

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No..... 115/05

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20/11/17
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FORM NO. 4
 (SEE RULE 42)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH

ORDER SHEET

Original Application No. 115105

Misc Petition No. _____

Contempt petition No. _____

Review Application No. _____

Applicants: C. Appal Swami Gora

Respondents: K. O. I. Gora

Advocates for the Applicant: M. Chanda, G.N. Chakrabarty, S. Nath

Advocates of the Respondents: CASE

Notes of the Registry	Dated	Order of the Tribunal
This application is filed in form 50/1 No. 200/160891 Date 18.5.05 Dy. Registrar 30/5/05 Steps taken on 30/5/05. Notice & order sent to D/Section Bor. issuing to resp. No. 1 to 11 by Regd. A/D post.	25.5.2005 bb	Present: The Hon'ble Mr.K.V.Prahладan, Administrative Member. Heard Mr.M.Chanda, learned counsel for the applicants and also Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents. Issue notice to show cause as to why the application shall not be admitted. List on 15.6.2005 for admission. Pendency of this application shall not be a bar on the respondents to consider absorption of the applicants.
30/5/05 D/No-848 to 958 DT-30/5/05	15.6.2005	The learned counsel for the respondents could not get instructions. The O.A. is admitted. Post on 22.7.05. The respondents may file written statement in the meantime.
Notice issued by Regd. post. with O.A. on 30.5.05 SJR awaited b/s	nkm	1. C. Prahладan Member 2. Vice-Chairman

22.7.2005

post the matter on 25.8.2005.

Notice duly
Served on resp.
Nos. 8, 10, 3.

K. V. Bhattacharya
Member

25/7/05
Vice-Chairman

bb

25.8.2005

28/6
21.7.05
Out of 11 Resps.
only, 3 (R. 3, 8 & 10) have
been served. This award
by.

Heard Mr. M. Chanda, learned
counsel for the applicant, Mr. A.K.
Chaudhuri, learned Addl. C.G.S.C. for
the Central Government and Mr. B.
Benerjee, learned Sr. Govt. Advocate
for the State of Arunachal Pradesh.
Govt. Advocate for the State of
Arunachal Pradesh submits that the
State Government wants to file
written statement. Post this case
alongwith O.A. No. 114/2005 on
28.9.2005.

Notice duly Served
on resp. Nos. 3, 4, 8, 9, 10.

25/7

25/7/05
Vice-Chairman

No written statement
has been filed.

mb

28.9.05

20
24.8.05

26.9.05

*W/S Submitted
by the Respondent No. 11.*

AT

Mr. M. Chanda learned counsel for the
applicant submits that in all two cases
(O.A. No. 114 & 115 of 2005) are connected
and these matters to be heard together.
The Respondents No. 1 & 2 have filed
their written statement. The Respondent
No. 11 has filed their written statement
Post the matters before the next
available Division Bench.

25/7/05
Vice-Chairman

lm

27.9.05

*W/S Submitted by
the Respdt. No. 1 & 2.*

AT

06.03.2006

Post before the next available
division Bench.

AT
Vice-Chairman (J)

AT
Vice-Chairman (A)

mb

3 - 3 - 06

*W/S filed on behalf of
O.A. No. 1 & 2, other
Respondent not yet
filed.*

AT

3)

O.A 115/05-

Notes of the Registry	Date	Order of the Tribunal
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03.08.2006

Post before the next Division Bench.

8-3-06

An additional affidavit
submitted by the Applicant.

Member

Vice-Chairman

mb

Pai

The case is ready for
hearing.

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

/bb/

29.8.07

Copy of the order -
handed over to the
Adv. for the parties

AS

**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 Namgey
O/o the Executive Engineer
P.W.D. Division Sepa
East Kameng District, Seppa.
8. Lani Bhushan Karmakar
S/o Late K.M. Karmakar
P.W.D. Division, Dumperijo
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.Kartikeyan 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

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)

2) 5 MAY 2005

गुवाहाटी अदायक

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. No. 115 /2005

Shri L. Appal Swami & Ors.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 07.04.1999- Applicant No. 1 was selected and appointed as Divisional Accountant on deputation basis under the Respondent No. 2, and presently working in the office of the Executive Engineer, P.H.E & Water Supply Division, Khunsa, Dist- Tirap, Arunachal Pradesh
- 23.02.1996- Applicant No. 2 was selected and appointed as Divisional Accountant on deputation basis, he is presently working as Divisional Accountant in the office of the Executive Engineer, PWD, Kalektong (A.P).
- 05.03.1999- Applicant No. 3 was selected and appointed as Divisional Accountant on deputation basis and presently working in the office of the Executive Engineer, Yingking Division, PWD.
- 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-1)
- 01.02.2005- Applicants 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 applicants 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-2)
- 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 applicants). It has also been communicated therein that for the present and

L. Appal Swami

in view of the developments, the judgment of the High Court in respect of the 12 Divisional Accountants (including the present applicants) is not being implemented.

The applicants 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.

Hence the present Original Application before this Hon'ble Tribunal.

P R A Y E R S

Under the facts and circumstances stated above, the applicants 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 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.
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.
3. Cost of the application.
4. Any other relief(s) to which the applicants are entitled as deemed fit and proper by the Hon'ble Tribunal.

Interim order prayed for.

During pendency of this application, the applicants 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 applicants and accordingly, the respondents be restrained from repatriating the applicants 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.

L. Appal Swami

२३
25 MAY 2005

गुवाहाटी न्यायालय
Guwahati Bench

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. 115 /2005

Shri L. Appal Swami & Ors. : Applicants.

-Versus -

Union of India & Others: Respondents.

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Filed by

Surajit Choudhury.

Advocate.

Date 25.05.2005

L. Appal Swami

14 1
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A No. 115 /2005

BETWEEN

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. Kartikeyan 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.

-AND-

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

*Filed by the Petitioner
Through Sejgut Chakher
on 25.5.2005.*

L. Appal Swami

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 (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
Govt. 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-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 for consideration of absorption of the applicants as regular Divisional Accountant under the administrative control of the respondent No. 2 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 and also for a further direction upon the respondents to allow the applicants to continue to work as Divisional Accountant with the present status till the process of absorption is completed.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicants further declare 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 applicants are citizens of India and as such they are entitled to all the rights and privileges granted by the constitution of India. All the applicants are working as Divisional Accountant under the administrative control of the respondent no. 2 on deputation basis and they are posted in different Division Offices of the Executive Engineers in the State of Arunachal Pradesh as indicated in the cause title.
- A. While working as U.D.C in the office of the Executive Engineer, Roing P.W.D Division, Roing, Arunachal Pradesh the applicant no. 1 was selected and appointed on 07.04.1999 as Divisional Accountant on deputation basis under the respondent no. 2. The aforesaid selection was pursuant to a circular No. DA. Ccl/2-49/97-98/ Vol. II/ 245 dated 20.01.1998 issued by the respondent no. 2 inviting applications for recruitment of Divisional Accountant on deputation basis. After selection of the applicant no. 1, he was posted in the office of the Executive Engineer, P.W.D, Kalaktang, now working in the office of the Executive Engineer, Khunsa, Dist- Tirap, Arunachal Pradesh.
- B. The applicant No. 2 is a regular employee of the P.W. Department of State of Arunachal Pradesh. He was also similarly selected, as Divisional Accountant on deputation basis on 23.02.1996 at Chandel, Manipur, now he is working as Divisional Accountant in the office of the Executive Engineer, PWD, Division, Kalaktang, Arunachal Pradesh.
- C. The applicant no. 3 is a regular employee of the State of Arunachal Pradesh in the PW Department. While he was working as Assistant, office of the Executive Engineer, PW Department, Bomdila Division, he was selected and appointed as Divisional Accountant and was posted in the office of the Executive Engineer, P.W.D Division on 05.03.1999, now he is working as Divisional Accountant, Yingking Division, PWD.

- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 All the applicants are still working as Divisional Accountant on deputation basis under the different offices of Works Department under the Executive Engineer of the respective Division and they are under the administrative control of the respondent no. 2.
- 4.4 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 12th January'2000. In the said letter, the respondent no. 11 - while addressing the aforesaid letter to the respondent 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. 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. 11 also contended that that the formal notification in that regard was under issue and would be communicated in due course. But unfortunately, after the aforesaid letter dated 12th January'2000, the State respondent did not take any further action for taking over the accounts cadre from the administrative control of respondent no. 2 rather, the respondent no. 3 was silent in all these years regarding proposal of taking over the accounts cadre from the respondent No.2.

A copy of the letter-dated 12.01.2000 is enclosed as Annexure -1.

- 4.5 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 incumbents/applicants to opt for absorption in the new cadre, the applicants anticipated their regular absorption in the higher pay-scale, cadre, rank and status. But unfortunately, the respondent no. 2 had issued orders repatriating the applicants even though the resultant vacancies were going to be filled up by bringing other persons on deputation.
- 4.6 In the aforesaid circumstance, the action of the respondents amounted to replacing a person on deputation by another person on 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 When the matter rested at that stage, the applicants submitted representations to the respondents seeking consideration of their 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 However, those representations being ignored by the respondents, the applicants had approached this Hon'ble Court as well as the Hon'ble

Gauhati High Court seeking setting aside of the orders of repatriation as well as for issuance of a direction upon the respondents to permanently absorb the applicants in the posts of Divisional Accountant in consideration of the long period of service rendered and consequent decision of the respondent no. 3 as indicated herein above.

- 4.9. The applicant nos. 1, 2 and 3, although being persons under the control of the respondent no. 2 ought to have approached this Hon'ble Tribunal at the first instance, however, they had directly approached the Hon'ble Gauhati High Court in WP (C) Nos. 301 (AP), 459 (AP) and 472 (AP) of 2002 respectively with similar prayer.
- 4.10. The respective cases of the applicants 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 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 applicants 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 (applicants herein) was violated.
- 4.11. In the aforesaid circumstance, the Hon'ble High Court did not find any merit in the prayers of the applicants and accordingly, dismissed the writ petitions vide Judgment & Order dated 01.02.2005.

A copy of the aforesaid Judgment & Order is annexed herewith as
Annexure - 2.

L. Appal Swami

- 4.12 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 applicants 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.
- 4.13 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 applicants 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 applicants 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 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 and marked as Annexure-3.

- 4.14 That the applicants state 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 applicants would be considered for their continuation/permanent absorption as Divisional Accountants subject to withdrawal of Court cases, the cases of the present applicants are going to be ignored in an arbitrary and unfair manner. The applicants, therefore, 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 28.03.2005.
- 4.15 That the applicants 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, a right of due consideration has accrued to the applicants to have their cases considered vis-à-vis other similarly situated persons for permanent absorptions.
- 4.16 That in view of the facts and circumstances narrated above, the respondents are duty bound to also consider the cases of the present applicants notwithstanding the declaration of law made by the High Court to the effect 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 applicants in the light of the decisions contained in the letter dated 28.03.2005.

- 4.17 That the applicant is made bonafide and for the cause of justice.

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

- 5.1 For that the applicants, being similarly situated like the other 19 Divisional Accountants, have a right of having their cases duly considered by the respondents for permanent absorption as Divisional Accountants.
- 5.2 For that the letter dated 28.03.05 demonstrates the willingness of Respondent No. 2 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 applicants for due consideration of their cases.
- 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, a right of due consideration has accrued to the applicants to have their cases for permanent absorptions considered vis-à-vis other similarly situated persons.
- 5.4 For that the applicants being similarly situated to the other Divisional Accountants are entitled for a fair consideration of their cases by the respondents and a decision to consider the cases of others ignoring the cases of the present applicants 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 applicants by going against the spirit of the decision as contained in the letter-dated 28.03.2005 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 applicants for continuation/permanent 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 applicants 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 applicants 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 applicants state 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 applicants further declare that they 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 applicants 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 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.
- 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 applicants and accordingly, the respondents be restrained from repatriating the applicants 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.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 20 GJ 60891
ii)	Date of Issue	: 18.5. 2005
iii)	Issued from	: G. P. O., G. Y.
iv)	Payable at	: Guwahati

12. List of enclosures.

As given in the index.

L. Appal Swami

VERIFICATION

I, Shri L. Appal Swami, S/o Late L.A. Naidu, aged about 57 years working as Divisional Accountant, in the O/o- The Executive Engineer, P.H.E & Water Supply Division, Khunsa, Dist- Tirap, Arunachal Pradesh, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements made in this 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 25th day of May 2005.

L. Appal Swami

ANNEXURE-1

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries

Naharlagun-791110

No.DA/TRY/15/99

Dated, the 12th 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.

A. Dhar
 Surajit Choudhury
 Advocate
 on 25.5.2005.

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"

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

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

M.V.Kartikeyan Nair,
Son of K.P.V.Nair,
Presently working as Divisional Accountant,
Office of the Executive Engineer,
Kalaktang PW.Division.

... Petitioner.

-Versus-

1. The State of Arunachal Pradesh,
represented by the Secretary to the Govt of Arunachal Pradesh,
Public Works Department, Itanagar.
2. The Chief Engineer, P.W.D.,
Govt of Arunachal Pradesh, Itanagar.
3. The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, Assam etc.
Shillong 793003.
4. The Executive Engineer, Public Works Department,
Kalaktang Division, Kalaktang, A.P.

... Respondents

2. WRIT PETITION(C) NO.517(AP) OF 2001

Shri Bidhu Bhusan De,
Son of late P.C.De,
Presently working as Divisional Accountant,
Office of the Executive Engineer, Hayuliang Civil Division,
Department of Power, Govt of Arunachal Pradesh.

... Petitioner.

-Versus-

1. The State of Arunachal Pradesh,
represented by the Secretary to the Govt of Arunachal Pradesh,
Department of Power, Itanagar.
2. The Chief Engineer, Power,
Govt of Arunachal Pradesh, Itanagar.

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1/10/2005
S. L. N. Nambiar Deo
Nambiar
Additional U.S.T.E of A.M.
of 1972

Algebra
Subject
Date
on 25-5-05

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 Sanchayan Kumar Dam.
Son of late Subodh Kumar Dam.
Presently working as Divisional Accountant,
Office of the Executive Engineer,
Sepa Electrical Division, Sepa.

... Petitioner.

-Versus-

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

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true copy*

*Shri Sanchayan Kumar Dam
Arunachal Pradesh, India
Executive Engineer, Public Works Department
Sepa Electrical Division, Sepa*

Naharkhola

Acted under U/S 76 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

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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 Zaffar Road,
Indraprastha Head Post Office,
New Delhi 110 002.

