip Kumar Paul

applicant should be allowed to continue in his present capacity till the process of handing over and taking over of the Accounts set up by the Govt. of Arunachal Pradesh and or by the other State Government is completed. In this connection it may further be stated herein that the office of the Accountant General (A& E), Meghalaya, Shillong vide letter bearing No. DA. Cell/MVKN/DEPT./HIGH COURT/213 dated 24.05.2005, whereby the applicant is sought to be repatriated to his parent department i.e. under the Govt. of Arunachal Pradesh, in the office of the Chief Engineer, I&FC department pursuant to the decision of the Hon'ble High Court passed in W.P (C) No. 172 (AP)/2003, wherein there was a direction to repatriate the applicant with immediate effect, however, the applicant has not yet been released till filing of this application.

The applicant is now approaching this Hon'ble Court in view of the changed circumstances, the Writ Petition of the applicant was dismissed mainly on the ground that neither the borrowing department nor the landing department was agreed for absorption of the present applicant/writ petitioner, but now after the dismissal of the writ petition, the circumstance has been totally changed, more so in view of the fact the parent department of the present applicant i.e. the Govt. of Arunachal Pradesh has already submitted a scheme for handing over the entire Accounts set up to the Govt. of Arunachal Pradesh from the administrative control of the A.G (A&E), Meghalaya etc. Besides the Govt. of Arunachal Pradesh in their letter dated 15.07.2005 categorically expressed their willingness to allow to continue the deputationists working in the cadre of Divisional Accountant, the applicant being similarly circumstanced Divisional Accountant like the applicants of O.A. No. 114/2005 and O.A. No. 115/2005, approaching this Hon'ble Court, praying for an appropriate direction upon the A.G (A&E), Meghalaya etc. to allow the applicant to continue till the process of handing over and taking over of the Accounts set up is completed so that the State Govt. of Arunachal Pradesh and other State Govt. are enable to start the process of

Rudip Kumar Paul



absorption of the deputationist like the present applicant and other similarly situated employees.

Copy of the letter dated 15.07.2005, and letter dated nil July' 2005 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5, and 6 respectively.

- 4.14 That the applicant state that in view of the decision of the High Court as mentioned hereinabove, although they may have no absolute right of permanent absorption, still, they have a right to have their cases considered when the borrowing department decides to absorb the persons on deputation and the lending department agrees to such decision. In the present case, a consensus among the borrowing and lending department on the issue of absorption of Divisional Accountants being explicit in the letter dated 28.03.2005, 24.05.2005 as well as letter dated nil' July, 2005 a right of due consideration has accrued to the applicant to have their cases considered vis-à-vis other similarly situated persons for permanent absorptions.
- 4.15 That in view of the facts and circumstances narrated above, the respondents are duty bound to also consider the cases of the present applicant notwithstanding the declaration of law made by the High Court to the affect that right of absorption is not absolute rather the question of absorption of a person on deputation is dependant on the decisions of the lending and the borrowing departments. In the circumstances, the Hon'ble Tribunal may be pleased to issue appropriate directions to the respondents to consider the cases of the applicant in the light of the decisions contained in the letter dated 28.03.2005, dated 24.05.2005 as well as letter dated nil July' 2005.
- 4.16 That the applicant is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

Poojip Kumar Paul

- 5.1 For that the applicant, being similarly situated like the other 19 Divisional Accountants, have a right of having his case also duly considered by the respondents for permanent absorption as Divisional Accountants.
- 5.2 For that the letter dated 28.03.05, 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005, demonstrates the willingness of Respondents to extend the period of deputation of all the Divisional Accountants including 19 Divisional Accountants and also for their permanent absorption subject to withdrawal of their cases from Courts and as such, such a decision creates a right in favour of the present applicant for due consideration of his case.
- 5.3 For that in view of the judgment of the High Court, the right of permanent absorption being dependent on the desire of the borrowing and lending departments and, in view of the consensus among the borrowing and lending department on the issue of absorption of Divisional Accountants which is explicit in the letter dated 28.03.2005, 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005, a right of due consideration has accrued to the applicant to have his case for permanent absorptions considered vis-à-vis other similarly situated persons.
- 5.4 For that the applicant being similarly situated to the other Divisional Accountants is entitled for a fair consideration of his case by the respondents and a decision to consider the cases of others ignoring the cases of the present applicant is violative of Article 14 and 16 of the Constitution of India.
- 5.5 For that the action of the respondents in attempting repatriation of the applicant by going against the spirit of the decision as contained in the letter-dated 28.03.2005, 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005 is ex-facie bad in law, arbitrary and liable to be interfered with.
- 5.6 For that the judgment of the High Court is a declaration with regard to the rights of the parties and does not any way debar the respondents from considering the cases of the applicant for continuation/permanent

Pradip Kumar Paul

absorption if the borrowing and lending departments so agree and therefore, the said judgment of the High Court cannot be used as a tool for not considering the cases of the applicant notwithstanding the agreement reached in that regard by the concerned departments.

- 5.7 For that in view of the matter, the action of the respondents in keeping the applicant outside the zone of consideration and repatriating them to their parent cadre is arbitrary, discriminatory and liable to be declared illegal.

6. Details of remedies exhausted.

That the applicant states that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had previously filed application/ Writ Petition before this Hon'ble Tribunal/High Court. However, those cases were disposed of by this learned Tribunal as well as by the Hon'ble High Court.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly pray that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s) upon making the following declarations:

- 8.1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005.

*Pradip Kumar Paul*

8.2 The respondents are liable to consider the case of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law.

8.3 Cost of the application.

8.4 Any other relief(s) to which the applicant is entitled as deemed fit and proper by the Hon'ble Tribunal.

9. Interim order prayed for.

During pendency of this application, the applicant prays for following interim relief (s):

9.1 That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar for the respondents to extend the relief (s) prayed for, to the applicant and accordingly, the respondents be restrained from repatriating the applicant without considering his case for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	20 G J 58680
ii)	Date of Issue	:	29.8.05
iii)	Issued from	:	G P O. Guwahati
iv)	Payable at	:	G P O. Guwahati

12. List of enclosures.

As given in the index.

*Pradip Kumar Paul*

VERIFICATION

I, Shri Pradip Kumar Paul, S/o Late Paresh Chandra Paul, aged about 35-48 years, presently working as Divisional Accountant, O/o The Executive Engineer, Irrigation and Flood Control, Resource Division, Panchamukh, P.O- Agartala, West Tripura- 799003, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 4<sup>th</sup> day of September' 2005.

Pradip Kumar Paul

OFFICE OF THE ACCOUNTANT GENERAL (A&E), MEGHALAYA, ARUNACHAL PRADESH AND MIZORAM : SHILLONG  
-000000000000- (43)

EO.No.DA.Cell/68

DATED 16.7.99

Consequent on his selection for the post Divisional Accountant (on deputation basis) in the pay scale of B.1400-40-1600-50-2300-60-2600/- in the combined cadre of Divisional Accountants under the Administrative control of the office of the Accountant General (A&E), Meghalaya, etc., Shillong, Shri Pradip Kumar Paul UDC at present working in the office of the Chief Engineer, STFCO Dhanagar is posted on deputation as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala Tripura

2. Shri Pradip Kumar Paul 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 post 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 Pradip Kumar Paul will be for a duration of 1(one) year only from the date of joining in the office of the Executive Engineer Resource Division, Agartala Tripura

4. The pay and deputation(Duty) allowances in respect of Shri Pradip Kumar Paul 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.....2/.....

Attested  
Advocate

(42)

31

as amended and modified from time to time. That on deputation, Shri Radip Kumar Paul may elect to draw either the pay in the scale of any of the deputation post or his basic pay in the parent cadre plus personal pay, if any plus deputation (duty) allowance. Shri Radip Kumar Paul on deputation, should exercise option in this regard within a period of 1 (one) month from the date of joining the <sup>assignment</sup> department (i.e. the aforesaid post of deputation). The option once exercised by Shri Radip Kumar Paul shall be treated as final and cannot be altered/changed later under any circumstances whatsoever.

5. 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. E1 (6) E-IV(A)/62 dtd. 7-12-1962 (incorporated as Annexure to Govt of India decision No. in Appendix 31 of Choudhury's C.S.R. Volume IV (13th. Edition) and as amended and modified from time to time.)

6. Shri Radip Kumar Paul 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.

7. Prior concurrence of this office must be obtained by the Divisional Officer before Shri Radip Kumar Paul (on deputation) is entrusted additional charges, appointed or transferred to a post/station other than that cited in this Establishment officer.

50/-  
 न. र. महासचिव (प्र.)  
 Sr. Dy. Accountant General (Admn)  
 महासचिव (प्र. प्र.) अ. प्र. विभाग  
 Office of the A.G. (A&E)  
 Senior Assistant in Accounts  
 Meghalaya, Shillong A.P.  
 1962

(H)

Memo No. D. Cell/2-19/94-02/686-004

Dt. 19.7.99

Copy forwarded for information and necessary action to :-

1. The Accountant General (AGZ) Tripura Agartala.
2. The Chief Engineer, I & P.C. Deptt. Itanagar, Arunachal Pradesh. He is requested to release Shri Pradip Kumar Paul immediately with the direction to report to his place of posting on deputation under intimation to this office.
3. The Chief Engineer, (WR) Kumbhajan Agartala Tripura for information.
- REGD 4. The Executive Engineer, Resource Division Agartala Tripura. He is requested to intimation the date of joining of Shri P.K. Paul in his Division as DA on deputation.
5. Shri Pradip Kumar Paul, UNC Office of the Chief Engineer, I & P.C. Itanagar.
6. A.O. File.
7. S.C. File.
8. P.C. File of Shri P.K. Paul.
9. Deputation file.

P00637

Senior Accounts Officer,  
A/c D. Cell.



ANNEXURE-2

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries

Naharlagun-791110

No.DA/TRY/15/99

Dated, the 12<sup>th</sup> January, 2000

To,

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

Sub: 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.

Attested  
for  
Advocate

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,

Sd/-

(Y. Megu)

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

**1. WRIT PETITION(C) NO.459(AP) OF 2001**

... Petitioner.

## ... Respondents

**... Petitioner.**

Certified to be a  
true copy

true copy  
 157-105-  
 North Carolina Jail  
 Criminal Justice Center, Raleigh, North Carolina  
 Noharlovon  
 Authorized U/S 76 of Act  
 of 1972

3. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
4. The Executive Engineer, Power Department,  
Hayullang Civil Division, Hayuliang, A.P.

