

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 146/06

R.A/C.P No.

E.P/M.A No. 56 & 76/2006

1. Orders Sheet.....	OA	Pg. 1	to 3
MP 56/06 order	MP 56/06 order	page 1	to 2
2. Judgment/Order dtd. 26.3.2007	MP 76/06	page 1	to 2
3. Judgment & Order dtd.....	Received from H.C/Supreme Court		
4. O.A.....	146/2006	Pg. 1	to 43
5. E.P/M.P. 56/06	MP 76/06	Pg. 1	to 5
6. R.A/C.P.		Pg. 1	to 4
7. W.S.....		Pg. 1	to 9
8. Rejoinder.....		Pg. 1	to
9. Reply to the M.P. 56/06		Pg. 1	to 6
10. Any other Papers.....		Pg. 1	to
11. Memo of Appearance.....			
12. Additional Affidavit.....			
13. Written Arguments.....			
14. Amendement Reply by Respondents.....			
15. Amendment Reply filed by the Applicant.....			
16. Counter Reply.....			

SECTION OFFICER (Judl.)

B. B. B.
29/10/17

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

146 / 2006

1. Original Application No.
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(s) Shri Om Prakash Upadhyay m/s.

Respondent(s) Union of India m/s.

Advocate for the Applicant(s) Mr. J.L. Sarkar
Mr. S.N. Tamuli

Miss G. Das
Adv. G.S.C.

Notes of the Registry	Date	Order of the Tribunal
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| 19.06.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/BD
No. 269350763

Dated 16.6.06

Heels
Dy. Registrar

The applicants are SOG
Examination qualified officers now
working as Assistant Audit Officer in
Group 'B' cadre. They are borne in the
office of the Principal Accountant General
(Audit) Assam, Guwahati. There are other
officers of Accountants General (Audit) in
Meghalaya, Manipur, Tripura and
Nagaland States. Vide circulars dated
31.03.2006 and 20.04.2006, a scheme
has been circulated separating the cadre
of Group 'B' officers in Civil Audit Offices.
According to the applicants, the scheme
has been formulated on wrong premises
that there was common/combined cadre.
According to them, in reality there has not
been any formal common/combined
cadre. They are also stated that the
respondents are changing their options
from time to time.

steps taken and
extra charges for
servicing of said
writs for respn
was 6 & 7 has
been deposited vide
receipt no. 1966.

16/6

16/6/06

Contd/-

Contd/-

19.06.2006 Heard Dr. J.L. Sarkar, learned counsel for the applicants and Ms. U. Das, learned Addl. C.G.S.C. for the respondents.

Ms. U. Das, learned Addl. C.G.S.C. for the respondents submitted that there is a common cadre. She also submitted that she would like to take instructions to file reply statement. Let it be done.

Post on 20.06.2006. In the meantime, in the interest of justice, by way of interim order, this Tribunal directs the respondents not to disturb the applicants from their place of postings till the next date.

Vice-Chairman

/mb/

20.06.2006 Post on 27.06.2006. Interim order dated 19.06.2006 shall continue till the next date.

Received
Usha Das.
Addl. C.G.S.C.
21/6/06.

Vice-Chairman

mb

21.7.2006 Considering the larger issue involved in this case I am of the view and hence admitted that the O.A. should be admitted and the learned counsel for the respondents is given two weeks further time to file written statement, if not already filed, and two weeks thereafter to the applicants to file rejoinder.

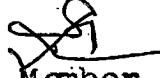
Post on 24.8.2006 before the Division Bench in the hearing list so as to expedite the decision on merits.

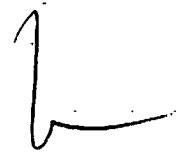
Received
Usha Das.
Addl. C.G.S.C.
26/7/06

27.7.06

W.S. filed by the
Respondents.

07.08.2006 Post on 09.08.2006.


Member


Vice-Chairman

mb

09.08.2006 Post before the next Division Bench.

Wts has been filed.


23-8-06.


Member


Vice-Chairman

mb

No repondent has been filed.


1.3.07.

15.03.2007 Present: Hon'ble Shri K.V. Sachidanandan, Vice-Chairman Hon'ble Tarsem Lal, Administrative Member.

Let this case be listed on 19.03.2007.


Member


Vice-Chairman

nkm

19.03.2007 Heard the learned counsel for the parties. Hearing concluded. Judgment reserved.


Member


Vice-Chairman

nkm

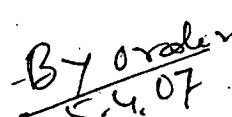
26.3.2007 Judgment pronounced in open

Court, kept in separate sheets.

The O.A. is disposed of in term of the order. No costs.


Vice-Chairman

bb


By order
5.4.07

Received
Nisha Dua
Add CWC
19/4/07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 115/06, 125/06, 143/06 & 146/06

Date of Order: This, the 26th day of March, 2007.

HON'BLE MR. K.V.SACHIDANANDAN, VICE-CHAIRMAN

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

O.A.115 of 2006

1. Md. Siraz Uddin Ahmed,
2. Shri Ashutosh Sutradhar
3. Shri Kamalendu Bhattacharjee
4. Shri Amulya Sarmah
5. Shri Ratan Kumar Dey
6. Shri Sankar DasApplicants

O.A.125 of 2006

1. Sri Guna Ram Kalita
2. Shri Jishu Bhattacharjee
3. Shri Jayanta Ghosh
4. Shri Biren Buragohain
5. Shri Babul Chandra Das
6. Shri Ranajoy Bhattacharjee
7. Shri Binoy Kr. Das
8. Shri Birinchi Kr. Sarmah
9. Shri Swapan Kr. Bose
10. Shri Sudipta Dasgupta
11. Shri Sebabrata Mazumdar
12. Shri Biswajit Chowdhury
13. Shri Nanigopal Paul
14. Shri Shreekanth Lal
15. Shri Samiran Chakraborty
16. Shri Subhash Kumar
17. Shri Naba Kumar BhattacharjeeApplicants

O.A.143 of 2006

1. Shri Dhrubajyoti Deb
2. Shri Dilip Kumar Das,
3. Sri Binoy Kumar Mandal
4. Shri Sanjoy Ranjan Dey
5. Sri Sadhan Chandra Paul
6. Sri Mrinal Kanti Bardhan
7. Shri Deba Prasad Bhattacharjee
8. Sri Sabyasachi Choudhury
9. Sri Alok Kumar Chakravorty
10. Smt. Kalpana Rani Deb

11. Shri Hitesh Chandra Kalita
 12. Shri Arup Buragohain
 13. Sri Kuntal Saha
 14. Sri Ashish Benarjee
 15. Sri Biswajit Dutta
 16. Smt. Shilpi Dey
 17. Shri Lokapriya DasApplicants

O.A.146 of 2006

1. Shri Om Prakash Upadhyay
 2. Shri Snehangshu Nath
 3. Shri Sarat Chandra DasApplicants

By Advocate Dr. J.L.Sarkar, Mr. S.N.Tamuli, B.Choudhury, D.Goswami & B. Chakraborty.

- Versus -

1. Union of India,
 represented through Comptroller &
 Auditor General of India,
 10 Bahadur Shah Zafar Marg,
 New Delhi -110 002.

2. The Comptroller & Auditor General of India,
 10 Bahadur Shah Zafar Marg,
 New Delhi -110 002.

3. The Principal Accountant General (audit)
 Meghalaya etc. Shillong-1.

4. The Principal Accountant General (Audit)
 Assam, Guwahati-29.

5. The Accountant General (Audit), Nagaland,
 Kohima.

6. The Accountant General (Audit), Tri[pura,
 Agartala.

7. The Accountant General (Audit), Manipur,
 Imphal.

8. The Accountant General (A&E), Assam,Guwahati/
 Shillong,Meghalaya/Manipur,Imphal/Nagaland,Kohima/
 Mizoram,Aizawl/Arunachal Pradesh, Itanagar &
 Tripura,AgartalaRespondents

By Shri G.Baishya, Sr.C.G.S.C (O.A.115/06 & 143/06)
 Miss U.Das, Addl.C.G.S.C (O.A. 125/06 & 146/06)

6
 A

ORDER

TARSEM LAL, MEMBER(A),

Since common questions of law and facts are involved, all the four cases are being disposed of by this common order with the consent of the parties.

2. This case relates to separation of common cadre of Group B Officers consisting of Section Officers, Assistant Accounts Officers, Accounts Officers and Senior Accounts Officers pertaining to Audit and Accounts in the Accountant General Offices in the North Eastern Region.

3. The applicants have explained that after reorganization of N.E. Region into different States, different Accountant Generals' offices have been set up from time to time during the period from 1967 to 2005-2006. The man power have generally been transferred from AG, Assam, Guwahati which was the mother office before other AG offices were opened in the North East Region. Now there are 7 independent AG offices for all the 7 North Eastern States including Assam. Each of these offices has independent status and their own staff sanctioned to them from time to time. Therefore, there was no question of forming any combined or common cadre for the employees/officers of these offices at any time. The Group B officers have to pass SOG (Section Officers Grade) Examination and subsequent promotions are made after passing such examination. Thus the term like own common cadre has no meaning and which is a vague concept.

4. The applicants have challenged the impugned orders dated 24.2.2006 (Annexure-D/O.A.125/06) issued by the Comptroller and Auditor General (C&AG) under which options have been called for from Group B Officers in the combined cadres to separate them for different Accountant General's offices in the North East Region. The applicants explained that respondents have circulated a scheme of so called separation of common cadre for Group B officers without application of their mind. The corrected joint cadre has neither been published nor circulated in these days of right to information. Without knowledge of joint cadre, separation of cadre remains to be more vague and opens rooms for arbitrariness and favoritism in the matter of transfer/promotion. Moreover, neither the service associations nor the employees have been associated in framing the so called scheme of separation. The scheme of the so called separation of cadre as such does not satisfy the requirement of administrative fairness, fair play and openness and is therefore perverse and vitiated by arbitrariness.

5. The Principal Accountant General (Audit), Assam has issued a circular No.Estt.1/Audit/1-51/2005-06/394 dated 31.3.2006 (Annexure-D/O.A.125/06) circulating a copy of the C&AG policy No.144-NGE(App)/17-2004 dated 24.2.2006 (Annexure-D/O.A.125/06) under which modalities for separation of common cadre of Group B officers in A&E and civil audit offices in North Eastern Region have been framed. As per the above circular, all Group B officers were to exercise option on or before 17.04.2006 positively for onward transmission to the cadre controlling

authority i.e. C&AG. Subsequently the last date of exercising option were extended upto to 26.4.06.