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4. The Accountant General (A&E),
Arunachal Pradedsh, Meghalaya, Assam etc.
Shillong 793003.
5. The Chlef Engineer (EZ),
P.W.D., Itanagar
6. The Chlef Engineer,
Public Health Englneering Department, Itanagar.
7. The Senior Deputy Accountant General(Admn),
Accountant Geneal (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 Pradedsh, 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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N. Bhattacharya

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of 1873

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 Namgyel,
 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.

Constituted to Dr. B. S.

True copy

Official Copy
 Date: 11/5/2002
 Name: (Signature)
 Name: (Signature)
 Date: 11/5/2002

Autographed 11/5/2002

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.

36
... 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,②,
Dumaporijo Division, Upper Subansiri District,
Arunachal Pradesh.**

... Petitioner.

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Naharlagun
Authored U/S 76 of Ad.
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 (C),
Dumaporijo Division, Upper Subsansiri 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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true copy**

H.N.SARMA J.
 Date : 15/2/05
 In the year
 According to S. 76 of Act
 of 1872

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.C. No. 221(AP)/02, W.P.C. No.256/03, W.P.C. No.409(AP)/02 and W.P.C. 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.C. No.229(AP)/01, WP.C. No.820(AP)/01, WP.C. No. 459(AP)/03, WP.C. No. 517(AP)/01, WP.C. No.112(AP)/02, WP.C. No.301(AP)/02, WP.C. No.473/02 directly approached this High Court and those cases were taken up by the learned Single Judge. In WP.C. No. 409(AP)/02 and W.P.C. 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:

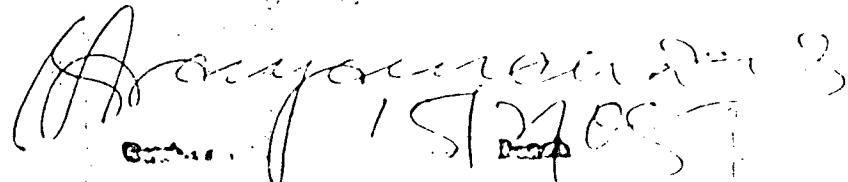
1. Dilip Kr. Dey, UDC, Office of the executive Engineer, PWD Yingkiong Division (petitioner in W.P.C. No.409(AP)/02) posted as Divisional Accountant, Boneng PWD Division on deputation for a period of one year by order dated 05.04.99.

Copy to the
Petitioner

[Handwritten signature and stamp]

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, Dumperijo PWD Division for one year.
5. Thankeswar Borah, UDC, Office of the Executive Engineer, PWD Dumperijo Civil Division PWD (petitioner in WP© No.729(AP)/02) posted on deputation as Divisional Accountant, Dumperijo 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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15/2/99

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, Resorce 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

CONTINUED

Shri Jayanta Deka

Exhibit No. 27 of Adm.
of 187

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.

Complaint

Ar. B. Prakash Singh
S. A. (P)

Exhibit No. 1
Date 10/01/2002

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

Continued

Shri Arunachal Singh
15/2/05

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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 (spur) 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 Punjab 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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Shri Jayaram Bhat
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S. D. Bhat
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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. Sarma
JUDGE

Sd/- J. A. Ansari
JUDGE

Dsd

Original
Copy
Recd. No. 15/2105
Date 15/5/2005
At 10:00 AM
Addressed to Mr. Justice
of 15/5/2005

Admitted
Savjot Chawla
Advocate
on 25.5.05.

88
Annexure-3



OFFICE OF THE ACCOUNTANT GENERAL (A&G)
MEGHALAYA, ARUNACHAL PRADESH & MIZORAM
SHILLONG-793 001
Phone : 0364-2223191 (O) Fax : 0364-2223103

E. R. Solomon
Accountant General

D.O.No.DA/Cell/1-8/Court Case/2600-2001-1969
Dated: March 24, 2005

Dear Sir/Amma,

28 MAY 2005

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/TRV/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 Cachar 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.

R/2/2005

Yours sincerely

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

S. S. S.

28/5/05

Affixed
Sangit Chatterjee
A.G.O.
on 26-5-05

(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.

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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

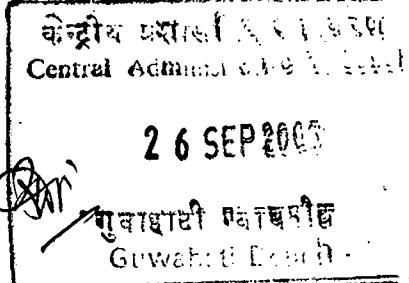
Sd/-

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24.03.05.

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

*Adarsh
 Surjit Choudhary
 Advocate
 25.5.05.*



File No. 1000
Through
Mr. B. R. Datta
Senior Govt. Advocate
Arunachal Pradesh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 115 OF 2005

Shri L. Appal Swami & Ors

-Versus-

Union of India & Ors

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT NO. 11

I, Shri Jayanta Kumar Bhattacharya, son of late Anil Kumar Bhattacharya, aged about 47 years, presently posted as Finance & Accounts Officer in the Directorate of Accounts, Naharlagun and residing at Naharlagun, P.O. Naharlagun, Arunachal Pradesh do hereby solemnly affirm and state as follows :

1. That a copy of the original application being No. 115 of 2005 has been served upon me wherein I have been arrayed as Party Respondent No. 11, I have read the averments made in the application along with its annexures and understood the contents thereof.
2. That save and except what is specifically admitted in this Written Statement and the statements made in the application which are contrary to and inconsistent with the records shall be deemed to have been denied.
3. That the applicants filed the instant application seeking the relief viz :
 - i) That the applicants who are on deputation entitled to consideration as Divisional Accountant working under different Division offices of the Executive Engineers in the State of Arunachal Pradesh.

Received in office
26.9.05

- ii) That before dealing with the said relief as prayed for, the deponent deals with different paragraphs made in the instant application for conveniences of the case in hand.
4. That with regard to the statements made in paragraphs 4.1 and 4.3 of the instant application the deponent states that these are matters of record and any statement made therein which are contrary to records shall be deemed to have been denied.
5. That with regard to the statements made in paragraphs 4.4 of the application the deponent states that 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 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.
6. That with regard to the statement made in paragraph 4.5 of the application the deponent states that the question has been dealt with in the scheme which is quoted hereunder :
- “2.2. The Divisional Accountants (on deputation) those who have completed the existing terms of deputation will be continued as Emergency Divisional Accountant for the time being as working arrangement. But for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional test examination within two years from the date of taking over the cadre from the

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26-9-05

administrative control of the Accountant General (A&E) , Meghalaya, Arunachal Pradesh etc. Shillong, for which they will be given three chances to qualify in the Divisional test examination. If any body fails to qualify in the Divisional test examination, shall be reverted to their parent department as and when qualified hand become available".

The said paragraph of the scheme ha put certain conditions and these conditions are required to be fulfilled in order to get the permanent absorption in the cadre of Divisional Accountant working under different divisions of the Government of Arunachal Pradesh.

Copies of the communication dated 30.7.2005 and the scheme are annexed hereto as Annexure A and B respectively to this Written Statement.

7. That with regard to the statements made in paragraphs 4.6 and 4.7 of the application the deponent states that the Government of Arunachal Pradesh had reiterated its stand for continuation of Divisional Accounts on deputation till the process of taking over administrative control from Accountant General (A&E) Meghelaya, Aruanchal Pradesh etc. Shillong is completed which is evident from Annexure I of the application dated 12.1.2000.