... Respondents

### **3. WRIT PETITION(C) NO.729(AP) OF 2001**

**Sri Tonkeswar Borah,  
Son of late Golap Chandra Borah,  
Presently working as Divisional Accountant,  
Office of Executive Engineer,  
Tezu PWD Division, Tezu.**

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer (EZ), P.W.D.,  
Govt of Arunachal Pradesh, Itanagar.
6. The Executive Engineer, Public Works Department,  
Tezu Division, Tezu, A.P.

... Respondents

### **4. WRIT PETITION(C) NO.820 (AP) OF 2001**

**Shri Sanchyan Kumar Dam.  
Son of late Subodh Kumar Dam.  
Presently working as Divisional Accountant,  
Office of the Executive Engineer,  
Seppa Electrical Division, Seppa.**

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.

**Certified to be a  
true copy**

*[Handwritten Signature]*  
Asst. Registrar, Tezu  
District Court, Tezu

Naharkyann

Enacted U/S 76 of Act  
of 1872

2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, P.W.D.,  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

## 5. WRIT PETITION(C) NO.112 (AP) OF 2002

1. Shri Lendi Chatung,  
S/o late Lendi Shala,  
Office of the Executive Engineer (Electrical),  
Along, West Siang.

2. Shri Love Rao,  
s/o Luxmi Rao,  
Office of the Executive Engineer,  
D.O.P.Civil, Along.

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
4. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
5. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, Department of Power,  
Govt of Arunachal Pradesh, Itanagar.
6. The Chief Engineer, PWD,  
Western Zone, Govt of Arunachal Pradesh,  
Itanagar.

... Respondents

Verified to be a  
true copy

*[Handwritten Signature]*

Authorized U.S. 76 of Act 1  
of 1372

6. WRIT PETITION(C) NO.221 (AP) OF 2002

**Shri Jumi Kamum,  
Son of Shri T.Kamum,  
IFCD Daporijo Division,  
Upper Subansiri District,  
Arunachal Pradesh.**

**... Petitioner.**

## -Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, IFCD.,  
Daporijo Division, Upper Subansiri,  
Arunachal Pradesh.

### ... Respondents

7. WRIT PETITION(C) NO.301 (AP) OF 2002

**Shri L.Appal Swami,  
Son of late L.A.Naidu,  
Presently working as Divisional Accountant,  
Office of the Executive Engineer PHED Khonsa,  
District Tirap, A.P.**

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Health Engineering Department, Itanagar.
3. The Comptroller and Auditor General of India,  
**Bahadur Shah Zaffar Road,**  
**Indraprastha Head Post Office,**  
**New Delhi 110 002.**

Certified to be a  
 true copy

true copy  
*Handwritten signature*  
 1572708  
 Asst. Recorder-Judt  
 District Court, Langar Branch  
 Noharicoma  
 Dated and Filed U.S. 70 of Act 1  
 of 1872

4. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
5. The Chief Engineer (EZ),  
P.W.D., Itanagar
6. The Chief Engineer,  
Public Health Engineering Department, Itanagar.
7. The Senior Deputy Accountant General (Admn),  
Accountant General (A&E), Meghalaya etc. Shillong.
8. The Senior Deputy Accountant General,  
Office of the Accountant General, Meghalaya etc.  
Shillong.
9. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
10. The Executive Engineer, P.H.E.D.,  
Khonsa, District Tirap, Arunachal Pradesh.

... Respondents

## 8. WRIT PETITION (C) NO.472 (AP) OF 2002

**Shri Santanu Ghosh,**  
**S/o late S.R. Ghosh,**  
**Office of the Executive Engineer,**  
**RWD, Yingkiong, Upper Siang, A.P.**

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Rural Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, Department of RWD,  
Govt of Arunachal Pradesh, Itanagar.
6. The Superintending Engineer,  
RWD, Papumpare District, Itanagar.

... Respondents

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Asst. Registrar (Adm.)  
Court of Sessions, Itanagar

Notarized on

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of 1872

## 9. WRIT PETITION(C) NO.409 OF 2002

Shri Dilip Kumar Dey,  
Divisional Accountant,  
Office of the Executive Engineer, PWD, Boleng Division,  
Govt of Arunachal Pradesh, via Pashighat, District East Siang,  
Arunachal Pradesh

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, Public Works Department,  
Boleng Division, Boleng.
6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

## 10. WRIT PETITION(C) NO.410(AP) OF 2002

Shri Tashi Namgey,  
Divisional Accountant,  
Office of the Executive Engineer, PWD, Seppa Division,  
Govt of Arunachal Pradesh,

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.

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15/7/2005  
Secretary, Public Works Department, Itanagar  
Arunachal Pradesh



4. The Chief Engineer, Public Works Department,  
Naharlagun, Arunachal Pradesh.
5. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
6. The Executive Engineer, Public Works Department,  
Seppa Division, Seppa.
6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

### **11. WRIT PETITION(C) NO.172 (AP) OF 2003**

**Shri Pradip Kumar Paul,  
Working as Divisional Accountant,  
Office of the Executive Engineer,  
Irrigation and Flood Control, Resource Division,  
Panchamukh, PO Agartala, West Tripura.**

... Petitioner.

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Irrigation and Flood Control Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer,  
Resource Division, Agartala, Tripura.

... Respondents

### **12. WRIT PETITION(C) NO.256 (AP) OF 2003**

**Shri Lani Bhusan Karmakar,  
Office of the Executive Engineer,  
Public Works Department@,  
Dumporijo Division, Upper Subasansiri District,  
Arunachal Pradesh.**

... Petitioner.

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**Notary Public**

**Naharlagun**

**Authorized U/S 76 of Act  
of 1872**

**-Versus-**

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, Public Works Department ©,  
Dumporijo Division, Upper Subansiri District,  
Arunachal Pradesh.
6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

**BEFORE****HON'BLE MR.JUSTICE I.A.ANSARI****HON'BLE MR.JUSTICE H.N.SARMA**

For the petitioners : Mr.M.Chanda, Mr.U.K.Nair, Mrs. B.Goyal,  
Mr.A.Roshid, Mr.K.Ete, Mr. T.Michi,  
Mr.B.Habuang, Mr. K.Tapa, Mr.K.Tini,  
Mr. S.Dutta, Mr.S.K.Gosh, Advocates.

For the respondents : Mr.M.Partin, C.G.S.C.,  
Mr.B.L.Singh, Sr. Govt Advocate, Arunachal Pradesh

Date of hearing :

Date of judgment : 01-02-05

**JUDGMENT AND ORDER****H.N.SARMA J.**

This batch of writ petitions involve common question of law and facts. The grievance of the petitioners, in all these petitions, is against the order of repatriation from different Departments of the Government of Arunachal Pradesh i.e. their parent Departments, by the Accountant General, who posted the petitioners on deputation as Divisional Accountants in various offices of

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Arunachal Pradesh. It is the further prayer of the petitioners, in all the writ petitions, that they should be permanently absorbed in their existing deputation posts of Divisional Accountant under the State of Arunachal Pradesh. With similar prayer, some of the petitioners, namely, petitioners in W.P© No. 221(AP)/02, W.P© No.256/03, W.P© No.409(AP)/02 and W.P© No.410(AP)/02 initially approached the Central Administrative Tribunal, Guwahati and the learned Tribunal having dismissed their prayers, they have challenged the respective orders before this High Court and accordingly, those cases came to be taken up by the Division Bench of this Court. The petitioners in other writ petitions namely WP© No.229(AP)/01, WP© No.820(AP)/01, WP(c) No. 459(AP)/03, WP(C) No. 517(AP)/01, WP(C) No.112(AP)/02, WP© No.301(AP)/02, WP© No.473/02 directly approached this High Court and those cases were taken up by the learned Single Judge. In WP© No. 409(AP)/02 and W.P© No.410(AP)/02 a Division Bench of this Court by order, dated 11.08.03, directed that all these writ petitions referred to above, which are pending before the Single Bench, be listed for hearing before a Division Bench along with the said writ petitions. Accordingly, all the aforesaid cases have come up for hearing before the Division Bench.

2. The common case of the petitioners are that while they were serving as Upper Division Clerks in various offices of the Government of Arunachal Pradesh, the office of the Accountant General, Arunachal Pradesh and Meghalaya, vide Circular No.DA. Cell/2-49/97-98/ Vol.II/ 245, dated 20.01.98, invited applications from candidates, who are willing to serve temporarily as Divisional Accountant in Public Works Department in Manipur, Arunachal Pradesh and Tripura for a period of one year on deputation basis. In pursuance of the aforesaid circular, the petitioners gave their consent for such deputation, and duly applied for the same. On consideration of their applications, the Accountant General (A&E), Meghalaya and Arunachal Pradesh, posted the petitioners on deputation as Divisional Accountant for a period of one year in the following manner:

1. Dilip Kr. Dey, UDC, Office of the executive Engineer, PWD Yingkiong Division (petitioner in W.P© No.409(AP)/02) posted as Divisional Accountant, Boneng PWD Division on deputation for a period of one year by order dated 05.04.99.

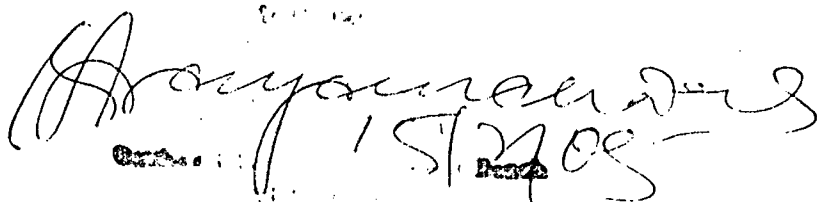
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 Assam  
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2. Toshi Namgey, UDC, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.410(AP)/02) posted on deputation as Divisional Accountant, Seppa PWD Division for one year.
3. Jumi Kamum, UDC, Office of the Executive Engineer, PWD Basar Sub-Division (petitioner in WP© No.221(AP)/02) posted on deputation as Divisional Accountant, Daporijo I & F.C. Division for one year.
4. Lani Bhushan Karmakar, UDC, Office of the Executive Engineer, PWD Anini Division (petitioner in WP© No.256(AP)/02) posted on deputation as Divisional Accountant, Damporijo PWD Division for one year.
5. Thankswar Borah, UDC, Office of the Executive Engineer, PWD Damporijo Civil Division PWD (petitioner in WP© No.729(AP)/02) posted on deputation as Divisional Accountant, Damporijo Civil Division PWD by order dated 22.01.97 for one year.
6. Sanchyan Kumar Dam, LDC, Office of the Executive Engineer, PWD Kalaktang Division (petitioner in WP© No.459(AP)/02) posted on deputation as Divisional Accountant, Division, Nalkatha, Tripura vide order dated 27.01.97 for one year.
7. V.K. Nair, UDC, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.459(AP)/01) posted on deputation as Divisional Accountant, Chandel PWD Chandel, Manipur vide order dated 23.02.96 for one year.
8. Bidhu Bhusan De, UDC, Office of the Executive Engineer, Deomali Electrical Division (petitioner in WP© No.517(AP)/02) posted on deputation as Divisional Accountant in Thoubal Project Division No.II (I&FC), Thoubal, Manipur vide order dated 26.04.96 for one year.
9. Lendi Chatung, UDC, Office of the Executive Engineer, Ziro Electrical Division (petitioner in WP© No.112(AP)/02) posted on deputation as Divisional Accountant, Along Electrical Division vide order dated 11.03.99 for one year; and Shri Love Rao, LDC, Office of the Executive Engineer, PWD Along Division (petitioner in WP© No.112(AP)/02) posted on deputation as Divisional Accountant, Along PWD Division vide order dated 10.03.99 for one year.
10. Santanu Ghosh, Assistant, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.473(AP) /02) posted on

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deputation as Divisional Accountant, Yingking Division, PWD vide order dated 05.03.99 for one year.