6. After completion of the process of exercising option on 26.4.06 C&AG furnished clarification vide his letter No.221-NGE(App)/17-2004 dated 25.4.2006 (Annexure-F/O.A125/06). In this regard it has been mentioned vide para V of the above letter as under :

"The sanctioned strength minus existing vacancies proportionately distributed in each cadre is the required strength for the purpose of separation of cadre. No additional post is being created for the present."

Under the above scheme of separation of cadre of Group B officers, an officer who cannot be accommodated to the office of his choice as per his option exercised, he will be posted on deputation to deficit offices and will remain under the cadre control of the Principal Accountant General (Audit) Meghalaya, Shillong till he is permanently allocated to the office of his choice mentioned in the option form. It would be seen from the criteria brought out for so called separation of Group B cadre the plea of combined/common cadre deserved to be considered taking into account the fact that Group B officers in N.E.Region, belong to their respective permanent office. The scheme is susceptible of causing undue dislocation of officers from their parent offices. Earlier under the so called combined/common cadre system officers in the cadres of SO/AAO & AO/Sr.AO were transferred on tenure (18/12 months) basis to the deficit offices who were invariably repatriated to their respective parent offices. This system of repatriation goes to prove

that all the Group B officers of the N.E. Region have been having their own parent offices. The Group B officers of the Accountant General, Assam have been made to exercise their option within 26.4.06 as per policy circulated which stipulated vide Para V that if the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office.

7. The Group B Officers of Guwahati office exercised their option on the understanding that the number of optees for Principal Accountant General, Assam Guwahati would be within the sanctioned strength and therefore all of them would be accommodated in their parent office. After the process of exercise of option was completed on 26.4.06, a clarification issued by the CAG's office vide letter dated 25.4.06 was communicated to the Association. As per said clarification, the word 'sanctioned strength' has been replaced by the word 'Required strength'. This action of reversal of a vital clause of the scheme made by way of issue of clarification after exercise of option should have been followed by further cancellation of the options so exercised making them invalid. Para II of the policy states that vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staffs may be allocated to various offices against their required strength i.e sanctioned strength minus vacancies proportionately distributed in each cadre. As per existing policy as reflected in various reports vacancies of different cadres are determined with reference to the sanctioned strength in

respective cadre. The adoption of the new term 'required strength' is not in conformity with the existing norms and is therefore without any basis. Adoption of required strength for the purpose of determining vacancies in the offices under so called combined cadre system would lead to incorrect position of vacancies in the offices, causing scope for arbitrariness and favoritism. If the total number of optees of a particular cadre for a particular office is within the sanctioned strength of that cadre for that office, declaring surplus with reference to required strength would be violative of the existing norm.

8. As per Para IV of the policy paper if sufficient volunteers are not available for posting on deputation basis to the deficit offices the junior most person in excess of required strength in each cadre shall be sent to deficit offices and no willingness will be necessary for the purpose of deputation which is violative of existing norms of deputation as willingness of the incumbent is a prerequisite to be fulfilled. The administrative arrangements and orders made so far do not reflect fair administrative policy made for the so called separation of cadres and the orders and circulars in this regard have been issued whimsically and arbitrarily.

9. Aggrieved by the orders the applicants approached Hon'ble Central Administrative Tribunal, Guwahati against the above orders. The Hon'ble Tribunal passed the orders and the operative portion of the order is as under :

".....In the meantime, in the interest of justice, by way of interim order, this Tribunal directs the

respondents not to disturb the applicants from their place of postings till the next date.'

Against the above orders the respondents approached Hon'ble Central Administrative Tribunal, Guwahati Bench by filing Misc. Petitions and the Tribunal passed the order. Operative portion of the order is reproduced as follows :

"Therefore, considering the balance of convenience, hardship, legal injury etc. in favour of the original applicants in the O.As, I am of the view that at this point of time there is no need to alter change or modify the interim order that has been passed earlier. Therefore, the Misc. Petitions do not merit and therefore the same are liable to be dismissed.

However, the respondents are at liberty to implement the scheme in a more scientific/practical manner without disturbing the applicants of their place of option."

10. In the present Original Applications under consideration of the Hon'ble Tribunal the applicants have sought for the following reliefs :

- i) The scheme of separation of common cadre of Group B officers in the Civil Audit Offices in the N.E. Region circulated under circular dated 24.3.06 (Annexure-C) and 31.3.06 (Annexure-C) together with Circular dated 20.4.06 (Annexure-E) be set aside and quashed.
- ii) The applicants shall not be transferred to other offices from the office of the Principal Accountant General (Audit), Assam, Guwahati-29 which is their base office.

11. The respondents have filed detailed written statement denying the contentions of the applicants. The main contention of the respondents is that on appointment to the cadre of Clerk/Typists/Auditor upto the promotion of Senior Accountant the applicants fall under Group C cadre which were separated on

different dates for different A.G offices. The Section Officer's Grade Examination passed officials of different AG offices in N.E. Region are considered for promotion to the post of Section Officer, which is entry point of Group B combined cadre. The promotion to the post of Section Officer's is made with a condition that the person concerned is liable to be transferred to any of the AG offices of N.E. Region. The above condition is laid down in the promotion order itself. The applicant while accepting the promotion accepted the said condition without any objection and therefore, they are estopped from agitating any grievances whatsoever against their transfer on deputation to various offices of the A.G (A&E) in N.E. Region.

12. There is a common gradation list with reference to the date of appointment in the grade for all the officers of NE Region in respect of the cadre from Section Officers to Sr. Audit Officers, which is published every year with inter-se-seniority and circulated among all the officers of the NE Region calling for objections, if any. The lists are finalized after considering such objections. The said gradation list is maintained by the A.G (A & E), Assam, Guwahati being the cadre controlling authority. Separate seniority for each cadre as mentioned above is given in the gradation list. The date of continuous appointment of promotion to the respective cadres is indicated in the relevant columns against the concerned officers, which clearly shows that there was a common cadre prior to cadre separation and the same has been reflected in Anexure-C (O.A. 115/06).

13. The cadre separation has become necessary to cater to the needs of the larger public of those States of North East where independent A.G. offices with permanent staff are available. It has become necessary to separate the existing common cadre of Group B officers of AG Offices in the North East Region functioning under the C & A G for the purpose of conducting Audit and Accounts functions smoothly in each of the States of N.E Region and the same is fair, and transparent and has taken into consideration the larger common interest of the combined cadre.

14. For stopping the deputation on rotation basis for eighteen months the said scheme has been formulated and implemented in the interest of the Group B cadres. There is absolutely no arbitrariness, illegality, malice in law in adopting such scheme. Larger public interest and employee's demand were made in support of the cadre separation as the Government servants of states like Arunachal Pradesh, Nagaland, Mizoram, Tripura wants a permanent AG office along with permanent employees. No prejudice has been caused to the applicant because all along they were on deputation to those North Eastern states even prior to cadre separation. By accepting the said deputation on rotation basis, they have actually and factually no grievance against deputation. The said scheme will not affect the service condition and seniority of the applicants. The apex Court way back in 2003 in Prafulla Kumar Das case held that the seniority is not a fundamental right but is a civil right.

15. We have heard Dr J.L.Sarkar and Mr B.Choudhury, learned counsel for the applicants and Mr G.Baishya, learned S.I.C.G.S.C and Miss U.Das, learned Addl.C.G.S.C for the respondents and perused the documents. Learned counsel for the applicants averred that the executive has the full power to make any policy and in this case the area and the manner in which the policy may be formulated by the C&AG is given in para 5.6.1 of C&AG Manual of Standing Orders (Administrative) which is reproduced as under :

- “(i) Each civil Audit Office and Civil Accounts office and each Railway Audit Office has its own Section Officers cadre except where any such office is re-organised into two or more independent offices and so long as the cadre is not separated for the offices into which it has been re-organised.
- (ii) The interse seniority of Section Officers (Commercial is fixed on All India basis under separate orders issued by the Comptroller and Auditor General of India.
- (iii) Similarly, the seniority of Section Officers (Defence Audit branch) and Section Officers (Posts and Telecommunications Audit branch) is fixed separately.”

He pleaded that the transfers which have now been contemplated under separation of cadre is not an exercise envisaged under para 5.6.1 of the C&AG Manual (supra). He pleaded that executive authorities are preparing a common seniority list for the purpose of transfer which is not a list of the common cadre. He averred that although the SOG examination conducted on all over India basis but promotions as Section Officers are given each AG office wise. He pleaded that similar policies were formulated earlier also in 1996 and 1998 and those policies are still in vogue and the same

have not yet been cancelled. Therefore, how another policy cannot be formulated.

16. He averred that earlier also the officers were posted to the deficit offices for a period of 18/12 months from surplus offices but now the Group B officers will be posted on deputation basis without specifying any time limit. They will be repatriated to their parent offices or offices of their choice as and when the vacancies are available which may take a very long time. Moreover, the implication of deputation is different and the officers cannot be sent on deputation against their willingness. He further averred that the Director, Legal has given his opinion against the above scheme vide his note No. IC/50-2005(Law) dated 13.12.05 (Annexure-14/O.A.115/06) as under:

"The cadres of Group B officers in all the Civil Offices in N E Region being common, the allocation of officers to the 'Base Office', i.e. the Office from which such officer passed the SOGE, ignoring the option already exercised may not be legally sustainable, as the concept of 'Common cadre' and 'Base Office' do not go together. Officers can be allocated only as per their option. In case it is not possible to allocate a person as per his option, allocation can be made as per other agreed criterion."

He averred that the Government has the right to formulate any policy but same should not violate Articles 14 and 16 of the Indian Constitution. The policy should be fair for all and there should be no discrimination under the subtle ingenuities framed by the Government. In support of his contention he has cited the following decisions:

- (i) **Parshotam Lal Dhingra vs Union of India, AIR 1958 SC 36,**
- (ii) **G.S.Lamba and others vs. Union of India, AIR 1985 SC 1019 and**
- (iii) **Nirmal Chandra Bhattacharjee & Ors. vs. Union of India & ors., 1992 SCC (L&S) 236**

and canvassed the position that protection afforded by Art. 311 and other parts of the Constitution cannot be nullified or whittled down by clever phrasing and subtle ingenuity.

To come to a rather disconcerting conclusion that a body like the Government of India acted deliberately in contravention of the mandatory rule from year to year.

In the last case it was held 'that was their guarded stand in counter affidavit as well. But in this court they have taken contrary stand and have supported respondents who were petitioners before Tribunal. It is undesirable on the part of official bodies to take such stand on policy matters.'