8. That with regard to the statements made in paragraphs 4.8,4.9,4.10,4.11,4.12 and 4.13 of the application the deponent states that these are matters of record and any statement made therein which area contrary to records shall be deemed to have been denied.

9. That with regard to the statements made in paragraphs 4.14,4.15 and 4.16 of the application the deponent states that before submission of the scheme for taking

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over of the cadre, the State of Arunachal Pradesh has consented for permanent absorption of the deputationists under the administrative control of the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc. Shillong.

The deponent further states that the Divisional Accountants on deputation be allowed to continue till such time the cadre is taken over by the State Government of Arunachal Pradesh keeping in view of the experience gathered by the serving deputationists and if the scheme is implemented and control of deputationists are taken over by the State of Arunachal Pradesh, the deputationists shall have to qualify themselves for permanent absorption indicated above.

VERIFICATION

I,, Shri Jayanta Kumar Bhattacharya, son of late Anil Kumar Bhattacharya, aged about 47 years, presently posted as Finance & Accounts Officer in the Directorate of Accounts to the Government of Prades, Naharlagun, do hereby verify that the facts states herein above are true to my knowledge, information and belief derived from relevant records. Nothing substantial to the issue raised by way of the present O.A. has been concealed.

Verify at Guwahati on this day of 26th September, 2005

Jayanta K. Bhattacharya
26-9-05
DEPONENT

Annexure 1

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

NO. DA/TRY-27/2000/1066-63

Dated 24 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, Personnel &
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.

Enclo : As stated above.

Yours faithfully

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

Dated 24 July'2005.

Memo. NO. DA/TRY-27/2000

Copy to :-

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.

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

The Scheme for taking over of the Administrative Control of the Cadres of Sr. DAO/DAO Grade-I/DAO Grade-II and DA of Working Divisions belonging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc. Shillong.

The posts of Divisional Accountants were created by the State Government in the Public Works Department / Rural Works Department / Public Health Engineering Department / Irrigation & Flood Control & Power Department, but the administrative control i.e. appointment, transfer, posting & disciplinary control, etc. vested with the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc. Shillong. The Divisional Accountants comes under the immediate control of the Executive Engineer of the Divisions. They assist the Executive Engineers while rendering accounts to the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong. Their pay and allowances and other service condition are at present governed by the Central Government rules in force, but they are paid from the state Government's exchequer. The question of taking over the cadres of the Divisional Accountants from the administrative control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc. Shillong had been under active consideration of the state Government for quite sometimes past in order to have proper control over expenditure and other accounts matters of the works Divisions, since it has become essential for the state Government to have better control on the heavy expenditure incurred in various engineering divisions of the state. Now, the Government of Arunachal Pradesh has decided in pursuance of cabinet decision of the State for taking over of the administrative control of the cadres of Sr. DAO/DAO/DA from the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong.

To take over the cadre of Sr. Divisional Accounts Officers/Divisional Accounts Officers/Divisional Accountants from the administrative control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong, shall be subject to the following terms and conditions.

1. Absorption of DA/DAO and Sr. DAO (Regular) borne on the cadre of the A.G to State Cadre.
 - 1.1 Sr. Divisional Accounts Officers / Divisional Accounts Officers / Divisional Accountants (Regular) borne on the cadre of the Accountant General who are presently working in the State of Arunachal Pradesh may opt to serve in the State cadre on status quo. The willing Sr. Divisional Accounts Officers/Divisional Accounts Officers /Divisional Accountants (Regular) working in the State may submit their options to the *Secretary to the Government of Arunachal Pradesh, Department of Finance, Arunachal Pradesh, Itanagar* through the concerned Executive Engineers within 2 (Two) months from the date of issue of the 'Notification' under intimation to their parent department.
 - 1.2 The Sr. Divisional Accounts Officers / Divisional Accounts Officers /Divisional Accountants (Regular) who do not opt for state service condition, but willing to continue in the post shall be allowed to serve on standard terms and conditions of deputation duly approved by the state Government for period up to 3 (Three) years which may be extended up to 2 (Two) years in the interest of Public Service. They shall be reverted to their parent Department immediately on expiry of their respective deputation period.
 - 1.3 The Sr. Divisional Accounts Officers/Divisional Accounts Officers /Divisional Accountants (Regular) who opt to serve in Arunachal Pradesh shall continue to be governed by the Central Rules for pension and other retirement benefits as applicable from time to time.
 - 1.4 The inter-se- seniority of the Sr. Divisional Accounts Officers / Divisional Accounts Officers/Divisional accountants (Regular) who opt for the State Service shall be fixed in the state cadre basing on their inter-se- seniority as Sr. Divisional Accounts Officers / Divisional Accounts Officers Grade-I Divisional Accounts Officer Grade-II/Divisional Accountants on the date of taking over of the cadre.

1.5

Sr. Divisional Accounts Officers/Divisional Accounts Officers Grade-I/Divisional Accounts Grade-II/Divisional Accountants (Regular) are now drawing the following scale of pay as per central pay pattern.

A) Divisional Accountant	Rs.5000-150-8000/-
B) Divisional Accounts Officer (Grade-II)	Rs.5500-175-9000/-
C) Divisional Accounts Officer (Grade-I)	Rs.6500-200-10,500/-
D) Divisional Accounts Officer (Sr. Grade)	Rs. 7500-250-12000/-

The cadre of Sr. Divisional Accounts Officers/ Divisional Accounts Officers Grade-I & II/ Divisional Accounts who are working in Arunachal Pradesh on regular basis shall be allowed to continue for drawal of their pay and allowances in the existing scales of pay even after taking over by the state Govt.

1.6

The Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong shall obtain the option in triplicate in the prescribed form as annexed herewith from the Sr. DAO/DAO Grade-I DAO Grade-II/DA borne on his cadre and serving in the state of Arunachal Pradesh on the date of taking over the cadre by the state Government through the Executive Engineer of the Divisions and furnish one copy of each option exercised by the Sr. Divisional Accounts Officers/Divisional Accounts Officers Grade-I Divisional Accounts officers Grade-II/Divisional Accountants to the *Secretary to Government of Arunachal Pradesh, Department of Finance*, on receipt of the options.

2.

Divisional Accountants on Deputation

2.1

Divisional Accountants who are working in the works divisions in Arunachal Pradesh on deputation shall be allowed to continue serving in the post of Divisional Accountant on deputation till they complete their normal terms of deputation.

2.2

The Divisional Accountants (on deputation) those who have completed the existing term of deputation will be continued as Emergency Divisional Accountant for the time being as working arrangement. But for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional test examination within two years from the date of taking over the cadre from the administrative control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong, for which they will be given three chances to qualify in the Divisional test examination. If any body fails to qualify in the Divisional test examination, shall be reverted to their parent department as and when qualified hand become available.

3.

Administrative Control

The administrative control of Sr. Divisional Accounts Officers/Divisional Accounts Officers/Divisional Accountants shall be vested with the *Finance Department, Government of Arunachal Pradesh, Itanagar* and will be exercised by the *Secretary, to the Government of Arunachal Pradesh, Department of Finance*.

4.

Recruitment

The state government through Arunachal Pradesh Public Service Commission shall fill up all the vacancies of Divisional Accountants of works divisions.