11. Pradip Kumar Paul, UDC, Office of the Chief Engineer, I& FC Itanagar (petitioner in WP@ No.172(AP)/03) posted on deputation as Divisional Accountant, Resoruce Division, Agartala, Tripura vide order dated 16.07.99 for one year.

3. In the aforesaid deputation orders, it has been specifically provided that the said deputation is only for a period of one year from the date of joining by the petitioners as Divisional Accountant and no right shall accrue to the petitioners nor they will be entitled to permanent absorption as Divisional Accountant. It is also provided that the said period of deputation may be extended up to 3 years, if his service is considered to be needed and in no case, the period will be extended beyond a period of 3 years. Paragraph 6 of the order of deputation reads as under-

" 6. The period of deputation of ..... 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 three years, if his service is considered to be needed. But in no case, the period of deputation will be extended beyond the period of 3 years."

4. Pursuant to such deputation orders, the petitioners, on being released from their respective parent Departments, duly joined in their deputed posts and served accordingly. The said period of deputation was extended for a further period of 2 years from the date of expiry. In the meanwhile, the Joint Director of Accounts and Treasuries, Government of Arunachal Pradesh, vide letter No.DA/TRY/15/99, dated 15.11.99, wrote to the Accountant General, inter alia, informing that the issue of recruitment and posting of Divisional Accountants to 38 Public Works Divisions of the State of Arunachal Pradesh, which are presently manned by deputationists were under active consideration of the State Government and that before placing the petitioners on deputation, the Government of Arunachal Pradesh was never consulted and although the salaries etc for the petitioners were borne from the State exchequer, the pay scale presently enjoyed by the cadre of Divisional Accountants has been posing problem for granting huge sum in the form of pay and allowances. It was also

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intimated that the State Govt of Arunachal Pradesh is of the view that recruitment and posting of Divisional Accountants for the 38 Divisions of the Public Works Department may not be done since final decision of the Government is still awaited and the persons, who have been serving on deputation, may be allowed to continue for a further period of 2 years in the interest of public service.

5. On receipt of the aforesaid letter as well as on consideration of the terms of deputation orders, the Accountant General, vide letter No.DA.Cell/194/200, dated 11.06.2001, intimated the petitioners that on expiry of the period of deputation to the posts of Divisional Accountant under the administrative control of the Accountant General (A&E), Meghalaya etc., the petitioners are to be repatriated to their parent Departments. When the Accountant General took such decision, the same was challenged before the Central Administrative Tribunal, Guwahati Bench, by the petitioners in WP© Nos. 221/02, 256/03, 409/02 and 410/02 by different similarly situated deputationists in O.A.Nos. 230/01, 234/01 and 276/01 and the learned Central Administrative Tribunal by judgment and order, dated 11.01.02, was pleased to hold, inter alia, that the applicants, who came under the Accountant General (A&E), Meghalaya on deputation are holding the permanent posts in the respective parent Department and at the end of deputation period, they are repatriated and, therefore, nothing illegality is discernible from the orders of repatriation. Accordingly, the applications were dismissed. Similar other applications filed before the learned Tribunal by other employees were also dismissed on the same footing. Thereafter, the Accountant General(A&E), Meghalaya, wrote to various Departments of the State of Arunachal Pradesh informing them that the Divisional Accountants posted in their offices on deputation has been released and are reverted back to their parent Departments. When the judgment and order of the Central Administrative Tribunal was challenged by the deputationists before the Division Bench of this Court along with the orders of repatriation of the deputationists to their parent Department on expiry of the period of deputation, this Court while admitting the petition was pleased to stay the said order of repatriation. The petitioners also prayed for permanent absorption in their deputed posts. The Respondent No. 1 and 2 filed affidavit-in- opposition refuting the prayer made by the petitioners in the writ petitions.

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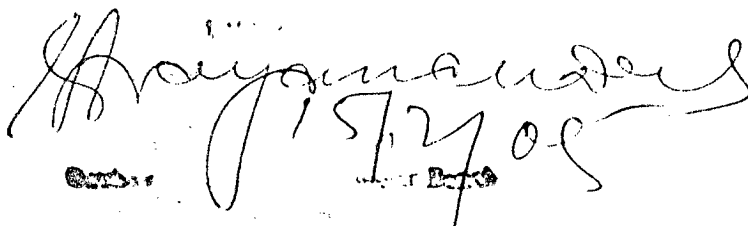
6. We have heard learned counsel appearing for the petitioners. Also heard Mr.M.Partin, learned Sr.CGSC, and Mr.B.L.Singh, learned Senior Govt Advocate, Arunachal Pradesh.

7. Learned counsel for the petitioners have submitted that since the petitioners are working on deputation for a considerable period, they are entitled for permanent absorption in their deputed posts. It has further been submitted that since there is a move for bifurcation towards creation of a new cadre of Accountant General(A&E) for the State of Arunachal Pradesh and necessary process is going on, it would be highly prejudicial to the petitioner, if they are repatriated to their parent Departments without considering their cases for permanent absorption. It has also been submitted that the State Government having taken a decision to take over the administrative control of the accounts cadre from the Accountant General to absorb the services of the existing incumbents, the decision to repatriate the petitioners to their parent Department is illegal and in the aforesaid situation, petitioners are entitled to be permanently absorbed in their deputed posts.

9. Mr.M.Partin, learned Sr.CGSC, on the other hand, refuting the submissions made on behalf of the petitioners contends that as per the recruitment rules governing the service conditions of the petitioners, which came into force with effect from 24.09.98, the period of deputation cannot be extended beyond 3 years. Further, in the deputation order itself, it has been specifically provided that the terms of deputation would be only for a period of one year and at any rate, it cannot be extended beyond the period of 3 years and the petitioners, having joined as per the aforesaid terms and conditions without any reservation, are not now entitled to raise claim for permanent absorption in their deputed posts. It is further submitted that the petitioners have no enforceable right, fundamental or otherwise, and there is no illegality or irregularity in deciding and/or passing the order to repatriate the petitioners to their respective parent Departments after expiry of the period of deputation and, as such, the petitions are not maintainable.

10. Mr.B.L.Singh, learned Senior Govt Advocate on behalf of the State Respondents, has submitted that the State of Arunachal Pradesh has not yet taken any decision to take over the Divisional Accountants from the administrative control of the Accountant General. He submits that it is absolutely within the domain of the Accountant General to keep the petitioners on

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deputation or not. Mr. Singh has also submitted that the terms of the order of deputation having specifically provided that the period cannot be extended beyond three years, the petitioners have no enforceable right or locus to pray for permanent absorption in their deputed posts. It is further submitted that the financial burden of the deputed employees are being borne by the State Government as the deputationists are being paid much higher pay and allowances for the service rendered by them in the deputed posts and due to extreme financial stringency, the State is not in a position to bear the said burden any more. However, due to interim orders passed by this Court, the petitioners are continuing, therefore, he prays for dismissal of the writ petitions. He further contends that there is no illegality in the orders passed by the learned Central Administrative Tribunal and the learned Tribunal has rightly rejected their applications.

11. We have heard learned counsel for the parties at length and considered the rival submissions. The appointment to the posts of Divisional Assistant is regulated by a set of rules framed under Article 148(5) of the Constitution of India, which is applicable to the petitioners. As per the said rules, the method of recruitment to the posts of Divisional Accountant is by way of direct recruitment. It is also provided in the said rules that vacancies caused due to certain exigencies for a duration of one year or more may be filled up on transfer on deputation from the State Public Works Department Clerks holding the posts equivalent or comparable with that of Accountant/ Senior Accountant on regular basis for a period of 5 years including two years experience in public works accounts and the period of deputation shall ordinarily not exceed three years. The petitioners, in the instant case, have not shown that they are eligible for deputation to the posts of Divisional Accountant, as per the aforesaid qualification and experience prescribed in the statutory service rules. Be that as it may, it is an admitted fact that the petitioners were posted on deputation as Divisional Accountant as per the order of the Accountant General (A&E) and the said period of deputation as per the statutory rules cannot exceed beyond three years. In fact, the order/orders, by which the petitioners were placed on deputation, has/have specifically provided that the period of deputation is for a period of one year and under no circumstances, the same would be extended beyond a period of three years.

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12. Learned Sr.C.G.S.C. has submitted that the Accountant General has decided to release and repatriate the petitioners to their parent Departments and in fact, necessary orders of release have been passed in most of the cases. The learned Sr.Govt Advocate, Arunachal Pradesh, has submitted that the State Government has not decided to absorb the petitioners permanently and continuation of the petitioners in the deputed posts has caused serious financial hardships to the State Government. We also find that there is no decision of the State Government to create a separate wing of Accountant General (A&E) for Arunachal Pradesh and as has been submitted by Mr.Singh, the State Government has taken no such decision. Viewed from the aforesaid factual situation, now the question arises as to whether the petitioners are entitled for an order to be absorbed permanently in their deputed posts or not.