17. The learned counsel for the respondents on the other hand persuasively argued that a common seniority list is maintained for all Group B officers for North Eastern States. He produced a copy of the same for perusal of the Hon'ble Tribunal. He averred that it has already been stipulated in the promotion orders of the SOs vide Adm-1 order No.260 dated 31.12.04 while issuing the promotion order that the promotions would be without prejudice to the claim of the seniority and also subject to the condition that the seniority in the cadre of AAO will be fixed later and officers were promoted to officiate as AAO (Group B Gazetted) in the scale of Rs. 7450-11500/-. He further averred that the

officers are liable to be transferred and posted to any of the offices of the AG (A&E) in Assam, Nagaland, Tripura, Manipur, Meghalaya etc. or in other offices likely to be opened in future in the N.E.Region. The officers are required to indicate whether they accept the promotion or not within 31.1.05 failing which their promotions will be treated as refused. He averred that they have already accepted the promotion with the condition that they can be posted in any of the AG offices within the AG, N.E.Region therefore, they should not bring the matter before the Tribunal under this clause.

18. The learned counsel further pleaded that this policy has been formulated for the over all benefit of the Group B officers posted in different offices and more than 90% of them are satisfied with the same. It is only less than 10% officers who are agitating against the same. The different AG offices had been set up on the demand of Government servants of 7 different States otherwise they were supposed to deal with only one office at Guwahati. The decision to separate cadre of Group B posts in N.E.Region is a policy decision taken in the interest of efficient functioning of the various offices in the Region and in settlement of a long standing demand of the State Government employees. The officers so transferred earlier were paid deputation allowances and other financial benefits during their posting away from their families.

19. The learned counsel for the respondents has also relied on the following decisions in support of their contentions :

- (i) 1987 (Supp) SCC 257,

- (ii) (1990) 2 SCC 647,
- (iii) (1998) 4 SCC 598,
- (iv) AIR 2002 SC 1703,
- (v) (2003) 2 SCC 632,
- (vi) 1980 (Supp) SCC 559,
- (vii) 1995 (Supp) SCC 44,
- (viii) 1998 4 SCC 598,
- (ix) 2003 2 SCC 632 and
- (x) 1997 8 SCC 372

and canvassed the position that the Govt. servants have only right to safeguarding rights or benefits already earned acquired or accrued but they cannot challenge the authority of State to make such amendments or alterations in rules. Nor can Tribunal interfere with the exclusive discretionary jurisdiction of the State. Policy once formulated is not good forever; it is perfectly within the competence of the Union of India to change it, recharge it, adjust it and readjust it according to the compulsions of circumstances and the imperatives of circumstances and the imperatives of national considerations.

20. While discussing the scope of judicial review he averred that Union of India can formulate or revise any policy for over all benefit of the Government and which cannot be challenged unless it is arbitrary. In **State of Punjab & Ors. vs. Inder Singh & Ors.**, (1997) 8 SCC 372 the Hon'ble Supreme Court has held that '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.' It is possible that by reason of such a merger, the chance of promotion of some of the employees may be adversely affected, or some others may benefit in consequence. But this cannot be a ground for setting aside the merger which is essentially

policy decision. Mere chance of promotion was not a condition of service and the fact that there was a reduction in the chance of promotion would not amount to a change in the conditions of service.

21. In **Association for the Officers of the W.B.audit and Accounts Service and others vs. W.B. Audit and Accounts Service Association and others, 1995 Supp (4) SCC 44** the Hon'ble Supreme Court has observed that "the State Government had fully examined the question of merger of the two services and had taken a conscious decision to the effect that such merger was not in the interest of administration. We have been taken through the affidavit wherein elaborate reasons have been given for rejecting the demand for merger of the two services. It is not open to the High Court to go into the merits of the reasoning of the State Government." In **P.U.Joshi and others vs. Accountant General, Ahmedabad & Ors. (2003) 2 SCC 632** the Hon'ble Supreme Court had held as under :

"....Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of policy is within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the statutory tribunals at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by

addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing the existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

22. Miss U. Das, learned Addl.C.G.S.C has invited our attention to O.A.14/06, wherein the learned counsel for the applicant in reply to the written statement of the respondents has stated as under :

"Further, the term "Guwahati Base Officer" used by the respondent in the case of Shri Subrata Sutradhar, SO(Audit) is not correct. Rather, as per his promotion order to the post of S.O he belongs to Common Cadre Officer and not "Guwahati Base Officer", since, the cadre in respect of Sos/AAOs/Aos/Sr.Aos are being jointly maintained through a common gradation list by the Cadre Controlling Authority (i.e. Principal Accountant General (Audit) Meghalaya, Shillong etc.) Thus, the respondent's concept of "Guwahati Base Officer" does not hold good, secondly the applicant in his representation dated 9.12.05 served to the Cadre Controlling Authority, requested for clarification of the points.

"Once a person is promoted to the post of S.O and become part of common cadre of group B officers in the A & E officers of N.E.region, the office to

which he belonged prior to such promotion is not relevant."

"Each and every promotion order of Sos/AAOs/Aos/Sr. AOs rather mentioned that common cadre officers are liable to be transferred to any audit offices located in N.E.Region. Moreover, the concept of "Base office" is unfounded by the Hon'ble C.A.T, Guwahati (O.A. No.86 of 1986).

Relying on those assertions of the applicant in earlier O.A. she submitted, that the present applicants cannot deny the above positions.

23. We have given our due consideration to the argument, pleadings, evidence and material placed on record in these cases. Admittedly C&AG is the Constitutional authority as enshrined in Chapter V, Article 148 to Art 151 of the Indian Constitution. In Article 148(5) following has been stipulated.

"(5) Subject to the provisions of this Constitution and of any law made by Parliament, the conditions of service of persons serving in the Indian audit and Accounts Department and the administrative powers of the Comptroller and Auditor General shall be such as may be prescribed by rules made by the President after consultation with the Comptroller and Auditor General".

It is very clear that C&AG is fully empowered to take any policy decisions relating to the officers and staff working in the Indian Audit and Accounts Department. All AG offices of different States are functioning under administrative and functional control of the C&AG.

As regards provision of separate cadres for each AG office, position has been given in para 5.6.1 of C&AG's Manual of Standing Orders (Administrative) supra. As stipulated above, a

separate cadre of Section Officers is required to be formulated for each AG office, whereas in AG offices of North East Region, separate cadre of Section Officers i.e. Group B officers could not be formulated earlier as AG offices for different States have been established during the period from 1967 to 2005-06. Moreover, there is a shortage of such officers in most of the AG offices established in the North East Region except there were surplus Section Officers in AG Guwahati. They were posted on deputation to the deficit offices from surplus offices.

24. That the common cadre of Group B officers is being maintained in respect of all the AG offices of 7 States for posting and transfer to the deficit offices from the surplus offices. In the past, period of posting to the deficit offices was limited to 18 months in the first instance and 12 months in the subsequent instances. They were paid deputation allowance and other financial benefit mainly for staying away from their families and due to difficult terrain and hostile weather conditions. As such ad hoc arrangements cannot continue for an indefinite period and therefore C&AG has decided to bifurcate the common cadre and allot Group B Officer to each of the AG office for carrying out their work smoothly.

25. That more than 90% of the people are satisfied with the above policy and less than 10% of the officials are agitating against the same. Their apprehension is that once they are posted in the deficit offices on deputation they may have to continue there for much longer period till the vacancies are available and they are

repatriated to the offices for which they have exercised their options. Whereas before the policy enunciated by C&AG vide its letter dated 24.3.06, they were repatriated back to their base offices within a period of 18/12 months.

26. From the above it is clear that C&AG is a Constitutional authority and fully empowered to make policy in respect of officers and staff working in IA&AD. He has issued policy guidelines of separation of combined cadre under the provisions of para 5.6.I of the C&AG Manual of Standing Orders (Administrative) (supra). Separation of combined cadre of Group B has been done in the larger interest of Group 'B' officers working in AG offices as well as State Government employees in different states in North East Region.

27. The case law cited by the learned counsel for the applicants is not directly applicable for separation of cadre and is therefore, not to be relied upon.

28. In view of the above, it appears that the fear of the employees who will be posted to deficit offices are genuine. They may have to wait for much longer period till they are repatriated to the offices of their choice. Whereas earlier all such officers on deputation were repatriated within a period of 18/12 months. This Tribunal therefore, directs the respondents No.2 to 8 that the policy of bifurcation of common cadre of Group B officers consisting of SO/AAO/AO/Sr. AO may be reviewed and for officers to be posted on deputation in the deficit offices, maximum limit of time period of

such deputation prescribed after which they should be repatriated to the offices of their choice.

With the above order all the applications are disposed of. In the conspectus facts and circumstances of the case, there will be no order as to costs.

sd/ VICE CHAIRMAN

sd/ MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A No. 146 /2006

Shri Om Prakash Upadhyay & Others

-- VS --

Union Of India & Others.

S Y N O P S I S

The applicants are SOG Examination qualified officers now working as Assistant Audit Officer in Group 'B' cadre. They are borne in the office of the Principal Accountant General (Audit) Assam, Guwahati. There are other offices of Accountants General (Audit) in Meghalaya, Manipur, Tripura and Nagaland states.

By Circular No. 144-NGE (APP)17-2004 dated 24/03/2006, No.Estt-I/Audit/1-51/2005-06/394 dated 31/03/2006 and Circular No. Estt-I/Audit/1-51/2005-06 dated 20/04/2006 the respondents have circulated a scheme of separation of cadre of Group 'B' officers in Civil Audit offices. The scheme has been formulated on the wrong premises that there was common/combined cadre. In reality there has not been any formal common/combined cadre. Moreover, the scheme called for option and after receiving options brought into play the concept of '**required strength**' substituting the '**sanctioned strength**' in Para V of the scheme. The term '**required strength**' adds to '**vagueness**' of the scheme. The scheme of separation of cadre is as such not just and fair and is illegal. The applicants are likely to be very adversely affected by the scheme in the matter of seniority and place of posting. The applicants pray for setting aside and quashing of the scheme of separation of cadre.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

GUWAHATI BENCH

O.A No. 146 /2006

Shri Om Prakash Upadhyay & Others

-- VS --

Union Of India & Others.

INDEX

	<u>Contents</u>	<u>Page No.</u>
(I)	Original Application	1 to 15
(II)	Verification	16
(III)	Annexure 'A'	17
(IV)	Annexure 'B'	18
(V)	Annexure 'C'	29-34
(VI)	Annexure 'D'	25 - 27
(VII)	Annexure 'E'	28 - 29
(VII)	Annexure 'F'	30 - 34
(IX)	Annexure 'G'	35 - 38
(X)	Annexure 'H'	39 - 40
(XI)	Annexure 'I'	41 - 43

28

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

An application under Section 19 of the A.T Act, 1985

O.A No. 146 /2006

1. *Shri Om Prakash Upadhyay*
2. *Shri Snehangshu Nath*
3. *Shri Sarat Chandra Das*

Applicants

Filed by the applicant
through. S/o N. Tamuli
Advocate. 16.06.06.