5.

Method of Recruitment:

The Arunachal Pradesh Public Service Commission shall make recruitment to the Cadre of Divisional Accountant by selection on merit adjudged from the following sources through written and competitive and qualifying test called the Initial Recruitment Examination for Divisional Accountant (Annexure-I)

5.2

Age Limit for "Direct Recruitment":

Candidate should not be less than 18 years and more than 28 years of age, provided that the initial age limit may be relaxed up to 33 (thirty three) years in case of APST candidates in accordance with the order of the state government from time to time. In case of existing / working Divisional Accountants, upper age limit is relaxable upto 52 years.

5.3

Education Qualification:

Minimum Educational qualifications for direct recruit shall be a University Degree / graduate with any one of the subjects namely Mathematics, Statistics, Commerce, Economics, from a recognized University.

Note:- Age Limit and Education as prescribed at serial 5.2 & 5.3 above shall not be applicable in case of eligible departmental candidate(s).

5.4

Appointing Authority:-

The Secretary to the Government of Arunachal Pradesh Department of Finance shall be the appointing authority subject to the approval of the Government.

5.5

Probation and Training:-

Candidates recruited through the Initial Recruitment Examination will be on probation for a period of 2 (Two) years before their absorption in the cadre of Divisional Accountant. During this period he/she shall be given training for a period of 6 (six) months in the Administrative Training Institute and thereafter intensive practical training in all aspects of public works accounts for a further period of 6 (Six) months.

After this training , the candidates are required to pass the Divisional test, which will be conducted by Director of Accounts and Treasuries. Till such time as the trainees, they are posted as Divisional Accountant on probation. After passing the Divisional Test Examination supernumerary posts equal to the number of such trainees will be deemed to be created for their absorption on completion of probation period.

6.

Transfer & Posting:-

Divisional Accountants / Divisional Accounts Officers are to serve anywhere within Arunachal Pradesh and are liable for transfer to the establishments of Chief Engineers / Director of Accounts & Treasuries whereon such posts exists.

7.

Transfer of record:-

The Accountant General (A&E), Meghalaya, Arunachal Pradesh etc. Shillong shall take necessary action to transfer the relevant records to the Secretary to the Government of Arunachal Pradesh Department of Finance within 3 (Three) months from the date of issue of the notification.

Sd/-

(Tabom Bam),
Principal Secretary (Finance)
Govt. of Arunachal Pradesh
Itanagar.

संघीय नियन्त्रित अधिकारी
Central Administrative Tribunal

27 SEP 2005

प्रधान
संघीय नियन्त्रित अधिकारी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF

O.A. No. 115/2005

SHRI L. APPAL SWAMI & 2 OTHERS.

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 the statements made in paragraph 4.1 (A to C), in the Application, the Respondent No.2 respectfully submits that, the Applicants are regular employees 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 three applicants

Filed by: Shri. Jitendra Choudhury
At: Central Govt. Standing Counsel
C. A. T. 26/9/05
Guwahati

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(amongst others) were 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 these Divisional Accountants on deputation categorically stated that the period of deputation was initially for one year extendable for a maximum of upto three years and in no case the period of deputation 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”.

2. That with reference to the statements made in the paragraph 4.2. of the application, the Respondent No.2 humbly submits that he has no comments to offer.
3. That with reference to the statement made in the paragraph 4.3. of the Application, the Respondent No.2 humbly submits that on completion of deputation periods, the repatriation orders to their parent department were issued to these Applicants. However, these three applicants instead of reporting back to their parent departments moved the court against the repatriation orders of this office. The Hon'ble Itanagar Bench of Gauhati High Court in its common 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 these Applicants. These Applicants then approached to the Hon'ble Central Administrative Tribunal vide this present O.A. No.115/2005 for permanent absorption to the cadre of Divisional Accountants under the administrative control of the Respondent No.2. Inspite of repatriation order they are continuing in the deputation posts.

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4. That with reference to the statements made in the paragraphs 4.4 of the application, the Respondent No. 2 humbly submits that the government of 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. More than five years elapsed since the State Government's letter of 12.1.2000 and the State Government has 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 common order dated 1.2.2005 disposing off Writ Petition (c) No.459 (AP) of 2001 and Writ Petition (C) No.517 (AP) of 2001 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.

However, it may be stated that the Director of Accounts & Treasuries Govt. of Arunachal Pradesh vide his letter No.DA/Try-27/2000/1060-63 Dated 30.7.2005 (Received on 17.8.2005) has forwarded a scheme stating that that the Govt. of Arunachal Pradesh has decided in pursuance of Cabinet decision of the State Government for taking over administrative control of the cadre of Sr.DAO/DAO/DA from the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc Shillong.

The Respondent No.2 humbly state that at present the 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 among the three states also Respondent No.2 is responsible to safe guard of the interest of the Regular Divisional Accountants working in the three states.

Further, the details of the scheme is under scrutiny and as the Respondent No.2 cannot take a decision alone to handover the cadre of Divisional Accountant to the state Government the matter would be referred

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to the Comptroller & Auditor General of India for his concurrence/consent as required under existing procedure.

5. That with reference to the statement made in paragraph 4.5 the Respondent No.2 humbly submits that the Applicants were appointed on deputation to the cadre of Divisional Accountants for a period of three years. The Applicants are Divisional Accountants on deputation, and were reverted back to their parent departments of the Government of Arunachal Pradesh on expiry of their three years deputation term.
6. That with reference to the statements made in paragraph 4.6, Respondent No.2 humbly submits that the staff Selection Commission is being approached to conduct a special Recruitment for Divisional Accountants to fill up the existing vacancies in the Divisional Accountants cadre by direct recruitment on a priority basis and hence the question of replacing a person on deputation by another person on deputation does not arise.
7. 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 under the answering Respondents being formal and laid down, can no way be substituted, whereby the Applicants by attempting to misuse the due process of law and by misleading this Hon'ble Tribunal are seeking absorption in the cadre of Divisional Accountants.
8. That with reference to the statement made in the paragraph 4.8, the Respondent No.2 humbly submits that the Hon'ble Itanagar Bench of Gauhati High Court had vide its common order dated 1.2.2005 disposed off W.P.© No.459 (AP) of 2001 and W.P.(C) No.517 of 2001 wherein the present three applicants were also parties to the case with the observation that the Hon'ble Court did not find any merits in the batch of this Writ Petitions.
9. That with reference to the statement made in the paragraph 4.9, the Respondent No.2 humbly submits that it is matter of records.
10. That with reference to the statements made in the paragraphs 4.10 & 4.11, the Respondent No.2 humbly submits that, some of the Applicants (in O.A No. 115/2005) 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 deputationists have 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 passed by the Hon'ble Gauhati High 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”.

11. That with reference to the statement made in the paragraph 4.12, the Respondent No.2 humbly submits that the Respondent No.2 has no comments to offer. It is matter of records.
12. That with reference to the statement made in paragraph 4.13 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 transfer the remaining similar pending cases before the Hon'ble Gauhati High Court, to the Itanagar Bench of Gauhati High Court for speedy disposal of the cases.

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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, but it was not found possible as the Recruitment Rules of Divisional Accountant do not provide for such absorption.