13. The decision reported in **State of Punjab vs Inder Singh &Ors, reported in (1997) 8 SCC 372**, is sought to be pressed into service on behalf of the petitioners and it has been submitted that since the petitioners are on deputation for a considerable period, their cases for permanent absorption may be directed to be considered by the Government. In Inder Singh (spura) the petitioner who was enrolled in the Punjab Police, on 31.08.66, as Constable was sent on deputation to C.I.D. in the same rank on 13.04.69. He was sought to be repatriated on 15.09.90, while he was holding the rank of ad hoc Sub-Inspector. During the period of deputation, he was promoted as officiating Head Constable and in the parent Department, he was holding substantive rank of Head Constable. In the background of the aforesaid facts, the Apex Court observed that after allowing to remain on deputation for a period of 20 years, a hope, though not true, still in his mind, that he would be allowed to continue in the C.I.D. holding higher rank till he attained the age of superannuation and accordingly affirmed the order of the High Court to the extent for option given to all those respondents, who put in 20 years qualifying service to seek voluntary retirement from the C.I.D. in the ranks they are holding and they would be deemed to have worked in the C.I.D. up to the date of the judgment. The facts of the present case are entirely different. The petitioners, in the instant cases, were deputed some time in the year 1999 and on expiry of three years they were sought to be repatriated to their parent Departments. No promotion was also affected to the petitioners' while they were serving in the deputed Department and at present, they are continuing as per interim orders of the

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Court. Accordingly the said case is of no assistance to the petitioners. On the other hand, the learned C.G.S.C. has placed reliance on a decision of the Apex Court reported in **Rati Lal B. Soni & Ors. Vs State of Gujrat & Ors, AIR 1990 SC 1132**, and reiterated his submission that the petitioners have no right to continue in their deputed posts. In the aforesaid case, the Apex Court, inter alia, held that the appellant being on deputation, they can be reverted to their parent cadre at any time and they do not get any right to be absorbed on the deputation post and accordingly affirmed the order passed by the High Court and dismissed the appeal of the deputationist.

15. Exigencies of public service may occasion an employee to be sent on deputation with the consent of the employee. Now, we are to see as to what the terminology "Deputation" connotes. The concept of "Deputation" in essence derived from the significance of the word 'deputy' and the appropriate meaning of 'deputy', in this context, would be "substantive". In Blak's Law Dictionary, the word 'deputy' has been defined as "a person appointed or delegated to act as a substitute for another esp. for an 'official'". The Apex Court has explained the concept of deputation in the case of **State of Pubjab vs Inder Singh (supra)**, at para 18 in the following term:

"18. The concept of "deputation" is well understood in service law and has a recognized meaning. "Deputation" has a different connotation in service law and the dictionary meaning of the word "deputation" is of the help. In simple words "deputation" means service outside the cadre or outside the parent Department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another Department on a temporary basis. After the expiry period of deputation, the employee has to come back to his parent Department to occupy the same position unless in the meanwhile he has earned promotion in his parent Department as per the recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law on deputation and repatriation is quite settled law as we have also seen in various judgments, which we have referred to above. There is no escape for the respondents now to go back to the parent Departments and working there as Constables or Head Constables as the case may be.

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16. In **Kunal Nanda vs Union of India**, reported in (200) 5 SCC 362, the Apex Court dealing with the question relating to the validity of an order of repatriation of a deputationist, inter alia, held at para 6 as follows:

"6. .... On the legal submissions also made there are no merits whatsoever. It will settle that unless the claim of the deputationist for permanent absorption in the Department where he works on deputation is based upon any statutory rule, regulation or order bearing the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent Department to serve his substantive position therein at the instance of either of the Departments and there is no vested right in such a person to continue for long on deputation ... .."

17. Recruitment to service may be made by way of deputation also apart from other modes; but when it is made on deputation, it does not result in absorption in the service to which an employee is deputed unless the concerned Department decides to do so. In that sense, it is not recruitment in its true import and significance and the employee continues to be a member of parent service from where he is posted on deputation. By passing an order of deputation or putting an employee on deputation in another service, it does not confer any right to be absorbed in the deputed post and the deputationist can, therefore, be reverted to the parent cadre at any time. A deputationist may be absorbed in substantive capacity in the borrowed Department provided the borrowed Department so desires and the parent Department so agrees. In the instant case, neither the parent Department nor requisitioning Department is willing to have the petitioners absorbed permanently. The statutory rules, which is the source of right of the petitioners to be on deputation, prescribe the maximum limit of the period of deputation for three years only. The orders by which the petitioners were deputed from the parent Department is very specific that the period of deputation would not exceed beyond three years. The petitioners have lien to their respective posts in the parent Department and they can very well be repatriated back to their respective posts. The materials available on record do not disclose any infirmity or illegality in passing the orders of repatriation after expiry of the period of deputation, nor do the said orders, in

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any way, violate any of the provisions of the statutory rules or regulations holding the field.

18. In view of the aforesaid discussion and decisions, we find that no right of the petitioners have been violated nor the petitioners have been able to show any violation of the any of fundamental rights guaranteed under the Constitution of India in deciding and/or passing the order of repatriation of the petitioner to their parent Departments justifying interference by this Court in exercise of its power of judicial review under Article 226 of the Constitution of India. In view of the above, we do not find any merit in this batch of writ petitions. Accordingly the petitions are dismissed with no order as to costs.

Sd/- H. N. Sairma  
JUDGE

Sd/- I.A. Ansari  
JUDGE

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 Clerk of the High Court, Lower of District  
 Hagerstown  
 Authenticated by the Clerk of said  
 of 1872

Attested  
Jb.  
Associate

(Typed)

OFFICE OF THE ACCOUNTANT GENERAL (A&E)  
MEGHALAYA, ARUNACHAL PRADESH & MIZORAM  
SHILLONG- 793001

Phone: 0364-2223191 (O) Fax: 0364-2223103

E.R. Solomon  
Accountant General

D.O. No. DA Cell/1-8/Court Case/2000-2001/1909

Dated: March 24, 2005

28 MAR 2005

Dear

Otem,

Please recall our telecon a little while ago regarding the Divisional Accountants on deputation to my office and presently posted in the State of Arunachal Pradesh. With reference to your D.O. letter No. DA/TRY/27/2002 dated 10.3.2005, I am to inform you that my Headquarters has confirmed that we could consider extension of the deputation of the present 31 Divisional Accountants presently on deputation to our department. As you are aware the Division Bench of the Gauhati High Court, Itanagar Bench had issued an order dated 10.2.2005 regarding the 12 Divisional Accountants on deputation who are to be reverted back to their parent departments in the Government of Arunachal Pradesh. This order is not being implemented presently and the remaining 19 Divisional Accountants who have cases pending in the Court/CAT may be immediately requested to withdraw all their court cases and once this is done, their continuity on deputation will be considered.

On the question of absorption of these 31 deputationists, my HQrs. has informed that the modalities will be worked out and this may be conveyed to these deputationists.

I request for your urgent action to ensure that the pending court cases of the 19 Divisional Accountants on deputation are withdrawn to facilitate their continued deputation/absorption.

Regards

Yours sincerely

Sd/-

Illegible

24.03.05.

Shri Otem Dai,  
Financial Commissioner to the Govt. of Arunachal Pradesh.  
Itanagar.

Attested  
Advocate

Annexure-5

GOVT. OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS & TREASURIES  
NAHARLAGUN.

NO. DA/TRY/15/99/ Part

Dated Naharlagun, the 15<sup>th</sup> July 2005.

To,

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

Sub : Divisional Accountants on deputation - regarding.

Ref : Your letter No. DA/Cell/1-8/Court Cases/2000-01/147, dated 24.5.2005.

Sir,

I am directed to request you to refer the D.O. No. DA/Cell/1-8/Court Cases/ 2000-01/1909, dated 28.3.05 from Shri E.R. Solomon, Accountant General (A&E) to Shri Otem Dal, Finance Commissioner to the Govt. of Arunachal Pradesh.

2. The Accountant General (A&E) had in his above D.O. letter mentioned that the order of Divisional Bench of Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun dated 10.2.2005 regarding repatriation of 12 Divisional Accountants to their parent departments in the Govt. of Arunachal Pradesh is not being implemented and had urged this department to immediately request the remaining 19 Divisional Accountants whose cases are pending in the Court/ CAT to withdraw their court case. This department had pursued the matter with representatives from both the group of 19 and 12 Divisional Accountants but nothing specific result is forth-coming.

3. This directorate also acknowledges receipt of Sr. Deputy Accountant General (Admin.) letter No. DA/Cell/1-8/Court Cases/2000 01/147 dated 24.5.2005 stating that in the light of order passed by Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun, repatriation orders in respect of 12 nos. Divisional Accountants to their parent department are being issued.

4. From the endorsements received from your office, repatriation orders in respect of 12 Divisional Accountants as stated above have been issued by your good office in the month of May 2005.

5. It is to bring to your kind notice that the 12 nos. of Divisional Accountants whose repatriation orders were issued by your good office had made fresh appeal to the Hon'ble CAT for issuing a stay order against the order dated 10.2.2005 issued by Hon'ble High Court, Itanagar Permanent Bench, Naharlagun.

Attested  
2/6  
Advocate

6. Under this circumstance the office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc, Shillong is requested to reconsider its decision on repatriation of the deputationists. The scheme for taking over the administrative control of the cadre of DAs / DAOs by the Government of Arunachal Pradesh is being submitted to your good office within a fortnight for perusal & necessary approval please.

Yours faithfully

( C.M. Mongmaw )  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun.

Memo. NO. DA/TRY/15/93/ Part

Dated Naharlagun, the \_\_\_\_<sup>th</sup> July '2005.

Copy to :

1. The Chief Engineer, PWD ( E/Z, W/Z ) / PHED / HFCD / RWID / Power & DIP Department of Arunachal Pradesh for information with request to convey the matter to all the Executive Engineer concerned.
2. Office copy.

( C.M. Mongmaw )  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun.

(Typed)  
GOVERNMENT OF ARUNACHAL PRADESH  
OFFICE OF THE DIRECTORATE OF ACCOUNTS & TREASURIES  
NAHARLAGUN- 791110

No. DA/TRY-27/2000

Dated \_\_ July' 2005

To,

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

Sub: - Submission of scheme for taking over the administrative control of the cadres of Sr. DAO/DAO Grade-I DAO, Grade-II and Divisional Accountant- thereof.

Sir,

I am directed to submit herewith the proposed scheme for taking over the administrative control of cadre of Divisional Accountants comprising Sr. DAOs/DAOs Grade I & II and Divisional Accountants by the Government of Arunachal Pradesh presently vested under your kind control.

I am further directed to state that the State cabinet had since approved the proposal to take over the cadre and the Departments of Law, Judicial & Administrative Reforms of the State have duly vetted the scheme after thorough examination.

In view of the progress as stated above, I am directed to request you to convey your approval facilitating smooth taking over of the cadre of DAs/DAOs/DAOs Grade- I & II from your kind control.

Kindly acknowledge the receipt of the scheme enclosed in quadruplicate.

Encl:- As stated above

Yours faithfully

Sd/-

(C.M. Mongmaw)  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun- 791110 (A.P)

Memo. No. DA/TRY-27/2000

Dated \_\_\_\_ July' 2005.

Copy to: -

Attested  
for  
Advocate



1. P.S to Principal Secretary (Finance) to the Govt. of Arunachal Pradesh, Itanagar for information.
2. The Secretary, Law & Judicial to the Govt. of Arunachal Pradesh for information please.
3. The Secretary, Personnel & Administrative Reforms, to the Govt. of Arunachal Pradesh, Itanagar for information please.