Om Prakash Upadhyay

Applicant Nos 1, 2 and 3, are working as Assistant Audit Officers, all Group B Officers, in the Office of the Principal Accountant General (Audit), Assam, Guwahati.

--Versus--

1. **Union of India, Represented through Respondent No.2**
2. **The Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi – 110 002.**
3. **The Principal Accountant General (Audit),
Meghalaya, etc., Shillong-1.**
4. **The Principal Accountant General (Audit),
Assam, Guwahati - 29**
5. **The Accountant General (Audit), Nagaland,
Kohima**
6. **The Accountant General (Audit), Tripura,
Agartala**
7. **The Accountant General (Audit), Manipur,
Imphal**

-Respondents--

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1. Particulars for which this application is made

The application is made against the separation of the common cadre of Group 'B' Officers in the A & E and Civil Audit Offices in N.E Region as stated by the respondents in Circular No.144-NGE (APP) 17 – 2004 dated 24.3.2006, and No.Estt-I/Audit/1-51/2005-06/394 dated 31.3.2006, and Circular No.Estt-I/Audit/1-51/2005-06/22 dated 20.4.2006.

2. Jurisdiction

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

3. Limitation

The application is within the period of limitation prescribed by Section 21 of the A.T Act, 1985.

4. Facts of the Case

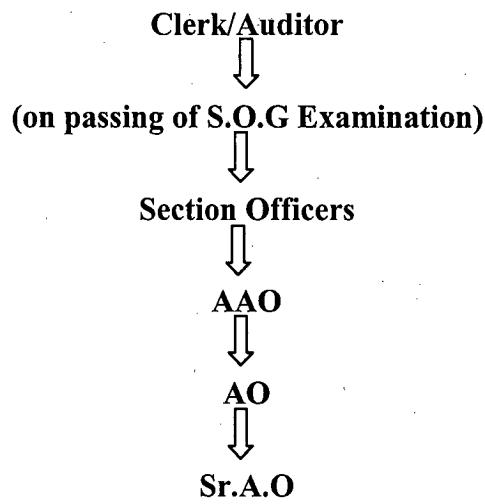
- 4.1 That the applicants are Citizens of India and as such are entitled to the rights and privileges guaranteed by the Constitution of India.
- 4.2 That the applicants are Group 'B' Officers Designated as Assistant Audit Officer (for Short AAO) posted in the Office of the Principal Accountant General (Audit), Assam, Guwahati. They all have qualified S.O.G Examination, which is basic requirement for Section Officer. They have a common cause of action regarding a scheme of so called separation of cadre of Group 'B' officers and as such pray for the permission to file the Common application under Rule 5(4)(a) of the C.A.T procedure Rules 1987.

On behalf of the applicants

31

4.3 That in the N.E region there are Audit Offices under respective Accountant General (Audit) for Assam, Nagaland, Manipur, Tripura, and Meghalaya etc.

The promotional avenue is as under:



It is stated that there have been causes for transfer and posting of personnel in the different cadres in the different offices of the states mentioned above. For this the offices have used different terminologies such as Common Cadre, Combined cadre, base office, etc. without defining and coherently delineating the concept of the so called Common Cadre, Combined Cadre and Base Office. Personnel passing S.O.G examination from a particular office are promoted as Section Officer (for short S.O) without reference to seniority in the feeder cadre i.e., Clerk/Auditor. Interse seniority of the feeder cadre officials for promotion as S.O was not made. The term '**Common Cadre**' or '**Combined Cadre**' has therefore been vague concept. The office has circulated a Transfer policy in 1996 which reflects some working arrangement together with D.O Letter dated 8.9.98 (Copy of the Transfer policy of 1996 and letter dated 8.9.98 are enclosed as **Annexure 'A' and 'B' respectively**).

Om Prakash Upadhyay

4.4 That the respondents have circulated a scheme for so called separation of cadres for Group 'B' officers without application of mind. The scheme has been published without first completing the basic requirement of formation of distinct cadres. The corrected joint cadre has not been published or circulated in these days of right to information. Without knowledge of joint cadre, separation of cadre remains to be more vague and opens rooms for arbitrariness and favoritism in the matter of transfer/promotion. Moreover, neither the service associations nor the employees have been in any manner associated in framing the so-called scheme of separation. The scheme of the so-called separation of cadre as such does not satisfy the requirement of administrative fairness, fair play and openness and is therefore perverse and vitiated by arbitrariness.

4.5 That in terms of C & A G's letter No. 144-NGE (App)/17-2004 dated 24.03-2006 communicated vide circular No. Estt.-1/Audit/1-51/2005-06/394 dated 31-03-2006 of the O/o the Principal Accountant General (Audit), Assam, modalities for separation of common cadre of Group 'B' Officers in A & E and Civil Audit Offices in North Eastern (NE) Region have been framed. As per the above circular, all Group 'B' Officers were to exercise option on or before 17-04-2006 positively for onward transmission to the Cadre Controlling Authority. Subsequently the last date of exercising option were extended up to 26-04-2006. vide Controlling Authorities Circular No..Estt-I/Audit/1-51/2005-06/22 dated 20.4.2006 The option form was also revised suitably vide letter ibid.

Copies of letter dated 31.3.2006, 24.3.2006, and 20.4.2006 are enclosed as **Annexure 'C' and 'D'** respectively.

4.6 That after completion of the process of exercising option on 26.04.2006, CAG's office sent clarification vide CAG's letter No. 221-NGE (APP)/17-2004 dated 25-04-2006 regarding **Para V** of the policy of separation of Group 'B' officers earlier circulated replacing the phrase '**SANCTIONED STRENGTH**' by '**REQUIRED STRENGTH**' and clarifying that Sr. A.O./AO/AAO/SO would be treated as four (4) separate cadres for the purpose of allocation and that ratio of 80:20 in cadre of AAO/SO and Sr.A.O./A.O will be maintained in each office while separating these cadres.

Copy of letter dated 25.4.2006 is enclosed as Annexure-E

4.7 That the clarification given vide CAG's letter dated 25-04-2006 (received in the o/o the PAG, Audit, Assam on 26.04.2006) were communicated to the General Secretary, Civil Audit Association (AAO's, SOs) vide letter no. Estt-I/Audit/1-51//06-07/498-499 dated 08-05-2006.

Copy of the letter dated 8.5.2006 is enclosed as Annexure-F

4.8 That previously options were exercised vide (i) Circular No. Estt. -1/Audit/1-01/03-04/275 dated 03-11-2003 as well as (ii) Circular No. Estt. -1/Audit/1-51/03-04/101 dated. 06.07.2004. Option exercised vide Circular dated 3.11.2003 was subsequently cancelled.

Copy of the letter dated 6.7.2004 enclosed as Annexure-G

4.9 That as per clarification given in Para (ii) of CAG's letter dated 25-04-2006, an Officer who cannot be accommodated to the Office of his choice as per his option exercised, he will be posted on deputation to deficit offices and will remain under the cadre control of the Principal Accountant General (Audit) Meghalaya Shillong

On Peacock way

till he is permanently allocated to the office of his choice mentioned in the option form.

4.10 That after reorganization of NE Region into different States, Offices of the Accountant General Manipur and Tripura were opened in 1967 in Imphal and Agartala respectively and the office of the Accountant General Nagaland, Kohima was opened in 1973. Many office Staff of office of the Accountant General Assam (undivided) which was actually the mother office, had to bear the main brunt of forceful transfer to those newly created offices. All those three A.G. offices in Kohima, Imphal and Agartala acquired the separate identity from their mother office i.e. office of the Accountant General Assam, Meghalaya etc. Shillong w.e.f. 1975 in respect of establishment, budget provision and the recruitment power. Since 1975 Accountant General, Nagaland, Manipur & Tripura recruited their staff (Clerk, Auditor/Accountant) on their own sanctioned strength and budget provision. With the establishment of separate AG's offices viz., A.G Assam, Meghalaya etc., Shillong, A.G Nagaland, Kohima, A.G Manipur, Imphal and A.G Trupura, Agartala each office had its own Section Officer's cadre.

4.11 That it would be seen that the criteria brought forward for so called the separation of Group 'B' cadres in the above perspectives on the plea of '**combined cadre**' '**common cadre**' deserve to be considered taking into account the fact that the Group 'B' Officers in NE Region belong to their respective parent offices. The scheme is susceptible to causing undue dislocation of officers from their parent offices.

4.12 That as per provision of Para 5.6.1 (i) of CAG's MSO (Administrative) vol-1 (3rd Edition), the office of the (i) Accountant General Tripura, (ii) Accountant General

On backward

Nagaland (iii) Accountant General, Manipur and (iv) Accountant General Assam, Meghalaya etc. are having their own Section Officers cadre, the so called common cadre system for the purpose of running the deficit offices. Dearth of Group B Officers in some offices was not by transferring officers from other units. Officers transferred were said to be transferred from their own cadre i.e., base office for 18 months to the offices where there were dearth of officers, called deficit offices. Dearth of Group B officers in some offices was met by transferring officers from other units. Officers transferred were said to be transferred from their own cadre i.e. base office for 18 months to the office where there were dearth of officers, called deficit office.

4.13 That the distinct individual Section Officer (SO) cadres of the four offices have been the so called combined cadre for the purpose of running the offices. That the so-called combined cadre has been going on as an ad-hoc measure. Under the so-called combined common cadre system, Officers in the cadres of SO/AAO & AO/Sr. AO are transferred on tenure (18/12 months) basis to the deficit offices who are invariably repatriated to their respective parent (base) offices. This system of repatriation goes to prove that all the Group 'B' officers of the N.E. Region have been having their own parent (base) offices. The CAG's office has also instructed vide letter No. 108-N.2/127-88 dated. 29-02-1990 that Section Officers may be posted in the offices from which they passed the S.O.G. Examination.

Copy of the letter dated 29-02-1990 is enclosed as Annexure-H

4.14 That the Group B officers of the O/o the Pr. Accountant General (Au) Assam, have been made to exercise their option within 26-04-2006 as per policy circulated which stipulated vide Para V that if the number of optees for a particular office is less than

the sanctioned strength of that office all the optees shall be allocated to that office.

The Group 'B' Officers of Guwahati office exercised their option on the understanding that the number of optees for Pr. Accountant General (Au), Assam, Guwahati would be within the sanctioned strength and therefore all of them would be accommodated in their parent office. After the process of exercise of option was completed on 26-04-2006, clarification issued by the CAG's office vide letter dated 25-04-2006 was communicated vide letter dated 08-05-2006 to the Association. As per said clarification, the word 'sanctioned strength' has been replaced by the word 'Required strength'. This action of reversal of a vital clause of the scheme made by way of issue of clarification after exercise of option should have been followed by further cancellation of the options so exercised making them invalid.