13. That with reference to the Statement made in paragraph 4.14 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, has been examined by the Comptroller & Auditor General of India (Respondent No.1) but it was not found possible as the Recruitment Rules for Divisional Accountants do not provide for such absorption. Hence all Divisional Accountants on deputation on completion of their deputation period of 3 (three) years have been reverted back without any exception. The applicants contention that their cases are going to be ignored in an arbitrary and unfair manner is baseless.
14. That with reference to the Statement made in the paragraphs 4.15 & 4.16 of the application, the Respondent No.2 humbly submits that 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 years will require to be repatriated back without any exceptions.

Grounds of relief(s) with legal provisions.

15. That with reference made in paragraph 5.1 of the Application, the Respondent No.2 humbly submits that the matter has been taken up in the above paragraphs.
16. That with reference to the statement made in paragraphs 5.2. & 5.3 of the Application, the Respondent No.2 humbly submits that the matter has been taken up in the above paragraphs.

17. That with reference to the statement made in paragraphs 5.4, of the Application, the Respondent No.2 humbly submit that the Applicants were reverted back to their parent department in the Government of Arunachal Pradesh as their tenure of deputation had expired and hence the "order of repatriation is not violative of Article 14 of the constitution" as has been held by the Hon'ble Apex court in State of M.P. vs Ashok Deshmukh (AIR 1988 SC 1240).
18. That with reference to the statement made in paragraphs 5.5 ,5.6 & 5.7 of the Application, the Respondent No.2 humbly submits that he has no comments to offer.
19. 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.
20. That With reference to the relief sought by the Applicants in the paragraph 8, the Respondent No.2 humbly submits that the Applicants are not entitled to any of the remedies sought for and the Application are liable to be dismissed as their claim for absorption in the services of the Respondent No.2 does not arise in the light of what has been stated above.
21. 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 25.5.2005 granted in this case be vacated and the order dated 24.5.2005 be allowed to be implemented.

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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 30th August 2005 at Shillong.

[Signature]
Deponent

क्षेत्रिक उप महालेखाकार (प्रशासन)
Deputy Accountant General (ADMN)
महालेखाकार का कार्यालय (ले.ब.ह.)
Office of the Accountant General (A & E)
मेघालय, हत्तादि, शिलांग
Meghalaya etc., Shillong

----- (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, 1993.

(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, ~~and who has not obtained a certificate of separation or divorce~~ shall be eligible for appointment to the said post ;

Provided that the Comptroller and Auditor is satisfied with the appointment to the said post,

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 Order to relax the same.

5. Power to relax - Where the Comptroller and Auditor General of India is of the opinion that in 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

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(ii) 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 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)

*Alleged
Dok Konyah
27/4/99
Asstt. Accounts Officer
of The Accountant General (A&M)
of Meghalaya, Etc. Shillong.*

15 11 Appendix 11
OFFICE OF THE ACCOUNTANT GENERAL (A&E), MEGHALAYA, ARUNACHAL
PRADESH AND MIZORAM :: SHILLONG
-00000000000-

EO No.DA.Cell/ 232

DATED 11.3.99

Consequent on his selection for the post Divisional Accountant (on deputation basis) in the pay scale of ~~5000-1500-1500-1500-500-2300-60-2600/-~~ in the combined cadre of Divisional Accountants under the Administrative control of the office of the Accountant General (A&E), Meghalaya, etc., Shillong, Shri

L. Appal Swami at present working in the office of the E. Eng. Roing PWD, AP is posted on deputation as Divisional Accountant in the office of the E. Eng. PWD, AP in Kalaktang PWD.

2. Shri L. Appal Swami should join the aforesaid post of Divisional Accountant on deputation within 30 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 L. Appal Swami will be for a duration of 1(one) year only from the date of joining in the office of the E. Eng. Kalaktang PWD, AP.

4. The pay and deputation (Duty) allowances in respect of Shri L. Appal Swami 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

(13) -:- 2 -:- 12

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and as amended and modified from time to time. While on deputation, Shri L. Appal Swami 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 L. Appal Swami, 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 L. Appal Swami 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.)

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

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

6/9/99
R. A. S. (Admn.)

Senior Accounts Officer,
I/C D.A. CELL.

T/C

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Mem. No. D.A. Cell/2-49/94-95/2518-2555

DATED

12/3/99

Copy forwarded for information and necessary action to :-

1. The Accountant General (A&E), Manipur, Imphal.

2. The Accountant General (A&E), Tripura, Agartala.

3. The Chief Engineer, P.W.A Shanagor.

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

4. The Executive Engineer, Rong Pw Rvn, Rong

P.C. Rong A.P. He is requested to release immediately Shri L. Appal Scammi

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

5. The Executive Engineer, Kalakhang F.C. Rvn

Kalakhang A.D. He is requested

to intimate the date of joining of Shri L. Appal Scammi

6. Shri L. Appal Scammi I.C.C.

O/o the E. Engg. Rong Pw Rvn

Rong A.D.

7. E.O. File.

8. S.C. File.

9. P.C. File. L. Appal Scammi

0. File of the deputationist.

1. _____

Senior Accounts Officer,
I/c D.A. CELL.

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

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

M.V.Kartikeyan Nair,
Son of K.P.V.Nair,
Presently working as Divisional Accountant,
Office of the Executive Engineer,
Kalaktang PW.Division.

... Petitioner.

-Versus-

1. The State of Arunachal Pradesh,
represented by the Secretary to the Govt of Arunachal Pradesh,
Public Works Department, Itanagar.
2. The Chief Engineer, P.W.D.,
Govt of Arunachal Pradesh, Itanagar.
3. The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, Assam etc.
Shillong 793003.
4. The Executive Engineer, Public Works Department,
Kalaktang Division, Kalaktang, A.P.

... Respondents

2. WRIT PETITION(C) NO.517(AP) OF 2001

Shri Bidhu Bhisan De,
Son of late P.C.De,
Presently working as Divisional Accountant,
Office of the Executive Engineer, Hayuliang Civil Division,
Department of Power, Govt of Arunachal Pradesh.

... Petitioner.

-Versus-

1. The State of Arunachal Pradesh,
represented by the Secretary to the Govt of Arunachal Pradesh,
Department of Power, Itanagar.
2. The Chief Engineer, Power,
Govt of Arunachal Pradesh, Itanagar.

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(Signature)
Date: 10/10/2001
Name of Recd
Signature
Accomplished on 15/10/2001
at 12.00

3. The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, Assam etc.
Shillong 793003.

4. The Executive Engineer, Power Department,
Hayullang Civil Division, Hayullang, 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 Sanchayan 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.

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Subodh Kumar Dam
Subodh Kumar Dam
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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 Luxmil 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

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

Shri Juimi 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 Zaffar Road,
Indraprastha Head Post Office,
New Delhi 110 002.

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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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Auth. under U.S. 76 of Act
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 Namgyal,
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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27/10/2002
Shillong
Arunachal Pradesh
Assam

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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, O,
Dumporijo Division, Upper Subansiri District,
Arunachal Pradesh.

... Petitioner.