Sd/- Illegible  
(C.M. Mongmaw)  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun- 791110 (A.P)

21 JUL 2005

गुवाहाटी न्यायपीठ  
Guwahati Bench

51

Filed by

the respondents  
through  
Counsel Mr. Singh

Sr. Counsel

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

**IN THE MATTER OF**

**O.A. No. 238/2005**

**SHRI PRADIP KR. PAUL**

**APPLICANTS**

**VERSUS**

**THE UNION OF INDIA & OTHERS.**

**RESPONDENTS**

**AND**

**IN THE MATTER OF:**

**Written statement submitted by Respondent No.1 and 2.**

**WRITTEN STATEMENTS**

**The humble Respondents submit their Written Statement as follows:-**

1. That with reference to paragraph 1 to 4 Respondent submits that he has no comments to offer.
2. That with reference to the statements made in paragraph 4.1, 4.2 & 4.3 in the Application, the Respondent No.2 submits that, the Applicant is a regular employee of the Government of Arunachal Pradesh. Since there were vacancies in the cadre of Divisional Accountants administered by Respondent No.2 and since direct recruitment (as provided for in the Recruitment Rules 1988 (Appendix -I) for Divisional Accountants) through the Staff Selection Commission to fill up the vacancies would take time, Respondent No.2 from time to time called for applications from the experienced staff of Public Works Department, P.H.E., R.W.D., I&FC, Electricity Divisions serving under the state governments of Tripura, Arunachal Pradesh, Manipur who were willing to serve as Divisional Accountants on deputation basis. Accordingly the applicant (amongst others) had

been selected and posted as Divisional Accountant on deputation basis under the administrative control of this office. The letter of Respondent No.2 (Appendix - II) appointing the Applicant as Divisional Accountants on deputation categorically stated that the period of deputation was initially for one year. The period of deputation could be extended for a maximum of upto three years and in no case it will be extended beyond three years.

The Hon'ble Apex Court while laying down the law in Ratilal B reported in AIR 1990 SC 1132 (1991) 15ATC (85) and State of Punjab vrs Inder Singh (1997) & SCC 372 :: 1998 SCC (L&S) 34 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”.

3. That with reference to the statement made in the paragraph 4.4. of the Application, the Respondent No.2 humbly submits that on completion of deputation periods, the repatriation order to his parent department was issued to the Applicant. However, the Applicant instead of reporting back to his parent departments moved the court against the repatriation orders of this office. The Hon'ble Itanagar Bench of Gauhati High Court in its order dated 1.2.2005 ( Appendix - III) disposed off the case as Hon'ble court did not find any merits in the batch of writ petitions. In light of the Hon'ble Court's order dated 1.2.2005 the repatriation orders were again issued (Appendix- IV) to the Applicant. The Applicant then approached to the Hon'ble Central Administrative Tribunal vide this present O.A. No.238/2005 for permanent absorption to the cadre of Divisional Accountants under the administrative control of the Respondent No.2. Inspite of repatriation order the Applicant is continuing in the deputation posts.. Arunachal Pradesh had vide its letter No.DA/TRY/15/99 dated 12.1.2000 contended that it was under active consideration of the State Government to take over the Divisional Accountants cadre from the existing combined cadre being controlled by Respondent No.2. Though state Government had not initiated any further move to take over the cadre of Divisional Accountants in the State of Arunachal Pradesh. Further, the Itanagar Bench of the Gauhati High Court in its

order dated 1.2.2005 disposing off Writ Petition (c ) No.172 (AP) of 2002 observed that Mr. B.L.Singh, Learned Senior Advocate on behalf of the State of Arunachal Pradesh, has submitted that the State of Arunachal Pradesh has not yet taken any decision to take over the Divisional Accountants cadre from the administrative control of the Accountant General.

4. That with reference to the statement made in paragraph 4.5 the Respondent No.2 humbly submits that the Applicant was appointed on deputation to the cadre of Divisional Accountants for a period of three years (Maximum) and as such he was reverted back to his parent departments of the Government of Arunachal Pradesh on expiry of their three years deputation term.
5. That with reference to the statements made in paragraph 4.6, Respondent No.2 humbly submits that Divisional Accountants appointed on deputation basis is liable to be transfer to any vacant Divisions as per terms and conditions of his appointment. The applicant was reverted after expiry of the maximum period of three years and hence the question of replacing a person on deputation by another person on deputation does not arise.
6. That with reference to the statement made in the paragraph 4.7, the Respondent No.2 humbly submits that the Recruitment Rules and norms as applicable to the posts formal and laid down, the answering Respondent No.2 is not in a position to retain the Applicant beyond the permissible period of three years. The Applicant has admitted to misuse the process of law and procedure seeking absorption in the cadre of Divisional Accountant.
7. That with reference to the statement made in the paragraph 4.8 to 4.10 the Respondent No.2 humbly submits that these are statement of facts
8. That with reference to the statements made in the paragraphs 4.11, the Respondent No.2 humbly submits that, 9 (Nine) Divisional Accountants had initially approached the Hon'ble Tribunal, Guwahati, for permanent absorption in the Divisional Accountants Cadre. On disposal of their prayer by the Hon'ble Tribunal, the Applicant has challenged respective Tribunal orders before the Hon'ble Gauhati High Court, Itanagar Bench . It may be stated that the common judgement dated 1.2.2005 (copy enclosed) passed by the Hon'ble Gauhati High

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- 4 -

Court, Itanagar Bench, in the respective cases of the Applicants along with other similar cases, held that :

“when it is made on deputation, it does not result in absorption in the service to which an employee is deputed unless the concerned Department decides to do so.

Putting an employee on deputation in another service it does not confer any right to be absorbed in the deputed post and the deputationist can therefore, be reverted to the parent cadre at any time”.

It was further held that :

“the petitioners have lien to their respective posts in the parent Department and they can very well be repatriated back to their respective posts in the parent Department and ”.

“we do not find any merits in this batch of writ petitions”.

9. That with reference to the statement made in paragraph 4.12 the Respondent No.2 humbly submits that in this connection in reply to letter No. DA/TRY/Part/15/99 dated 12.4.2005 (Appendix -V) received from the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh , the Respondent No. 2 reaffirmed vide letter No. DA Cell/1-8/Court Case/2000-2001/147 dated 24.5.2005 (Appendix - VI) the decision to repatriate 12 Divisional Accountants on deputation in light of the Hon'ble Gauhati High Court, Itanagar Bench judgement order dated 1.2.2005, and that the repatriation orders were being issued and further, that the Respondent No.2 had requested the Standing Counsels to take necessary steps to file the remaining similar pending cases in the Hon'ble Gauhati High Court, to the Itanagar Bench of Gauhati High Court for speedy disposal of the cases.

Subsequent to the above, the Comptroller & Auditor General of India (Respondent No.1) had intimated vide letter No. D.O. No.425 N.G.E. (App)/10-2005 dated 6.7.2005 (Appendix - VII) that the question of absorbing the

Divisional Accountants in the Divisional Accountants cadre had been examined.

7- However, absorption not possible as the Recruitment Rules of Divisional Accountant do not provide for such absorption of the deputation's.

10. That with reference to the Statement made in paragraph 4.13 of the Application, the Respondent No.2 humbly submits that, the Applicants request for consideration of their cases for permanent absorption/continuance as Divisional Accountant, could not be considered as the Recruitment Rules for Divisional Accountants do not provide for such absorption and all Divisional Accountants on deputation on completion of their deputation period of 3 (three) years have been reverted back without any exception.

The Respondent No.2 humbly state that the at present the entire Cadre of Divisional Accountants of three states i.e. Manipur, Tripura, Arunachal Pradesh are under the Administrative control of the Accountant General (A&E) Meghalaya, etc., Shillong and Divisional Accountants are posted throughout these states also Respondent No.2 is responsible to safe guard of the interest of the existing Regular Divisional Accountants working in the three states.

11. That with reference to the Statement made in the paragraphs 4.14 & 4.15, the Respondent No.2 humbly submits that the Recruitment Rules for Divisional Accountants do not provide for such absorption. Besides, there have some formalities to be observed for transfer of the cadre of Divisional Accountant from the Administrative control of the Respondent No.2 to the state Government of Arunachal Pradesh. However, the draft scheme for taking over the cadre of Divisional Accountant by Arunachal Pradesh Government finally framed by the C&AG of India has been forwarded to the government of Arunachal Pradesh for acceptance. After the process of taking over of the Cadre by the State Govt. concerned is completed the Recruitment Rule for the Divisional Accountants would be framed by the State Government itself.

12. That with reference to para 4.16 the Respondent No.2 begs to state that he has no comments to offer.

Grounds of relief(s) with legal provisions.

13. That with reference made in paragraph 5.1 to 5.7 of the Application, the Respondent No.2 humbly submits that the matter has been dealt with up in the above paragraphs.
14. That with reference to the statement made in paragraph 6 of the Application, the Respondent No.2 humbly submits that he has no comments to offer
15. With reference to the relief sought by the Applicants in the paragraph 8, the Respondent No.2 humbly submits that he has no comments to offer.
16. That with reference to the para 8.1 to 8.4 the Respondent No. humbly submit that the Recruitment Rules does not provide for permanent absorption of the deputationist by the Respondent and question of cost or relief does not arise.
17. That with reference to the statement made in paragraph 9 of the Application, the Respondent No.2 humbly submits that he has no comments to offer.

In view of the facts and circumstances stated above, the Respondent No.2 most respectfully and humbly prays that the present Application as filed be dismissed, costs imposed in favour of the answering Respondents, the interim order dated 9.9.2005 granted in this case be vacated and the order dated 24.5.2005 be allowed to be implemented.

Verification

I, Shri A.K.Das, Dy. Accountant General (Admn) Office of the Accountant General (A&E) Meghalaya, Arunachal Pradesh and Mizoram, Shillong do hereby solemnly declare that the Statements made above in the Written Statement are true to the best of my knowledge, belief and information and I sign the verification on the 20<sup>th</sup> December, 2005 at Shillong.

  
Deponent.

(Department of Expenditure)

New Delhi, the 8th September, 1908.

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

1. Short title and commencement - (1) These rules may be called the Indian Audit and Accounts Department (Divisional Accountant) Recruitment Rules, 1908.

(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, ~~which is not a valid marriage~~

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-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard as applicable to persons employed in the Indian Audit and Accounts Department.

SCHEDULE

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

True Copy  
H. Agni  
Adm

27/1/75  
Asstt. Accounts Officer  
O/o The Accountant General (A & R)  
M. K. Lalaya, Etc, Shillong.



- 8 r

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

Contd..... p.3.