Para II of the policy paper states that vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against their required strength i.e. sanctioned strength minus vacancies proportionately distributed in each cadre.

As per existing policy as reflected in various reports vacancies of different cadres are determined with reference to the sanctioned strength in respective cadre i.e. vacancy is equal to sanctioned strength minus man-in-position. The adoption of the new term 'required strength' is not in conformity with the existing norms and is therefore without any basis. Adoption of 'required strength' for the purpose of determining vacancies in the offices under so called combined cadre system would lead to incorrect position of vacancies in the offices, causing scope for arbitrariness and favouritism.

If the total number of optees of a particular cadre for a particular office is within the sanctioned strength of that cadre for that office, declaring surplus with reference to required strength would be violative of the existing norm. As per Para IV of the policy paper if sufficient volunteers are not available for posting on deputation basis to the deficit offices the junior most person in excess of required strength in each cadre shall be sent to deficit offices and no willingness will be necessary for the purpose of deputation which is violative of existing norms of deputation as willingness of the incumbent is a prerequisite to be fulfilled. The applicants beg to state that in the circumstances the '**Option**' becomes misnomer.

4.15 That the respondents are working in utter confusion in the matter of forming the cadres (so called common/ combined/ separate cadres) and calling for option from the concerned officers through the scheme dated 24/03/06 circulated on 31/03/06 without canceling the earlier option exercised vide Circular dated 06/07/2004. Being unaware as to how these option exercised vide CAG's Circular dated 24/03/2006 issued under PAG's Circular dated 31/03/2006 would be dealt with. CAG further confused by canceling options exercised vide Circular dated 24/03/2006 without stating the fate of earlier options exercised vide Circular dated 06/07/2004 and instructed to exercise option in revised option form vide Circular dated 20/04/2006. The applicants as disciplined officers had to submit the options. Most unfortunately the respondents again were caught in their administrative inexpediency and issued letter dated 8/5/2006 to Civil Audit Associations, O/o the Pr. Accountant General (Audit), Assam communicating some clarifications from CAG's office. These clarifications, instead of adding to clarity, made more complications in the subject matter of cadre constitution. A new term called "required strength" has been

brought into play in para V of the Scheme. The earlier term 'sanctioned strength' has been substituted by ' required strength', which is alien in the context of service jurisprudence. After this no fresh option was called for. This "required strength" comprehends in disguise the power to exercise arbitrariness according to the will of the office.

4.16 That the General Secretary of the, Civil Audit Association, AAOs/S.Os (Civil) had submitted representation dated 25/4/2006 against the scheme of separation but no reply has yet been received. It is stated that the said Association is recognized under CCS (RSA) Rules, 1993.

Copy of the representation is enclosed as Annexure I.

4.17 That the matter of separation of so called common cadre of Group B officers of NE Offices was discussed on various occasions by the respondents. The applicants have come to know that in the meeting held in CAG's office on 28/11/2003 views were expressed regarding cadre separation, minutes of which were also drawn. The Pr. AG (Audit) Meghalaya, Arunachal Pradesh and Mizoram, Shillong expressed opinion that as per the principles enunciated by the CAG's office for separation of common cadre, keeping a common waiting list to any NE Offices in respect of those junior officials who would not be initially accommodated to the offices of their choice due to non availability of posts would virtually amount to maintaining a hither to existing common cadre since placing them in their offices of choice might take

10-15 years considering the sanctioned strength and options exercised for a particular popular office. He also suggested that before separation of common cadre it would be more appropriate to have the proposed Arunachal Pradesh and Mizoram

On Peacock way

Audit offices created and options called for those new offices. In the said meeting it was also resolved that option for new Audit offices of Arunachal Pradesh and Mizoram might be called for. The applicants have come to know that such options were not called for. The cadres of Group B officers have been separated and never declared as common cadre.

4.18 That in the circumstances of the case the applicants beg to state that administrative arrangements and orders made so far do not reflect fair administrative policy made for the so called separation of cadres and the orders and circulars in this regard have been issued whimsically and arbitrarily.

31
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4.19 That there are separate offices under the different Accountant General which are popularly called the base offices but most unfortunately the terms common cadre/combined cadre have been brought into play and ultimately the scheme of separation of cadre has been purported to be implemented.

4.20 That the applicants are employees of the Principal Accountant General (Audit) Guwahati which is their base office. The separation of cadre as circulated may jeopardize the posting position, which shall adversely affect them.

4.21 That the scheme of separation of cadre as circulated has no rationale and does not fit the situation now prevailing in the Audit Organisation.

5. **Grounds and Legal Provisions**

5.1 For that the separation of so called common/combined cadre in disguise opens rooms for erstwhile juniors to become seniors for options.

5.2 For that the concept of “**required strength**” is vague and abstract and provides scope for arbitrariness in cadre constitution and arranging person in position.

5.3 For that under the scheme of separation of cadre as circulated, persons said to be surplus shall be kept out of their allotted cadre which in other words reverts to the concept of common cadre.

5.4 That before arranging the correct seniority of Section Officers in the respective Accountant General’s offices on promotion from auditors by fixing interse seniority of SOG Examination qualified auditors each year, it would illegal to act on the options called for which would give a march to erstwhile juniors over their seniors.

5.5 For that there has not been any formal common cadre/combined cadre and the concept of ‘**base office**’ and common cadre cannot function together.

5.6 For that the so called separation of cadre works on wrong non-existent foundation called common/combined cadre and as such deserves to be set aside and quashed.

5.7 For that after exercising of option new concept of 'required strength' has been substituted in Para V of the scheme. This demonstrates whims and arbitrariness. The entire scheme is perverse and violative of Articles 14 and 16 of the Constitution of India and also offending the principles of administrative fair play.

6. Details of Remedies Exhausted:

There is no remedy under any rule and this Hon'ble Tribunal is the only forum for redressal of the grievances. The Civil Audit Association, AAO's/SO's (Civil) has submitted a representation which is pending with respondents.

7. Matter not previously filed or pending before any other court.

The applicants declare that they have not filed any other Original Application in any Tribunal or Court. The applicants have, however, filed miscellaneous petition (M.P. No.47/2006 in O.A. 115/2006) which is pending in this Hon'ble Tribunal. The O.A. No.115/2006 is on similar matter concerning the Group 'B' officers of the office of the Accountant General (Accounts and Entitlement) Assam, Guwahati.

8. Reliefs sought for:

Under the facts and circumstances of the case, the applicants pray for the following reliefs.

8.1 The scheme of separation of common cadre of Gr. 'B' officers in the Civil Audit Offices in the N.E. Region circulated under circular dated 24/03/2006 (Annexure C) and 31/03/2006 (Annexure C) together with Circular dated 20/04/2006 (Annexure D) be set aside and quashed.

One Page Application

8.2 The applicants shall not be transferred to other offices from the office of the Principal Accountant General (Audit), Assam, Guwahati – 781029 which is their base office.

8.3 Any other relief or reliefs the Hon'ble Tribunal may be pleased to grant.

The above reliefs are prayed for on the grounds stated in Para-5 above.

9. Interim Relief prayed for:

During the pendency of this application the applicants pray for the following interim order:

The applicants shall not be transferred/disturbed from their present place of posting at Guwahati which is their base office.

The above reliefs are sought for on the grounds stated in Para 5 above.

10. This application has been filed through Advocate.

11. Particulars of the Postal Order.

(1) IPO No.	-- 26 G 350763
(2) Date of Issue	-- 1/6/06
(3) Issued From	-- G.U. P.O.
(4) Payable at	-- G.P.O. Guwahati

12. Enclosures as stated in the index.

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VERIFICATION

I, Shri Om Prakash Upadhyay, Son of Shri Ram Awatar Upadhyay, aged about 36 years working as Assistant Audit Officer in the office of the Principal Accountant General (Audit) Assam, Guwahati do hereby verify that the statements made in paragraphs 1, 4, 6 to 12 are true to my knowledge and those made in paragraphs 2, 3, and 5 are true to my knowledge as per legal advice. I have been authorized by other petitioners to sign this verification on their behalf, which I do accordingly.

Guwahati

Date 16/6/06

Om Prakash Upadhyay

Signature



कार्यालय महालेखाकार (ले० ३१ ८०), असम

OFFICE OF THE
ACCOUNTANT GENERAL (A&E), ASSAM

33

POLICY FOR TRANSFER / POSTING OF COMMON CADRE OFFICES IN THE
NORTH EASTERN REGION.

As per Headquarter office letter no.103/ N2/ 127-88 dated 23-02-90 as far as possible the Section Officers Grade Examination passed staff of Accounts and Entitlement offices in N. E. Region on their promotion to Section Officers are to be posted in the offices from which they passed the above examination.

2. As per Headquarter office letter no 1354-NGE/ APP/ 94-95 dated 01-10-96 the AAOs/ AOs/ Sr AOs are to be posted to the offices of their choice as per as possible . If however, it is not possible to post them to the office of their choice they are posted to other offices on rotation basis for a specific period.

3. The tenure of posting in the outstation deficit offices for the first and second time for SOs / AAOs is 18 months as per agreement held on 11-04-1974 between the Association and the Accountant General.

4. On review the aforesaid policy, it is further decided that the tenure of posting for AAOs/AOs in the outstation offices for the second time and above will be one year subject to the condition that the officers can avail of regular leave of 30(Thirty) days only. Leave availed in excess of 30 (Thirty) days will be added to the tenure of 12 months.

5. The Common cadre officers who have never served at outstation offices may be transferred subject of course to the item (2) above, first from the bottom of the seniority list of that office.

6. The officers who have never served at outstation offices in their respective cadres after being posted back to their base offices have remained in their base office for the longest period may be selected first in order of station seniority for posting to outstation in order to facilitate smooth repatriation of their colleagues.

7. When batch of officer in a particular cadre rejoins their base office on the same day completing 1st / 2nd time transfer, the junior most officer from such batch may be taken up for 2nd / 3rd transfer ,if any..

8. The officers who are due to retire within two years may be exempted from the aforesaid transferred liabilities.

9. Posting of a particular Common Cadre officer to an outstation offices may be kept in abeyance in case of unforeseen incidents like sudden accident, demise of a family members, illness or urgent administrative reasons.

[Authority: AG's orders dated 22-03-2000 at p/ 12n and p/34c of file no.DAG(A)/Con-C/Ghy/Policy /transfer/96]

Sd/

DAG (A)

c

~~A Hosted
Leave
(A&E)~~

CONFIDENTIAL

D.O. No.DAG(A)/Con-C/
Dated Guwahati, September 08,1998.