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Authored U/S 76 of Act
of 1852

-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 Subsansiri 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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H.N.SARMA J.
15/2/05

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.C. No. 221(AP)/02, W.P.C. No.256/03, W.P.C. No.409(AP)/02 and W.P.C. 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.C. No.229(AP)/01, WP.C. No.820(AP)/01, WP(c) No. 459(AP)/03, WP(C) No. 517(AP)/01, WP(C) No.112(AP)/02, WP.C. No.301(AP)/02, WP.C. No.473/02 directly approached this High Court and those cases were taken up by the learned Single Judge. In WP.C. No. 409(AP)/02 and W.P.C. 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.C. 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. Toshi Namgey, UDC, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WPC 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 WPC 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 WPC No.256(AP)/02) posted on deputation as Divisional Accountant, Dumperijo PWD Division for one year.
5. Thankeswar Borah, UDC, Office of the Executive Engineer, PWD Dumperijo Civil Division PWD (petitioner in WPC No.729(AP)/02) posted on deputation as Divisional Accountant, Dumperijo Civil Division PWD by order dated 22.01.97 for one year.
6. Sanchyan Kumar Daim, LDC, Office of the Executive Engineer, PWD Kalaktang Division (petitioner in WPC No.459(AP)/02) posted on deputation as Divisional Accountant, Division, Malkalha, 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 WPC 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 WPC No.517(AP)/02) posted on deputation as Divisional Accountant in Thoubal Project Division No.11 (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 WPC 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 WPC No.112(AP)/02) posted on deputation as Divisional Accountant, Along PWD Division vide order dated 10.03.99 for one year.
10. Sanlanu Ghosh, Assistant, Office of the Executive Engineer, PWD Bomdila Division (petitioner in WPC No.473(AP)/02) posted on

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Ar. C. Sengupta (S. Sengupta)
ESTD. 15/12/1970

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, Resorce 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

Carried on

After going through the file
Date 11/11/00

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.

Opposition

82.06.2003
82/100

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

Continued

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Ans. 15/2/00

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.

Certified to be true

10th Oct 1987

Shri Jayant Singh

Excerpts from the
of 1972

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 (spur) 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

Classification

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

Complied to the

1972 Act

Att. to the 1972 Act

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 Gujarat & 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 Punjab 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.

Chittaranjan

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. Sarmua
JUDGE

Sd/- J. A. Ansari
JUDGE

Dsd

Ordering
Date 15/2/05
Court
Appeal
of Act
of 1947

SPEED POST.

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

No. DA Cell/MVKN/DEPT./HIGH COURT/188.

Dated:- 24 MAY 2005

To,

The Executive Engineer,
Khonsa P.H.E. & W/S Division,
Khonsa, Arunachal Pradesh.

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.C No.301 (AP)/2002 filed by Shri L.Appal Swami, 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, Shri L.Appal Swami, Divisional Accountant on deputation stands released and reverted back to his parent Department i.e. Chief Engineer, Public Works Department, Govt. of Arunachal Pradesh, Itanagar.

You are requested to release Shri L.Appal Swami 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 L.Appal Swami may please be intimated telegraphically/Fax (No. 0364 - 2223103) to this office.

Yours faithfully,

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

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20

Memo No. DA Cell/MVKM/DEPTN/HIGH COURT/188-194

Dated:- 24 MAY 2005

Copy forwarded for information and necessary action to :-

1. The Chief Engineer, Public Works Department, Govt. of Arunachal Pradesh, Itanagar.

The Chief Engineer, P.H.E Department, Govt. of Arunachal Pradesh, Itanagar

- 2.

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

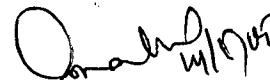
4. The Director (Legal) O/o the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi - 110 002.

5. Shri L.Appal Swami, Divisional Accountant (Deputation) O/o the Executive Engineer, Khonsa P.H.E & W/S Division, Khonsa, Arunachal Pradesh.

6. Personal File of Shri L.Appal Swami, D.A. on deputation.

7. Spare Copy.

8. Posting Table.


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

-34-

SPEED POST.

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

No. DA Cell/MVKN/DEPT./HIGH COURT/195.

Dated:- 24 MAY 2005

To,

The Executive Engineer,
Yingkiong Rural Works Division,
Yingkiong, Arunachal Pradesh.

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.C No.472 (AP)/2002 filed by Shri Santanu Ghosh, 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, Shri Santanu Ghosh, Divisional Accountant on deputation stands released and reverted back to his parent Department i.e. Chief Engineer, Rural Works Department, Govt. of Arunachal Pradesh, Itanagar.

You are requested to release Shri Santanu Ghosh 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 Santanu Ghosh may please be intimated telegraphically/Fax (No. 0364 - 2223103) to this office.

Yours faithfully,

Sd/-

Sr.Dy.Accountant General (Admn).

-35-

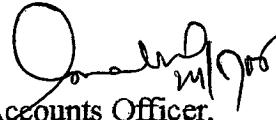
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Memo No. DA Cell/MVKM/DEPTN/HIGH COURT/ 145-200

Dated:- 24 MAY 2005

Copy forwarded for information and necessary action to :-

1. The Chief Engineer, Rural Works Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, Naharlagun, Arunachal Pradesh.
3. The Director (Legal) O/o the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi - 110 002.
4. Shri Santanu Ghosh, Divisional Accountant (Deputation) O/o the Executive Engineer, Yingkiong Rural Works Division, Yingkiong, Arunachal Pradesh.
5. Personal File of Shri Santanu Ghosh, D.A. on deputation.
6. Spare Copy.
7. Posting Table.


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

36

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SPEED POST

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

No. DA Cell/MVKN/DEPT./HIGH COURT/148.

Dated:- 24 MAY 2005

To,

The Executive Engineer,
Kalaktang P.W.D.
Kalaktang, Arunachal Pradesh.

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.459 (AP)/2001 filed by Shri M.V.K.Nair, 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, Shri M.V.K.Nair, Divisional Accountant on deputation stands released and reverted back to his parent Department i.e. Chief Engineer (West Zone), Public Works Department, Govt. of Arunachal Pradesh, Itanagar.

You are requested to release Shri M.V.K.Nair 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 M.V.K.Nair, may please be intimated telegraphically/Fax (No. 0364 - 2223103) to this office.

Yours faithfully,

Sr. Dy. Accountant General (Admn).

Contd...

- 37 -

25 MAY 2005

Memo No. DA Cell/MVKM/DEPTN/HIGH COURT/148-154

Dated:-

24 MAY 2005

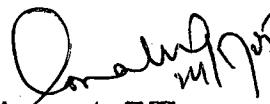
Copy forwarded for information and necessary action to :-

1. The Chief Engineer (West Zone), Public Works Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, Naharlagun, Arunachal Pradesh.
3. The Director (Legal) O/o the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi - 110 002.
4. The Executive Engineer, P.W.D., Kalaktang, Arunachal Pradesh.

5. Shri M. V.K.Nair, Divisional Accountant (Deputation) O/o the Executive Engineer, Kalaktang P.W.D. Kalaktang, Arunachal Pradesh.
6. Personal File of Shri M.V.K.Nair, D.A. on deputation.

7. Spare Copy.

8. ✓ Posting Table.


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

Dated 24/Jan/05 at 8.5.05

Dy. DA fm/A&E/1083, dt. 15/4/05

as

(ALS)

GOVT. OF ARUNACHAL PRADESH
 DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

DA/TRY/Part/15/99

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. *6446*

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.

Y/2005
ALS DAU

8/2005
Y/2005
ALS DAU

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/Par/15/59 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 (Adm).