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

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

If a Departmental Promotion Committee exists, what is its composition.

Circumstances in which Union Public Service Commission is to be consulted in making recruitment.

13.

14.

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

Not applicable

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

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

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

*Attested*  
*Lokesh K. Borah*  
*27/9/88*  
Asstt. Accounts Officer  
O/o The Accountant General (A&F)  
Meghalaya, Etc. Shillong.

-0000000000000000-

DATED 16.7.99.

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

is amended and modified from time to time. While on deputation, Pradip Kumar Paul 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 Pradip Kumar Paul, 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 Pradip Kumar Paul shall be treated as final and cannot be altered/changed later under any circumstances whatsoever.

5. 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 dt.7-12-1962 (incorporated as Annexure to Govt of India decision No. in Appendix 31 of Choudhury's C.S.R. Volume IV(13th. Edition) and as amended and modified from time to time.)

6. Shri Pradip Kumar Paul 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 (AGE) Meghalaya, etc., Shillong.

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

Self

व. ल. महालेखाकर (प्र.)

Sr. Dy. Accountant General (Admin)

महालेखाकार (प्र.प्र.) या कार्यालय

Senior Accounts Officer,

म.प्र. वि.प्र. अ.प्र. प्रदेश

Meghalaya, Mizoram & A.P.

Pradip Kumar Paul

Memo No. DA Cell/2-49/94-95/656-664

Dt. 19.7.99.

Copy forwarded for information and necessary action to :-

1. The Accountant General (A&E) Tripura Agartala.
2. The Chief Engineer, I & F.C. Deptt. Itanagar, Arunachal Pradesh. He is requested to release Shri Pradip Kumar Paul immediately with the direction to report to his place of posting on deputation under intimation to this office.
3. The Chief Engineer, (WR) Kunjaban Agartala Tripura for information.
4. The Executive Engineer, Resource Division Agartala Tripura. He is requested to intimate the date of joining of Shri P.K. Paul in his Division as DA on deputation.
5. Shri Pradip Kumar Paul, UDC Office of the Chief Engineer, I & F.C. Itanagar.
6. E.O. File.
7. S.C. File.
8. P.C. File. of Shri P.K. Paul.
9. Deputation file.

  
Senior Accounts Officer,  
i/c DA Cell.

June 607  
Rogers  
Adm.

- ## ... Respondents

Sri Tonkeswar Borah,  
Son of late Golap Chandra Borah,  
Presently working as Divisional Accountant,  
Office of Executive Engineer,  
Tezu PWD Division, Tezu.

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003:
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer (EZ), P.W.D.,  
Govt of Arunachal Pradesh, Itanagar.
6. The Executive Engineer, Public Works Department,  
Tezu Division, Tezu, A.P.

## ... Respondents

**Shri Sanchyan Kumar Dam.**  
**Son of late Subodh Kumar Dam.**  
**Presently working as Divisional Accountant,**  
**Office of the Executive Engineer,**  
**Sepe Electrical Division, Sepe.**

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.

Continued to be a  
true copy

*[Handwritten signature]*  
August 1872  
~~Printed at the Government Press~~  
Moharajoon  
Authorized U.S. GE of Ad.  
of 1872



2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, P.W.D.,  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

## 5. WRIT PETITION(C) NO.112 (AP) OF 2002

1. Shri Lendi Chatung,  
S/o late Lendi Shala,  
Office of the Executive Engineer (Electrical),  
Along, West Siang.

2. Shri Love Rao,  
s/o Luxmi Rao,  
Office of the Executive Engineer,  
D.O.P.Civil, Along.

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
4. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Power Department, Itanagar.
5. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, Department of Power,  
Govt of Arunachal Pradesh, Itanagar.
6. The Chief Engineer, PWD,  
Western Zone, Govt of Arunachal Pradesh,  
Itanagar.

... Respondents

Certified to be a

true copy

*[Handwritten signature]*  
15.12.02

Received 15.12.02 of Ad 1

of 1372



4. - 16 -

6. WRIT PETITION(C) NO.221 (AP) OF 2002

Shri Jumi Kamum,  
Son of Shri T.Kamum,  
IFCD Daporijo Division,  
Upper Subansiri District,  
Arunachal Pradesh.

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer Engineer, IFCD.,  
Daporijo Division, Upper Subansiri,  
Arunachal Pradesh.

... Respondents

7. WRIT PETITION(C) NO.301 (AP) OF 2002

Shri L.Appal Swami,  
Son of late L.A.Naidu,  
Presently working as Divisional Accountant,  
Office of the Executive Engineer PHED Khonsa,  
District Tirap, A.P.

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Health Engineering Department, Itanagar.
3. The Comptroller and Auditor General of India,  
Bahadur Shah Zafar Road,  
Indraprastha Head Post Office,  
New Delhi 110 002.

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- ... Respondents

**Shri Santanu Ghosh,  
S/o late S.R.Ghosh,  
Office of the Executive Engineer,  
RWD, Yingkiong, Upper Siang, A.P.**

... Petitioner.

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Rural Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Chief Engineer, Department of RWD,  
Govt of Arunachal Pradesh, Itanagar.
6. The Superintending Engineer,  
RWD, Papumpare District, Itanagar.

... Respondents

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Asst. Secretary

**Control of Foreign Investment Bill**

National

Approved U.S. 76 of Act 1

of 1872

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**9. WRIT PETITION(C) NO.409 OF 2002**

Shri Dilip Kumar Dey,  
Divisional Accountant,  
Office of the Executive Engineer, PWD, Boleng Division,  
Govt of Arunachal Pradesh, via Pashighat, District East Siang,  
Arunachal Pradesh

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, Public Works Department,  
Boleng Division, Boleng.
6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

**10. WRIT PETITION(C) NO.410(AP) OF 2002**

Shri Tashi Namgey,  
Divisional Accountant,  
Office of the Executive Engineer, PWD, Seppa Division,  
Govt of Arunachal Pradesh,

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.

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Shri Tashi Namgey  
Divisional Accountant,  
Office of the Executive Engineer, PWD, Seppa Division,  
Govt of Arunachal Pradesh,

Authenticated 11.9.76 of 2002

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4. The Chief Engineer, Public Works Department,  
Naharlagun, Arunachal Pradesh.
  5. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
  6. The Executive Engineer, Public Works Department,  
Seppa Division, Seppa.
  6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

### **11. WRIT PETITION(C) NO.172 (AP) OF 2003**

**Shri Pradip Kumar Paul,  
Working as Divisional Accountant,  
Office of the Executive Engineer,  
Irrigation and Flood Control, Resource Division,  
Panchamukh, PO Agartala, West Tripura.**

... Petitioner.

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Irrigation and Flood Control Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer,  
• Resource Division, Agartala, Tripura.

... Respondents

### **12. WRIT PETITION(C) NO.256 (AP) OF 2003**

**Shri Lani Bhusan Karmakar,  
Office of the Executive Engineer,  
Public Works Department@,  
Dumporijo Division, Upper Subasansiri District,  
Arunachal Pradesh.**

... Petitioner.

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Authorized U/S 7E of Act  
of 1872

-Versus-

1. Union of India,  
through the Comptroller & Auditor General of India,  
10 Bahadur Shahi Zafar Marg, New Delhi.
2. The Accountant General (A&E),  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong 793003.
3. The State of Arunachal Pradesh,  
represented by the Secretary to the Govt of Arunachal Pradesh,  
Public Works Department, Itanagar.
4. The Director of Accounts and Treasuries,  
Govt of Arunachal Pradesh, Itanagar.
5. The Executive Engineer, Public Works Department ©,  
Dumporijo Division, Upper Subansiri District,  
Arunachal Pradesh.
6. The Commissioner (Finance),  
Govt of Arunachal Pradesh, Itanagar.

... Respondents

BEFORE  
HON'BLE MR.JUSTICE I.A.ANSARI  
HON'BLE MR.JUSTICE H.N.SARMA

For the petitioners : Mr.M.Chanda, Mr.U.K.Nair, Mrs. B.Goyal,  
Mr.A.Roshid, Mr.K.Ete, Mr. T.Michi,  
Mr.B.Habuang, Mr. K.Tapa, Mr.K.Tini,  
Mr. S.Dutta, Mr.S.K.Gosh, Advocates.

For the respondents : Mr.M.Partin, C.G.S.C.,  
Mr.B.L.Singh, Sr. Govt Advocate, Arunachal Pradesh

Date of hearing :

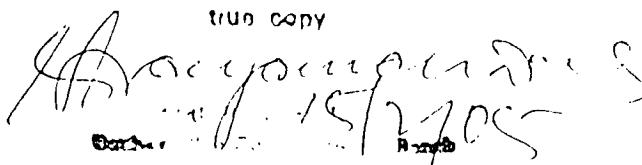
Date of judgment : 01-02-05

JUDGMENT AND ORDER

**H.N.SARMA J.**

This batch of writ petitions involve common question of law and facts. The grievance of the petitioners, in all these petitions, is against the order of repatriation from different Departments of the Government of Arunachal Pradesh i.e. their parent Departments, by the Accountant General, who posted the petitioners on deputation as Divisional Accountants in various offices of

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Arunachal Pradesh. It is the further prayer of the petitioners, in all the writ petitions, that they should be permanently absorbed in their existing deputation posts of Divisional Accountant under the State of Arunachal Pradesh. With similar prayer, some of the petitioners, namely, petitioners in W.P© No. 221(AP)/02, W.P© No.256/03, W.P© No.409(AP)/02 and W.P© No.410(AP)/02 initially approached the Central Administrative Tribunal, Guwahati and the learned Tribunal having dismissed their prayers, they have challenged the respective orders before this High Court and accordingly, those cases came to be taken up by the Division Bench of this Court. The petitioners in other writ petitions namely WP© No.229(AP)/01, WP© No.820(AP)/01, WP(c) No. 459(AP)/03, WP(C) No. 517(AP)/01, WP(C) No.112(AP)/02, WP© No.301(AP)/02, WP© No.473/02 directly approached this High Court and those cases were taken up by the learned Single Judge. In WP© No. 409(AP)/02 and W.P© No.410(AP)/02 a Division Bench of this Court by order, dated 11.08.03, directed that all these writ petitions referred to above, which are pending before the Single Bench, be listed for hearing before a Division Bench along with the said writ petitions. Accordingly, all the aforesaid cases have come up for hearing before the Division Bench.