Dear,

I would like to draw your attention to the issue of timely repatriation of Sr. A.Os/A.Os/A.A.Os/S.Os to their parent offices after completion of their tenure of 18 months/12 months. As you are aware, from the level of Section Officers onwards, there is a common cadre for transfer and posting.

To streamline the whole process as well as to remove any perceived inconsistencies I propose to adopt the following policy for transfer/posting of Common Cadre officers in the North Eastern Region:

- (1) The officials passing S.O.G. Examination in N.E. Region will be posted in the offices from which they passed the said Examination, as far as possible.
- (2) The tenure of posting in the outstation deficit offices for the first and second time for S.Os/AAOs will remain 18 months as per existing policy.
- (3) The tenure of posting for Sr. A.Os/A.Os in the outstation offices for the second time and above will be one year subject to the condition that the officer will avail of regular leave of 30 days on leave. Leave avail in excess of 30 days will be added to the tenure of 12 months.
- (4) The common cadre officers who have already served at outstation offices may be transferred first from the bottom of the seniority list of that office on the time presently in vogue.
- (5) The officers who have already served once at outstation offices in their respective cadre and after being posted back to their base offices have remained in their base office for the longest period may be picked up first in order of seniority for posting to outstation offices in order to facilitate smooth repatriation of their colleagues.
- (6) When a batch of officers in a particular cadre rejoins their base office on the same day after completing 1st/2nd time transfer, the junior most officer from such a batch may be picked up for 2nd/3rd time transfer, if any.
- (7) Officers who are due to retire within two years may be exempted from the aforesaid transfer liabilities.
- (8) Posting of a particular common cadre, officer to an outstation office may be kept in ~~abeyance~~ in case of unforeseen incidence like sudden accident, demise of family members, serious illness or for urgent administrative reason.

I would request you to kindly convey to us your comments if any, on the above modalities of transfer/posting of common cadre officers at your earliest so that a workable policy can be framed at this end.

Yours sincerely,

1. Shri Sword Vashum,
Accountant General (A&E),
Meghalaya, Mizoram, etc.,
Shillong.

Sd/-

*Attested
(Signature)
(Adv.)*

OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT), ASSAM,
MAIDAMGAON, BELLOLA, GUWAHATI-29.

Circular No. Estt.I/Audit/1-51/2005-06/394

Dated: 31.03.2006

C I R C U L A R

Subject: *Separation of Common Cadre of Group 'E' officers in the Civil Audit Offices in North East Region.*

Consequent upon Headquarter's Office decision to separate the common cadre of Group 'B' officers in the Civil Audit offices in North East Region, the Principal Accountant General (Audit), Meghalaya etc., Shillong being the Cadre Controlling Authority has invited fresh option in the prescribed "Form of Option" from all the Group 'B' officers of this office (except Commercial Officers).

In view of above, all the incumbents in Group 'B' posts (from Section Officer to Sr. Audit Officer except Commercial Officers) of this office born on common cadre are hereby requested to exercise their option and submit to Estt-I Section on or before 17.04.2006 positively for onward transmission to Cadre Controlling Authority.

In this connection, the following documents on the subject are enclosed for information and necessary guidance of concerned officers: -

Enclo:

1. Letter No. Estt.I/Audit/12-31/2005-06/05-08 dated 27.03.2006 of Pr. Accountant General (Audit), Meghalaya, etc., Shillong.
2. C&AG's letter No. 144-NGE(A&W)/-2006 dated 24.03.2006.
3. FORM OF OPTION.
4. Policy for Separation of Common Cadre of Group 'B' officers in the A&E and Civil Audit Officers in N.E. Region.
5. Copy of Sanction Strength of Gr. 'B' Officers of different Audit Offices in N.E. Region.

Authority: Pr. Accountant General's orders dated 31-03-2006.

Sd/-

Dy. Accountant General (A&W)

Memo No. Estt.I/Audit/1-51/2005-06/4161-67

Dated: 31.03.2006

Copy forwarded for information and necessary action to :-

1. The D.A.G. (A&W)
2. The D.A.G. (I/C & C.A)
3. The Secretary to the Pr. Accountant General (Audit), Assam
4. All Branch Officers
5. All Group 'B' Officers (Os & S.Os except Com. Officer)
6. All Section
7. All Notice Board

They are requested to bring the contents of the circular to the Notice of all Group 'B' Officers deployed in field duty with the instruction to collect the "Option Form" personally and submit the same with the stipulated date to Estt.I Section.

Attested
Ranjan
(ANW)

WANW

OFFICE OF THE PRACCOUNTANT GENERAL (AUDIT) MEGHALAYA,
ARUNACHAL PRADESH AND MIZORAM, SHILLONG-793 001.

No: Estt.I/Audi/12-31/2005-06/05-08

Dated: 27-03-2006

To

1. The Pr.Accountant General (Audit),
Assam, Maldamgaon,
Beltola, Guwahati-29.
2. The Accountant General (Audit),
Tripura, Agartala.
3. The Accountant General (Audit),
Nagaland, Kohima.
4. The Accountant General (Audit),
Manipur, Imphal.

Subject: Separation of Common cadre of Group 'B' Officers.

Sir,

As directed, a copy of Headquarters letter No.144-NGE(App)/17-2004 dated 24th March 2006 regarding separation of common cadre of Group 'B' Officers in MP Regions with all enclosures is forwarded for your information and necessary action. As directed by Headquarters office fresh options in the enclosed format from all the Group 'B' Officers of your office may please be obtained and forwarded to this Office on or before the 20th April 2006 for further necessary action.

Yours faithfully,

Enclo: As above.

Sd/-

Sr.Deputy Accountant General(Admn.)

Attestd
R. S. D.
(Adm.)

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA,
10, BAHADURSHAH ZAFAR MARG, NEW DELHI-110 002.

No: 144-NGE(App)/17-2004

Dated: 24.03.2006

To

The Pt. Accountant General (Audit),
Meghalaya, etc.,
Shillong.

Sub:-

Separation of common cadre of Group 'B' Officers in the A&E and
Civil Audit Offices in North East Region.

Sir,

I am to forward herewith the policy for separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region alongwith a format of option form. It is requested that fresh options may be obtained from all the existing Group 'B' officers belonging to common cadre under your cadre control for permanent transfer to the Civil Audit offices in North East Region intimating them the cadre strength of each office and they may be allocated to the concerned offices on the basis of their seniority-cum-options exercised by them as per instruction contained in para 3 of the policy.

2. The junior officers in each cadre who are not likely to be accommodated in the concerned offices as per options exercised by them may be posted on deputation basis to the deficit offices as per instructions contained in para 4 of the policy.
3. The action taken report should be sent to us by 15-05-2006. We intend to have the separated cadres in place as on 01-06-2006.
4. Caveat in the appropriate courts of judicature may be filed in consultation with your standing counsels.

Yours faithfully,

Enclo: As above.

Sd/-
(Manish Kuinal)
Assistant Comptroller and
Auditor General (N)

Policy for separation of common cadre of Group 'B' officers
in the A&E and Civil Audit Offices in N.E. Region.

- I One time option for allocation to a particular office may be called for from the existing Group 'B' officers belonging to common cadre by the present cadre controlling authorities i.e. PAGI (Audit) Meghalaya etc., Shillong and AG (A&E) Assam, Guwahati. The optees shall be required to indicate their preference.
- II Vacancies in combined cadre may be proportionately distributed among all the concerned offices and the existing staff may be allocated to various offices against the required strength i.e. sanctioned strength minus vacancies proportionately distributed in each cadre.
- III Permanent posting of Group 'B' officers of common cadre against the required strength of various Civil Audit/A&E offices shall be made by the respective cadre controlling authorities strictly on the basis of the seniority of the officers, who have exercised their option for allocation to such offices, irrespective of their base office.
- IV If the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office viz. deficit offices. If sufficient volunteers are not available for such posting on deputation basis, the junior most persons in excess of required strength in each cadre shall be sent to deficit office on deputation basis. No willingness shall be necessary for this purpose but deputation allowance shall be payable. However, they may be asked to give their preference for such posting mentioning the names of deficit offices and as far as possible they may be posted to such deficit offices on the basis of their seniority and preference given by them for this purpose. These persons shall be posted to the office of their choice on the basis of their seniority on availability of subsequent vacancies against the required strength in such offices. The surplus optees shall also form part of the cadre of their office for which option was exercised by them.
- V If the number of optees for a particular office is less than the sanctioned strength of that office all the optees shall be allocated to that office. The remaining vacancies shall be filled up by ~~deputation of~~ plus optees as per guidelines laid down at IV above. The ~~vacancies arising~~ due to repatriation of the deputationists to the office of their choice will be filled up by the concerned offices as per provisions contained in the Recruitment Rules for the concerned posts.
- VI The promotions to Group 'B' posts after the separation of cadre shall be made by the concerned offices from amongst the eligible officers of their office. However, in surplus offices no further promotion will be made till all the surplus optees posted to deficit offices on deputation basis are accommodated in these offices.
- VII Direct recruitment will be done in the deficit offices only regarding the requisition already placed/to be placed to Staff Selection Commission.

R

FORM OF OPTION

In the event of separation of existing common cadre for Group 'B' posts of (Sr.AO/AO/AAO/SO) of the civil Audit offices of the Indian Audit & Accounts Department located in the North East, I Shri/Smt./Ms.

..... working in the Office of the
..... as (designation), knowing fully that the option so exercised shall be final and no further change in the above option shall be allowed in any case, do hereby opt to be finally allocated to the following office(s) in order of preference:-

1. Office of the
2. Office of the
3. Office of the
4. Office of the
5. Office of the
6. Office of the
7. Office of the

Date :

Station:

Name.....

Designation.....

O/o the

Employee No.

51

Sanctioned Strength of SRA.Os/A.Os and AACs/Sos in N.E. Region.
 (other than Commercial Officers)

Name of the Office	Sanctioned Strength	Sanctioned Strength
	SR.AO/AO	AAOs/Sos
Shillong	20+8	37+13
Guwahati	42+9	113+17
Agartala	12+4	30+8
Imphal	13+3	15+4
Kohima	6+3	18+5
Total	93+27	213+47

Attested
 (Signature)
 Advocate

4. All Branch Officers
 5. All Group 'B' Officers (Os, Os, Os except Com. Officer)
 6. All Section
 7. All Notice Board

W.B. Singh
 Sr. Audit Officer (Admn.)