Appendix - vii दिव्य समिति / वार्षिक / 156/2005
स्व. स्व. विवाह (A) / 646 दि 13/7/05
Manish Kumar
Asstt. C&A.G.(N) -40-
D.O. No. 425 N.G.E. (App) / 10-2005
भारत के नियमों-महालखासरोक्षक का कार्यालय
10, बहादुरशाह जफर मार्ग,
नई दिल्ली - 110 002 (6)
OFFICE OF THE
COMPTROLLER & AUDITOR GENERAL
OF INDIA
10, BAHADUR SHAH ZAFAR MARG,
New Delhi - 110 002
दिनांक / DATE 6.7.2005

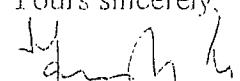
राज्य सरकार लखनऊ
एस: ४२५ एसीएल/वार्षिक/२००५ दि १३.७.०५

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.

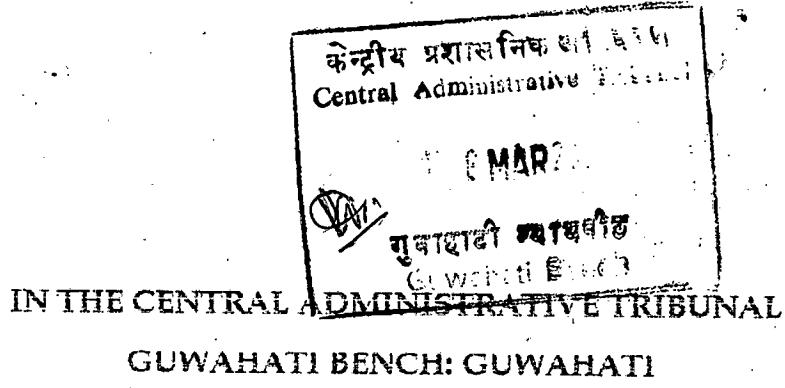
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११/७
११/७
११/७

११/७
११/७

११/७
११/७



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:

O. A. No. 115 /2005

Shri L. Appal Swami & Ors.

.....Applicants.

-Versus -

Union of India & Others.

.....Respondents.

-AND-

In the matter of:

An additional affidavit submitted by the applicants in support their contentions raised in the Original Application.

The applicants abovementioned most humbly and respectfully beg to state as under:-

1. That your applicants further beg to state that during the pendency of the Original Application filed by the present applicants, for absorption of the applicants in the cadre of Divisional Accountants on regular basis, a further development has taken place in the matter as such this affidavit is necessary in order to appraise the Hon'ble Court regarding subsequent development on the question of absorption in the cadre of Divisional Accountant on regular basis.

2. That the Director and Accounts and Treasuries, Govt. of Arunachal Pradesh, i.e. respondent No. 11, submitted a written statement supporting the case of the present applicants and also framed a scheme for taking over the administrative control of the cadre of Senior DAO/DAO Grade-I/DAO Grade-II and DA of working Divisions belonging to PHE/RWD/TECD/PWD/Power Department of Arunachal Pradesh from the control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc. Shillong and the said scheme is forwarded by the Respondent No. 11 to the Respondent No. 2, for consideration and approval, which is annexed with the written statement filed by the Respondent No. 11. In the said scheme, a specific provision is made regarding absorption of the Divisional Accounts on deputation, particularly in paragraph No. 2, wherein it has been stated that the Divisional Accountant on deputation who have completed the existing term of deputation will be continued as emergency Divisional Accountant for the time being as working arrangement but for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional Tests examination within 2 years from the date of taking over of the cadre from the administrative control of the AG (A&E) Meghalaya, Shillong etc. The deputationists will be given 3 chances to qualify in the Divisional tests examination, if any body fails to qualify the Divisional tests examination shall be reverted to their parent department as and when qualified hand become available. In paragraph 3 of the said draft scheme it has been

specifically stated they will be placed under the administrative control of Finance Department, Govt. of Arunachal Pradesh, Itanagar, after receipt of the aforesaid scheme prepared by the State of Arunachal Pradesh, the Accountant General (A&E) Meghalaya, Shillong, made certain modification in the said scheme. However, in paragraph 7 of the modified scheme, it has been stated that no employee from the State Government should be posted to the regular charge of any division unless he or she completed the special training required in public works Accounting system as well functioning of the public works division and has subsequently qualified in an appropriate departmental examination to be introduced by the State Govt. of Arunachal Pradesh as indicate in draft scheme of the State Government. However, in the modified scheme it has been stated the Director of Accounts and Treasuries, Arunachal Pradesh shall have the power to appoint any employee of the State Government as Divisional Accountant/Divisional Accounts Officer on a temporary and ad hoc basis till the post is filled by the regular qualified persons. Therefore, it appears from the letter of the Accountant General (A&E) Meghalaya, Shillong bearing No. DA/Cell/1-1/2000-2001/1509 dated 25.11.2005, whereby comments and suggestions of the State of Arunachal Pradesh is invited by the Accountant General over the modified scheme for further consideration and approval of the Comptroller and Auditor General of India. Therefore, it appears on principle Respondent No. 1 and 2 have accepted the scheme of the Govt. of Arunachal Pradesh with

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certain modification of the Scheme submitted by the Govt. of Arunachal Pradesh.

Copy of the letter dated 25.11.2005 with the modified scheme is enclosed herewith for perusal of the Hon'ble Court as Annexure-A.

3. That it is stated that the Govt. of Arunachal Pradesh have already examined the modified scheme and the same shall be forwarded to the Respondent No. 1 and 2 shortly to expedite the process of taking over the administrative control of the cadre of the Divisional Accountants.

In the circumstances stated above the Hon'ble Court be pleased to direct the respondents to take a final decision in the matter of absorption of the applicants as expeditiously as possible and till such time the applicants be allowed to continue and status quo be maintained till a final decision is taken over in the issue.

In the facts and circumstances as stated above the Hon'ble Court be pleased to allow the Original Application.

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VERIFICATION

I, Shri L. Appal Swami, S/o Late L.A. Naidu, aged about 58 years, Divisional Accountant (Retd.), Arunachal Pradesh, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements made in this application, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the day of March 2006.

L. Appal Swami

Registered Post

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

Dated:- 25.11.2005

No.DA Cell/ 1-1/2000-2001/ 1509

To

Shri C.M.Mongmaw,
Director of Accounts and Treasuries,
Government of Arunachal Pradesh,
Naharlagun - 791 110.
Arunachal Pradesh.

Sub:- Scheme for transfer of cadre of DAs/DAOs from the Administrative control
of A.G.(A&E) Meghalaya, etc, Shillong to the Govt. of Arunachal Pradesh.

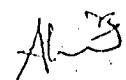
Sir,

In inviting a reference to this office letter No. DA Cell/1-8/Court case/Vol.II/1045
dated 23.8.2005 on the subject cited above, I am to state that the draft scheme framed by
the C&AG's office regarding proposed transfer of DAs cadre has been received by
this office. A Copy of the draft scheme is forwarded herewith for acceptance of the terms
and conditions embodied in the scheme by Arunachal Pradesh Government.

Comments/suggestion if any, of the government may be communicated to this
office for onward transmission to the O/o the C&AG of India for consideration/approval.
Also the action taken by the State Government on this office letter No. DA Cell/1-
1/2000-2001/1390 dated 31.10.2005 (Copy enclosed) may also please be communicated
at an early date.

Enclo:- As stated above.

Yours faithfully,


(A.K. Das)
Dy. Accountant General (Admin)

*A. K. Das
Advocate*