2. The common case of the petitioners are that while they were serving as Upper Division Clerks in various offices of the Government of Arunachal Pradesh, the office of the Accountant General, Arunachal Pradesh and Meghalaya, vide Circular No.DA. Cell/2-49/97-98/ Vol.II/ 245, dated 20.01.98, invited applications from candidates, who are willing to serve temporarily as Divisional Accountant in Public Works Department in Manipur, Arunachal Pradesh and Tripura for a period of one year on deputation basis. In pursuance of the aforesaid circular, the petitioners gave their consent for such deputation, and duly applied for the same. On consideration of their applications, the Accountant General (A&E), Meghalaya and Arunachal Pradesh, posted the petitioners on deputation as Divisional Accountant for a period of one year in the following manner:

1. Dilip Kr. Dey, UDC, Office of the executive Engineer, PWD Yingkiong Division (petitioner in W.P© No.409(AP)/02) posted as Divisional Accountant, Boneng PWD Division on deputation for a period of one year by order dated 05.04.99.

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2. Toshl Namgey, UDC, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.410(AP)/02) posted on deputation as Divisional Accountant, Seppa PWD Division for one year.
3. Jumi Kamum, UDC, Office of the Executive Engineer, PWD Basar Sub-Division (petitioner in WP© No.221(AP)/02) posted on deputation as Divisional Accountant, Daporijo I & F.C. Division for one year.
4. Lani Bhushan Karmakar, UDC, Office of the Executive Engineer, PWD Anini Division (petitioner in WP© No.256(AP)/02) posted on deputation as Divisional Accountant, Dumporijo PWD Division for one year.
5. Thankseswar Borah, UDC, Office of the Executive Engineer, PWD Damporijo Civil Division PWD (petitioner in WP© No.729(AP)/02) posted on deputation as Divisional Accountant, Dumporijo Civil Division PWD by order dated 22.01.97 for one year.
6. Sanchyan Kumar Dam, LDC, Office of the Executive Engineer, PWD Kalaktang Division (petitioner in WP© No.459(AP)/02) posted on deputation as Divisional Accountant, Division, Nalkatha, Tripura vide order dated 27.01.97 for one year.
7. V.K. Nair, UDC, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.459(AP)/01) posted on deputation as Divisional Accountant, Chandel PWD Chandel, Manipur vide order dated 23.02.96 for one year.
8. Bidhu Bhusan De, UDC, Office of the Executive Engineer, Deomali Electrical Division (petitioner in WP© No.517(AP)/02) posted on deputation as Divisional Accountant in Thoubal Project Division Ho.11 (I&FC), Thoubal, Manipur vide order dated 26.04.96 for one year.
9. Lendi Chalung, UDC, Office of the Executive Engineer, Ziro Electrical Division (petitioner in WP© No.112(AP)/02) posted on deputation as Divisional Accountant, Along Electrical Division vide order dated 11.03.99 for one year; and Shri Love Rao, LDC, Office of the Executive Engineer, PWD Along Division (petitioner in WP© No.112(AP)/02) posted on deputation as Divisional Accountant, Along PWD Division vide order dated 10.03.99 for one year.
10. Santanu Ghosh, Assistant, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WP© No.473(AP)/02) posted on

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deputation as Divisional Accountant, Yingking Division, PWD vide order dated 05.03.99 for one year.

11. Pradip Kumar Paul, UDC, Office of the Chief Engineer, I& FC Itanagar (petitioner in WP@ No.172(AP)/03) posted on deputation as Divisional Accountant, Resoruce Division, Agartala, Tripura vide order dated 16.07.99 for one year.

3. In the aforesaid deputation orders, it has been specifically provided that the said deputation is only for a period of one year from the date of joining by the petitioners as Divisional Accountant and no right shall accrue to the petitioners nor they will be entitled to permanent absorption as Divisional Accountant. It is also provided that the said period of deputation may be extended up to 3 years, if his service is considered to be needed and in no case, the period will be extended beyond a period of 3 years. Paragraph 6 of the order of deputation reads as under-

"6. The period of deputation of ..... 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 three years, if his service is considered to be needed. But in no case, the period of deputation will be extended beyond the period of 3 years."

4. Pursuant to such deputation orders, the petitioners, on being released from their respective parent Departments, duly joined in their deputed posts and served accordingly. The said period of deputation was extended for a further period of 2 years from the date of expiry. In the meanwhile, the Joint Director of Accounts and Treasuries, Government of Arunachal Pradesh, vide letter No. DA/TRY/15/99, dated 15.11.99, wrote to the Accountant General, inter alia, informing that the issue of recruitment and posting of Divisional Accountants to 38 Public Works Divisions of the State of Arunachal Pradesh, which are presently manned by deputationists were under active consideration of the State Government and that before placing the petitioners on deputation, the Government of Arunachal Pradesh was never consulted and although the salaries etc for the petitioners were borne from the State exchequer, the pay scale presently enjoyed by the cadre of Divisional Accountants has been posing problem for granting huge sum in the form of pay and allowances. It was also

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intimated that the State Govt of Arunachal Pradesh is of the view that recruitment and posting of Divisional Accountants for the 38 Divisions of the Public Works Department may not be done since final decision of the Government is still awaited and the persons, who have been serving on deputation, may be allowed to continue for a further period of 2 years in the interest of public service.

5. On receipt of the aforesaid letter as well as on consideration of the terms of deputation orders, the Accountant General, vide letter No.DA.Cell/194/200, dated 11.06.2001, intimated the petitioners that on expiry of the period of deputation to the posts of Divisional Accountant under the administrative control of the Accountant General (A&E), Meghalaya etc., the petitioners are to be repatriated to their parent Departments. When the Accountant General took such decision, the same was challenged before the Central Administrative Tribunal, Guwahati Bench, by the petitioners in WP© Nos. 221/02, 256/03, 409/02 and 410/02 by different similarly situated deputationists. In O.A.Nos. 230/01, 234/01 and 276/01 and the learned Central Administrative Tribunal by judgment and order, dated 11.01.02, was pleased to hold, inter alia, that the applicants, who came under the Accountant General (A&E), Meghalaya on deputation are holding the permanent posts in the respective parent Department and at the end of deputation period, they are repatriated and, therefore, nothing illegality is discernible from the orders of repatriation. Accordingly, the applications were dismissed. Similar other applications filed before the learned Tribunal by other employees were also dismissed on the same footing. Thereafter, the Accountant General(A&E), Meghalaya, wrote to various Departments of the State of Arunachal Pradesh informing them that the Divisional Accountants posted in their offices on deputation has been released and are reverted back to their parent Departments. When the judgment and order of the Central Administrative Tribunal was challenged by the deputationists before the Division Bench of this Court along with the orders of repatriation of the deputationists to their parent Department on expiry of the period of deputation, this Court while admitting the petition was pleased to stay the said order of repatriation. The petitioners also prayed for permanent absorption in their deputed posts. The Respondent No. 1 and 2 filed affidavit-in-opposition refuting the prayer made by the petitioners in the writ petitions.

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10/5/2002

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6. We have heard learned counsel appearing for the petitioners. Also heard Mr.M.Partin, learned Sr.CGSC, and Mr.B.L.Singh, learned Senior Govt Advocate, Arunachal Pradesh.

7. Learned counsel for the petitioners have submitted that since the petitioners are working on deputation for a considerable period, they are entitled for permanent absorption in their deputed posts. It has further been submitted that since there is a move for bifurcation towards creation of a new cadre of Accountant General(A&E) for the State of Arunachal Pradesh and necessary process is going on, it would be highly prejudicial to the petitioner, if they are repatriated to their parent Departments without considering their cases for permanent absorption. It has also been submitted that the State Government having taken a decision to take over the administrative control of the accounts cadre from the Accountant General to absorb the services of the existing Incumbents, the decision to repatriate the petitioners to their parent Department is illegal and in the aforesaid situation, petitioners are entitled to be permanently absorbed in their deputed posts.

9. Mr.M.Partin, learned Sr.CGSC, on the other hand, refuting the submissions made on behalf of the petitioners contends that as per the recruitment rules governing the service conditions of the petitioners, which came into force with effect from 24.09.98, the period of deputation cannot be extended beyond 3 years. Further, in the deputation order itself, it has been specifically provided that the terms of deputation would be only for a period of one year and at any rate, it cannot be extended beyond the period of 3 years and the petitioners, having joined as per the aforesaid terms and conditions without any reservation, are not now entitled to raise claim for permanent absorption in their deputed posts. It is further submitted that the petitioners have no enforceable right, fundamental or otherwise, and there is no illegality or irregularity in deciding and/or passing the order to repatriate the petitioners to their respective parent Departments after expiry of the period of deputation and, as such, the petitions are not maintainable.

10. Mr.B.L.Singh, learned Senior Govt Advocate on behalf of the State Respondents, has submitted that the State of Arunachal Pradesh has not yet taken any decision to take over the Divisional Accountants from the administrative control of the Accountant General. He submits that it is absolutely within the domain of the Accountant General to keep the petitioners on

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deputation or not. Mr. Singh has also submitted that the terms of the order of deputation having specifically provided that the period cannot be extended beyond three years, the petitioners have no enforceable right or locus to pray for permanent absorption in their deputed posts. It is further submitted that the financial burden of the deputed employees are being borne by the State Government as the deputationists are being paid much higher pay and allowances for the service rendered by them in the deputed posts and due to extreme financial stringency, the State is not in a position to bear the said burden any more. However, due to interim orders passed by this Court, the petitioners are continuing, therefore, he prays for dismissal of the writ petitions. He further contends that there is no illegality in the orders passed by the learned Central Administrative Tribunal and the learned Tribunal has rightly rejected their applications.

11. We have heard learned counsel for the parties at length and considered the rival submissions. The appointment to the posts of Divisional Assistant is regulated by a set of rules framed under Article 148(5) of the Constitution of India, which is applicable to the petitioners. As per the said rules, the method of recruitment to the posts of Divisional Accountant is by way of direct recruitment. It is also provided in the said rules that vacancies caused due to certain exigencies for a duration of one year or more may be filled up on transfer on deputation from the State Public Works Department Clerks holding the posts equivalent or comparable with that of Accountant/ Senior Accountant on regular basis for a period of 5 years including two years experience in public works accounts and the period of deputation shall ordinarily not exceed three years. The petitioners, in the instant case, have not shown that they are eligible for deputation to the posts of Divisional Accountant, as per the aforesaid qualification and experience prescribed in the statutory service rules. Be that as it may, it is an admitted fact that the petitioners were posted on deputation as Divisional Accountant as per the order of the Accountant General (A&E) and the said period of deputation as per the statutory rules cannot exceed beyond three years. In fact, the order/orders, by which the petitioners were placed on deputation, has/have specifically provided that the period of deputation is for a period of one year and under no circumstances, the same would be extended beyond a period of three years.