कार्यालय प्रधान महालेखाकार (लेखापरीक्षा), असम, बेलतला, गुवाहाटी-29
 OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT), ASSAM,
 MAIDAMGAON, BELTOLA, GUWAHATI-29.

Circular No. Estt.I/Audit/1-51/2005-06/22

Dated: 20.4.06

C I R C U L A R

Subject: *Separation of Common Cadre of Group 'B' officers in the Civil Audit Offices in North East Region.*

In partial modification of this Office Circular No. Estt.I/Audit/1-51/2005-06/394 dated 31-03-2006 and in view of Headquarter's clarification and Revised "Option Form" forwarded by the Principal Accountant General (Audit) Meghalaya, etc., Shillong under letter No. Estt-I/Audit/12-31/2005-06/504, dt. 19-04-2006, the last date for exercising options on the subject cited above in the revised "Option Form" is extended upto 28-04-2006.

All the Group 'B' Officers (from Sr.A.O. to S.O. except Commercial Officers) are hereby requested to furnish the fresh options in the revised "OPTION FORM" to Estt-I Section on or before 26-04-2006 positively for onward submission to Shillong Office within the stipulated date i.e. 28-04-2006.

The previous option exercised in compliance of this office Circular No. Estt-I/Audit/1-51/2005-06/394 dated 31-03-2006 may be treated as cancelled.

In this connection, the following documents on the subject are enclosed for information and necessary action.

1. C&AG's letter No. 191-NGE(APP)/17-2004 dated 13.04.2006.
2. Revised "FORM OF OPTION".

This issues with the approval of Principal Accountant General.

Shahy.. 20/4/06
 Deputy Accountant General (A&W)

Memo No. Estt.I/Audit/1-51/2005-06/220-226

Copy forwarded for information and necessary action to :-

Dated: 20.4.06

1. The D.A.G. (A&W)
2. The D.A.G. (I/C & C.A)
3. The Secretary to the Pr. Accountant General (Audit), Assam
4. All Branch Officers
5. All Group 'B' Officers (S.Os to Sr. A.Os except Com. Officer)
6. All Section
7. All Notice Board

They are requested to bring the contents of the circular to the Notice of all Group 'B' Officers deployed in field duty with the instruction to collect the "Option Form" personally and submit the same within the stipulated date to Estt.I Section.

*Reefak Ch. Sarker
 RO/SA/2006*

Worsh
 Sr. Audit Officer (Admn.)

*Attested /
 Signed /
 Advocate*

Annexure 'D' (Continued) Annexure 'D'

A. G. (A&E) Assam dated 17/4/06

- 45

To

The Accountant General (A&E),
Assam,
Guwahati - 781 029.

Subject: Separation of Group 'B' cadres in A&E offices of N.E. Region.

Sir,

I am to refer to your D.O. letter No. AG/Sep/Group 'B'/2006/02 dated 07.04.2006 on the subject mentioned above and to furnish below the clarification sought for therein:-

- (i) The actual sanctioned strength of Group 'B' officers for the newly created offices of Mizoram and Arunachal Pradesh is being intimated by BRS wing of this office separately. No additional post is being created for the present.
- (ii) St.A.O, AO, AAO and S.O. will be treated four separate cadres and ratio of 80:20 in St.A.O/AC and AAO/SO will be maintained while separating these cadres.
- (iii) A copy of revised option form is enclosed.
- (iv) An officer who has given preference for more than one office for permanent allocation will be considered for permanent allocation as per his seniority and option exercised by him. If he cannot be accommodated to the office mentioned at Sl. No. 1 of the option form he will be considered for permanent allocation to the office mentioned at Sl. No. 2 and so on. If however he cannot be accommodated to any of the above offices as per his seniority he will be posted on deputation to the deficit office(s) till he is finally allocated to any of the offices mentioned in the option.
- (v) It has already been made clear in the policy for separation of cadres that final allocation of Group 'B' offices belonging to common cadre shall be made strictly on the basis of their seniority-cum-option exercised by them irrespective of their base office.

Yours faithfully,

R. Ambalavanam
(R. Ambalavanam)
Asst. Comptroller &
Auditor General (N)

13/4/06
dated 13-04-2006

No. 191-NGE(App.)/17-2004

Copy alongwith a copy of the AG(A&E) Assam, Guwahati D.O. letter dated 07-04-2006 is forwarded to the PAG(Audit), Meghalaya etc., Shillong for information.

R. Ambalavanam
(R. Ambalavanam)
Asst. Comptroller &
Auditor General (N)

13/4/06

..... (Signature)

Annexure - 'D' (continued)
Annexure 'D' continued - Annexure 'D' continued

FORM OF OPTION

In the event of separation of existing common cadre for Group 'B' posts of (Sr.AO/AO/AAO/SO) of the civil Audit offices of the Indian Audit & Accounts Department located in the North East, I Shri/Smt./Ms.

..... working in the Office of the
..... as (designation), knowing fully that the option so exercised shall be final and no further change in the option shall be allowed in any case, do hereby opt to be finally allocated to the following office(s) in order of preference:-

1. Office of the
2. Office of the

..... and so on.

Signature.....

Date :

Name.....

Station:

Designation.....

O/o the

Employee No.

Attested
.....
(Advo/Adv.)

Sr. Audit Officer (Admn.)



भारत के नियंत्रक-महालेखा परीक्षक का कार्यालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA
2268
22-4-06
Date
25-04-2006

To

लिखक
Date

25-04-2006

The Accountant General (Audit),
Tripura,
Agartala

Subject: Separation of Group 'B' cadres in offices of the N.E. region.

Sir,

I am directed to invite a reference to your office letter No. Estt(Au)/1-49/2006-07/80 dated 12-04-2006 on the above mentioned subject and to furnish below the clarification sought for therein:-

(i) In first line of para V of the policy for separation of Group 'B' cadre the word "sanctioned strength" may be read as "required strength".

(ii) An officer, who has given preference for more than one office for permanent allocation, will be considered for permanent allocation as per his seniority and option exercised by him. If he can not be accommodated to the office of his first choice he will be considered for permanent allocation to the office mentioned at Sl. No. 2 and so on. If however he can not be accommodated to any of the these offices as per his seniority and option he will remain under the cadre control of the PAG (Audit), Meghalaya, Shillong and posted on deputation to the deficit office(s) till he is permanently allocated to any of the offices mentioned in the option against the subsequent vacancy arising in the concerned office(s).

(iii) Once the officer is permanently allocated to the office of his first or subsequent choice in the option form, such allocation is final and no further change will be allowed.

(iv) As no further promotion will be made in surplus offices till all surplus optees posted on deputation to deficit offices are accommodated, the concerned surplus offices will accommodate their surplus optees against subsequent vacancies.

(v) Sr.A.O, AO, AAO and SO will be treated four separate cadres for the purpose of allocation and the ratio of 80:20 in Sr.A.O./AO and AAO/SO will be maintained in each office while separating these cadres.

(vi) The sanctioned strength and PIP for the newly created offices of Mizoram and Arunachal Pradesh is being intimated by BRS wing of this office. No additional post is being created for the present.

(vii) The officers who are presently on deputation to other offices will be allocated to the offices as per their seniority-cum-preference. They will be repatriated from the borrowing office(s) to their allocated office subject to availability of vacancy in that office. No supernumerary post will be created in any office.

10, बहादुर शाह जाफर मार्ग, नई दिल्ली-110002
10, Bahadur Shah Zafar Marg, New Delhi-110002

Attested
S. M. M.
Advocate

-29-

Annexure - E' Continued.

~~Annexure
Continued~~

14002/006

(viii) The sanctioned strength minus existing vacancies proportionately distributed in each cadre is the required strength for the purpose of separation of cadre. No additional post is being created for the present.

Yours faithfully,

—Sd/-
(ASHUTOSH JOSHI)
Assistant Comptroller and
Auditor General (N)

Endo. No. 222 -NGE(App)/4-2006

Dated 24.04.2006

Copy along with a copy of the AG(Audit), Tripura, Agartala letter dated 12.4.2006 is forwarded for Information and necessary action to:

- ✓ 1. The Pr.AG (Audit), Meghalaya, Shillong-793 001
- ✓ 2. The AG(A&E), Assam, Guwahati-781 029
- ✓ 3. The AG(Audit), Assam, Guwahati-781 029 with reference to serial No.10 of the AG's letter dated 12.4.06.
4. Director (Direct Taxes) at Headquarter with reference to serial No.10 of the AG's letter dated 12.4.06.
5. Director (Indirect Taxes) at Headquarter with reference to serial No.10 of the AG's letter dated 12.4.06.

Ansaw
(ASHUTOSH JOSHI)
Assistant Comptroller and
Auditor General (N)

Attested
By
Advocate

**OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT),
ASSAM, MAIDAMGAON, BELTOLA, GUWAHATI-29.**

No. Estt./Au/1-51/06-07/498-499

Dated: 8th May '2006

To,

The General Secretary,
✓ Civil Audit Association, AAOs/SOs /
Civil Audit Association Group 'C' & 'D',
O/o the Pr. A.G. (Audit), Assam, Guwahati-29.

Sub: Separation of common cadre of Group 'B', 'C' & 'D' staff in
the Civil Audit Offices in N.E. Region.

Sir,

I am to forward herewith Headquater letter no. 1722/BRS/15-2006 dtd 27th April '2006 along with redistributed sanctioned strength and P.I.P. between office of the A.G.(Au) Meghalaya/Arunachal Pradesh/Mizoram and Headquater's letter no. 221-NGE(APP)/17-2004 dtd. 25th April '2006 regarding clarifications sought for on the subject cited above for your information.

This issues with the approval of Principal Accountant General.

Yours faithfully,

W. M. N.
Senior Audit Officer (Admn.)

*Attested /
S. Debnath
Advocate*

W. M. N.
S. Debnath
Deputy Accountant General (Admn)

भारत के नियंत्रक-महालेखा परीक्षक का कार्यालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA

दिनांक
Date

To

The Pt. Accountant General (Audit),
Meghalaya,
Shillong.

Subject: Separation of common cadre of Group B officers in the Civil Audit offices in
North East Region.

Sir,

I am directed to invite reference to your office letter no. Estt-I/Audit/13-
11/2006-2007/03 dated 28.3.06 on the above cited subject. The new sanctioned strength
and Persons-in-position for the three offices viz. Meghalaya, Arunachal Pradesh and
Mizoram has been fixed as per the statement enclosed. The redistributed sanctioned
strength may please be noted in your office records and the staff and officers may
accordingly be posted in each office at the earliest.