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12. Learned Sr.C.G.S.C. has submitted that the Accountant General has decided to release and repatriate the petitioners to their parent Departments and in fact, necessary orders of release have been passed in most of the cases. The learned Sr.Govt Advocate, Arunachal Pradesh, has submitted that the State Government has not decided to absorb the petitioners permanently and continuation of the petitioners in the deputed posts has caused serious financial hardships to the State Government. We also find that there is no decision of the State Government to create a separate wing of Accountant General (A&E) for Arunachal Pradesh and as has been submitted by Mr.Singh, the State Government has taken no such decision. Viewed from the aforesaid factual situation, now the question arises as to whether the petitioners are entitled for an order to be absorbed permanently in their deputed posts or not.

13. The decision reported in **State of Punjab vs Inder Singh & Ors, reported in (1997) 8 SCC 372**, is sought to be pressed into service on behalf of the petitioners and it has been submitted that since the petitioners are on deputation for a considerable period, their cases for permanent absorption may be directed to be considered by the Government. In Inder Singh (supra) the petitioner who was enrolled in the Punjab Police, on 31.08.66, as Constable was sent on deputation to C.I.D. in the same rank on 13.04.69. He was sought to be repatriated on 15.09.90, while he was holding the rank of ad hoc Sub-Inspector. During the period of deputation, he was promoted as officiating Head Constable and in the parent Department, he was holding substantive rank of Head Constable. In the background of the aforesaid facts, the Apex Court observed that after allowing to remain on deputation for a period of 20 years, a hope, though not true, still in his mind, that he would be allowed to continue in the C.I.D. holding higher rank till he attained the age of superannuation and accordingly affirmed the order of the High Court to the extent for option given to all those respondents, who put in 20 years qualifying service to seek voluntary retirement from the C.I.D. in the ranks they are holding and they would be deemed to have worked in the C.I.D. up to the date of the judgment. The facts of the present case are entirely different. The petitioners, in the instant cases, were deputed some time in the year 1999 and on expiry of three years they were sought to be repatriated to their parent Departments. No promotion was also affected to the petitioners' while they were serving in the deputed Department and at present, they are continuing as per interim orders of the

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Court. Accordingly the said case is of no assistance to the petitioners. On the other hand, the learned C.G.S.C. has placed reliance on a decision of the Apex Court reported in **Rati Lal B. Soni & Ors. Vs State of Gujrat & Ors, AIR 1990 SC 1132**, and reiterated his submission that the petitioners have no right to continue in their deputed posts. In the aforesaid case, the Apex Court, inter alia, held that the appellant being on deputation, they can be reverted to their parent cadre at any time and they do not get any right to be absorbed on the deputation post and accordingly affirmed the order passed by the High Court and dismissed the appeal of the deputationist.

15. Exigencies of public service may occasion an employee to be sent on deputation with the consent of the employee. Now, we are to see as to what the terminology "Deputation" connotes. The concept of "Deputation" in essence derived from the significance of the word 'deputy' and the appropriate meaning of 'deputy', in this context, would be "substantive". In Blak's Law Dictionary, the word 'deputy' has been defined as "a person appointed or delegated to act as a substitute for another esp. for an 'official'. The Apex Court has explained the concept of deputation in the case of **State of Pubjab vs Inder Singh (supra)**, at para 18 in the following term:

"18. The concept of "deputation" is well understood in service law and has a recognized meaning. "Deputation" has a different connotation in service law and the dictionary meaning of the word "deputation" is of the help. In simple words "deputation" means service outside the cadre or outside the parent Department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another Department on a temporary basis. After the expiry period of deputation, the employee has to come back to his parent Department to occupy the same position unless in the meanwhile he has earned promotion in his parent Department as per the recruitment Rules. Whether the transfer is outside the normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post. The law on deputation and repatriation is quite settled law as we have also seen in various judgments, which we have referred to above. There is no escape for the respondents now to go back to the parent Departments and working there as Constables or Head Constables as the case may be.

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"6. .... On the legal submissions also made there are no merits whatsoever. It will settle that unless the claim of the deputationist for permanent absorption in the Department where he works on deputation is based upon any statutory rule, regulation or order bearing the force of law, a deputationist cannot assert and succeed in any such claim for absorption. The basic principle underlying deputation itself is that the person concerned can always and at any time be repatriated to his parent Department to serve his substantive position therein at the instance of either of the Departments and there is no vested right in such a person to continue for long on deputation ... .."

Approved by \_\_\_\_\_ of ASH -  
of ASH

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Sd/- J. A. Ansari  
JUDGE

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Appendix IV

SPEED POST.

OFFICE OF THE ACCOUNTANT GENERAL (A&E) :: MEGHALAYA,  
ARUNACHAL PRADESH, MIZORAM :: SHILLONG :: 793001.

No. DA Cell/MVKN/DEPT./HIGH COURT/ 213

Dated:- 24 MAY 2005

To,

The Executive Engineer,  
I&FC Resource Division,  
Panchamukh, P.O. Agartala,  
West Tripura. PIN- 799 003.

Sub:- Repatriation to Parent Department.

Sri,

The Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun, while delivering its order dated 1.2.2005 (in 12 cases) disposing W.P.© No.172 (AP)/2003 filed by Shri Pradip Kr. Paul, Divisional Accountants on deputation has stated that it does not find any merit in the batch of Writ Petitions filed by the Petitioners before the Hon'ble Court.

Accordingly, Pradip Kr. Paul, Divisional Accountant on deputation stands released and reverted back to his parent Department i.e. Chief Engineer, I&FC Department, Govt. of Arunachal Pradesh, Itanagar.

You are requested to release Shri Pradip Kr. Paul, immediately and make internal arrangements to look after the work of the Divisional Accountant in your Division till such time a regular Divisional Accountant is posted by this office.

The date of release of Shri Pradip Kr. Paul may please be intimated telegraphically/Fax (No. 0364 - 2223103) to this office.

Yours faithfully,

SD/-

Sr.Dy.Accountant General (Admn).

True copy  
Pradip  
Adm.



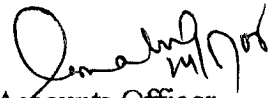
Memo No. DA Cell/MVKM/DEPTN/HIGH COURT/213-219-

Dated: 24 MAY 2005

Copy forwarded for information and necessary action :-

1. The Chief Engineer , I&FC Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer , I&FC Department, Govt. of Tripura, Agartala
3. The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, Naharlagun, Arunachal Pradesh.
4. The Director (Legal) O/o the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi - 110 002.
5. Shri Pradip Kr. Paul, Divisional Accountant (Deputation) O/o the Executive Engineer,, I&FC Resource Division, Panchamukh, P.O. Agartala Tripura..
6. Personal File of Shri Pradip Kr. Paul, D.A. on deputation.
7. Spare Copy.
8. Posting Table.

9. Office copy.

  
Sr. Accounts Officer,  
I/c D.A. Cell.

Cell/Fax/6 dt 5.5.05

Sd/- Agm/NA E/10.83, dt. 15/4/05

GOVT. OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS AND TREASURIES  
NAHARLAGUN

DA/TRY/Part/15/99

33-

Dated Naharlagun the \_\_\_\_\_ April '05.

To

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

Sub:- Divisional Accountants on deputation – regarding.

Ref:- Your No. DA Cell/1-8/Court Case/2000-01/1909 dated  
March 24, 05.

Sir,

While inviting a reference to your letter no. & dated quoted above, I am directed to request you to furnish detail list of 12 Divisional Accountants on deputation in whose cases Divisional Bench of Guwahati High Court has ordered for repatriation / reversion back to their parent department. Similar information also be furnished in respect of 19 Divisional Accountants whose cases are pending in the Court/ CAT in order to persuade the officials to withdraw the cases.

An early response is solicited.

Yours faithfully,

(C.M. Mongmaw),

Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun.

True copy  
Agm/NA  
Adv.

15/4

Sd/-  
15/4/05

Sd/- Agm/NA  
15/4/05

15/4/05

A.M. Datta

Appendix - VI

465

-34-

Speed Post

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ::  
MEGHALAYA, ARUNACHAL PRADESH ::: SHILLONG :: 793001.

No.DA Cell/1-8/Court Cases/2000-2001/47.

Dated:-20-5-2005.

24.5.2005

To

Shri C.M.Mongmaw,  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun.

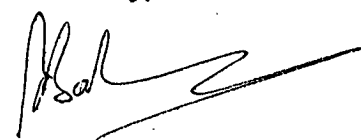
Sub:- *Divisional Accountants on deputation- regarding.*

Sir,

In inviting a reference to your letter No.DA /TRY/Part/15/99 dated April,2005 on the subject mentioned above, I am to inform you that, in light of the order dated 1.2.2005 passed in 12 cases by the Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun, repatriation orders in respect of 12 (Twelve) Divisional Accountants on deputation to their parent department are being issued.

Further, in respect of another 19 (Nineteen) cases of a similar nature regarding Divisional Accountants which are pending in the Hon'ble High Court/CAT Guwahati, the Standing Counsels have been requested to take necessary steps to transfer these cases to the Hon'ble High Court, Itanagar Permanent Bench, for speedy disposal.

Yours faithfully,



(S.A. Bathew)

Sr.Dy.Accountant General (Admin).

Jonelopy  
Bathew  
Adv.



सत्यमेव जयते

Manish Kumar.  
Asstt. C.&A.G.(N)

NO 2A Cell/C+AG/20 dt 13.7.05

DO No: 425 NGE (App)/10-2005  
भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय  
10, बहादुरशाह जफर मार्ग,  
नई दिल्ली - 110 002  
OFFICE OF THE  
COMPTROLLER & AUDITOR GENERAL  
GOVERNMENT OF INDIA  
10, BAHADUR SHAH ZAFAR MARG,  
New Delhi - 110 002  
दिनांक / DATE 6.7.2005

-35-

Dear Sir,

Kindly refer to your D.O. letter No. D.A. Cell / 1-8 / Court Case/ 2000-2001 / 415 dated 13.06.2005 regarding absorption of 31 employees of the state Govt. of Arunachal Pradesh, working as Divisional Accountants on deputation, in the Divisional Accountant Cadre. I would like to mention here that the above issue has been examined in this office. As the Recruitment Rules for the post of Divisional Accountant do not provide for such absorption, it has not been found possible to accede to the request of the State Government of Arunachal Pradesh to absorb these personnel in the Divisional Accountant cadre.

With regards,

Yours sincerely,

(MANISH KUMAR)

Shri A.W.K. Langstieh  
A.G.(A&E)  
Meghalaya,  
Shillong.

PT placed in file  
11/7  
June GPY  
Adv.

13/6/05  
8. 100/DA

13/7/05

SK  
13/7/05

दूरभाष / Phone : 23231440, 23231761  
टैलेक्स / Telex : 031-65981, 031-65847

तार / Telegram : ARGEL NEW DELHI  
फैक्स / Fax : 91-11-23235446, 91-11-23234014