Yours faithfully,

sd/ -

(LALIT KUMAR)
Administrative Officer (BRS)

No. 1723 BRS/75-2005

Copy for information and necessary action to:

1. AG (Audit), Arunachal Pradesh
2. AG (Audit), Mizoram
3. Sr AO, NGE (Apptt)
4. PS to PD (Staff)

For PAC (Ankit)
J

P-2
Administrative Officer (BRS)

10, बहादुरशाह ज़फ़र मार्ग, नई दिल्ली-110002
10, Bahadur Shah Zafar Marg, New Delhi-110002

A.A.O/EOH-1

OKM (4 mm.)

S. Deputy Accountant General (Admn)

Annexure - 'F' ^{-3/2-} ContinuedAnnexure 'F' Continued ^{2/00} (5)

Distribution of Sanctioned strength and PIP between the Os/o the Meghalaya, Arunachal Pradesh and
Audit Offices Mizoram

Cadre	Meghalaya		Arunachal Pradesh		Mizoram		Total	
	SS	PIP	SS	PIP	SS	PIP	SS	PIP
Sr AO/AO	12	11	11	10	9	8	32	29
AAO/SO/Supr	24	16	22	15	15	10	61	41
Sr.Ar/Sr.CO	75	66	56	50	44	39	175	155
Ar/CO	18	5	14	4	10	2	42	11
C/Typ/DEO	11	3	9	2	7	2	27	7
Welfare Asstt	1	1					1	1
Aast. Caretaker	1						1	0
Steno	2	1	2	1	1		5	2
Hindi Officer	1						1	0
Senior Translator	1	1					1	1
Junior Translator	3						3	0
Hindi Typist	1						1	1
Staff Car Driver	1	1					1	1
Record Keeper	2	2	2	2	2	2	6	6
Group D	13	11	10	8	9	7	32	26
Total	166	118	126	92	97	70	389	280

Sanction of marginal cadres may be considered at a later stage

Sc. Deputy Accountant General (Admn)



भारत सरकार (संप्रतिनिधि) राज्यपाल
Dr. A.C. Chacko, Secretary
भारत सरकार
भारत सरकार
भारत सरकार
भारत सरकार

3268
3268
3268
3268

Diary No.

Date.....

To

भारत के नियंत्रक-महालेखा परीक्षक का कार्यालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA

रात्रि
Date

25-04-2006

The Accountant General (Audit),
Tripura,
Agartala

Subject: Separation of Group 'B' cadres in offices of the N.E. region.
Sir,

I am directed to invite a reference to your office letter No. Estt(Au)/1-49/2006-07/80 dated 12-04-2006 on the above mentioned subject and to furnish below the clarification sought for therein:-

(i) In first line of para V of the policy for separation of Group 'B' cadre the word "sanctioned strength" may be read as "required strength".

(ii) An officer, who has given preference for more than one office for permanent allocation, will be considered for permanent allocation as per his seniority and option exercised by him. If he can not be accommodated to the office of his first choice he will be considered for permanent allocation to the office mentioned at Sl. No. 2 and so on. If however he can not be accommodated to any of the these offices as per his seniority and option he will remain under the cadre control of the PAG (Audit), Meghalaya, Shillong and posted on deputation to the deficit office(s) till he is permanently allocated to any of the offices mentioned in the option against the subsequent vacancy arising in the concerned office (s).

(iii) Once the officer is permanently allocated to the office of his first or subsequent choice in the option form, such allocation is final and no further change will be allowed.

(iv) As no further promotion will be made in surplus offices till all surplus optees posted on deputation to deficit offices are accommodated, the concerned surplus offices will accommodate their surplus optees against subsequent vacancies.

(v) Sr.A.O, AO, AAO and SO will be treated four separate cadres for the purpose of allocation and the ratio of 80:20 in Sr.A.O/AO and AAO/SO will be maintained in each office while separating these cadres.

(vi) The sanctioned strength and PIP for the newly created offices of Mizoram and Arunachal Pradesh is being intimated by BRS wing of this office. No additional post is being created for the present.

(vii) The officers who are presently on deputation to other offices will be allocated to the offices as per their seniority-cum-preference. They will be repatriated from the borrowing office(s) to their allocated office subject to availability of vacancy in that office. No supernumerary post will be created in any office.

10, बहादुर शाह जाफर मार्ग, नई दिल्ली-110002
10, Bahadur Shah Zafar Marg, New Delhi-110002

Sr. Deputy Accountant General (Admn)

Annexure - F^{B4} *Continued*

Annexure F *Continued*

(viii) The sanctioned strength minus existing vacancies proportionately distributed in each cadre is the required strength for the purpose of separation of cadre. No additional post is being created for the present.

Yours faithfully,

Sd/-
(ASHUTOSH JOSHI)
Assistant Comptroller and
Auditor General (N)

Endo. No. 222 -NGE(App)/4-2006

Dated 24.04.2006

Copy along with a copy of the AO(Audit), Tripura, Agartala letter dated 12.4.2006 is forwarded for information and necessary action to:

- ✓ 1. The Pr.AG (Audit), Meghalaya, Shillong-793 001
- ✓ 2. The AG(A&E), Assam, Guwahati-781 029
- ✓ 3. The AG(Audit), Assam, Guwahati-781 029 with reference to serial No.10 of the AG's letter dated 12.4.06.
4. Director (Direct Taxes) at Headquarter with reference to serial No.10 of the AG's letter dated 12.4.06.
5. Director (Indirect Taxes) at Headquarter with reference to serial No.10 of the AG's letter dated 12.4.06.

As per
(ASHUTOSH JOSHI)
Assistant Comptroller and
Auditor General (N)

Attested/
Paras
(Parvinder)

Parvinder
S. Deputy Accountant General (Admin)

वारास्त्र व्यवस्था विभाग (विवरणी), असम, बोलाला, गुवाहाटी-29
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT), ASSAM,
MAUDAMIGAON, BOLALIA, GUWAHATI-29.

Circular No. 116. (A. 1-5165-840001)

Dated: 06/07/2004

Subject Separation of Common Gr. 'B' Cadres against the Audit offices of the North East

Consequent upon Headquarter's office decision to establish separate Offices for Arunachal Pradesh and Meghalaya (which will function from Shillong, until adequate space for Office and staff quarter are available) the Principal Accountant General (Audit), Meghalaya, etc., Shillong being Cadre Controlling Authority has invited fresh option from all Gr-'B' Officers (other than Supervisor) for their future allocation to different Audit Office of N.E. State in the event of separation of common Gr-'B' Cadres.

In view of above, all the incumbents in Gr-B' posts (from SO to Sr.A.O) of this Office borne on common cadre are hereby asked to exercise their option afresh in the prescribed format (available in E-mail Section) on or before 19.7.2004 so as to enable this office to send the fresh options to Shillong Office by 22.7.2004 positively.

The options exercised earlier in response to this Office Circular No. Estt.J/Audit/1-01/03-04/275 dated 03.01.2003 stand cancelled.

(Authority: Principal Accountant General (Audit)'s order dated 05-07-2004)

St. Deputy Accountant General (Admin)

Memo No. Estt.1/Aw/1-51/03-04/1478-1986

Date: 06/07/2004

Copy forwarded to:

1. The Principal Accountant General (Audit) Meghalaya etc., Shillong. He is requested to arrange for obtaining the fresh option from the Officers of this office who are on deputation/foreign service from his end.
2. Sr. D.A.G.(A&Works) | They are requested to bring the contents of the circular to the knowledge of all the Gr. 'B' Offices placed under their disposal and deployed field duties so as to enable them to exercise their fresh option within the stipulated date.
3. Sr. D.A.G (IC&CA) |
4. Sr. D.A.G(C&R) |
5. Secretary to Principal Accountant General (Audit) Assam.
6. Sr. AO (Admin). He should maintain the Register of option like previous occasion and also prepare a list of Officers on leave and ensure sending of the option papers to them by registered post.
7. All Group 'B' Officers deployed in I.C.O. Section/Branch.
8. Notice Boards.
9. O.C. File.

St. Deputy Accountant General (Adm.)

~~Attested~~
~~Parsons~~
~~Adv.~~

FORM OF OPTION

In the event of separation of existing common cadre for Group 'B' posts (excluding Supervisors) of the offices of Indian Audit & Accounts Department located in the North East, I Shri/Smti/Ms working in the office of the Pt. A.G./A.G./Sr. D.A.G. (Audit) as (designation), do hereby opt to be finally allocated to the office of the Pt. A.G./A.G./Sr. D.A.G. (Audit) knowing fully that this exercise of option shall be final and in no case whatsoever it would be changed.

2. In case, I am not initially allocated at the first instance to the office of my first option exercised above for want of vacancy, I may, till such time I am finally allocated to the said office, be allocated to the following offices in the order of preference:

(i) Office of the Pt. A.G./A.G./Sr. D.A.G. (Audit)

(ii) Office of the Pt. A.G./A.G./Sr. D.A.G. (Audit)

(Signature)

Date:

Name
(IN BLOCK LETTERS)

Station:

Designation:

O/o the:

Annexure - 'G' Continued.

-37-

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), ASSAM,
MAIDAMGAON, BELTOLA, GUWAHATI-29.

Circular No. Estt-I/Audit/1-51/03-01/275 Dated, Guwahati,

The 3rd November 2003

Subject:- Separation of Common Group-'B' Cadres amongst the Audit Offices of the North East.

The Cadre Controlling Authority viz. office of the Principal Accountant General (Audit), Meghalaya etc., Shillong has intimated that considering the problems of cadre management arising out of common cadres of Group 'B' posts in the Audit Offices of the North East, the Headquarters Office has decided to separate the common Group-'B' Cadres from section Officers to Senior Audit Officers (excluding Supervisors) in the Audit Offices of the North East hitherto controlled by the Principal Accountant General (Audit), Meghalaya etc., Shillong.

Accordingly, following facts are brought to the notice of all concerned:

- (a) One time non-changeable option for allocation to a particular office located in the North East shall be obtained from the existing incumbents from Section Officers to the Senior Audit Officers placed in the different Audit Offices (including those on deputation and foreign service). The incumbents should also exercise their second and third preferences.
- (b) The Officers shall be allocated to the office of his choice on the basis of seniority-cum-first preference. However, where the number of optees for a particular office is more than the sanctioned strength of that office, the excess optees shall be kept in a Waiting list for future accommodation in the office of their choice.
- (c) The Wait listed persons shall form a pool at the disposal of existing cadre controlling authorities (i.e., the Principal Accountant General (Audit), Meghalaya etc., Shillong) for posting to deficit offices as per their alternative preferences, subject to administrative convenience, till such time they are accommodated in their offices of choice.

With a view to implementing the above scheme of separation of cadres of Group 'B' officers, all the present Group-'B' officers (Section Officers to Senior Audit Officers

including those on deputation or on foreign service) of this office are hereby directed to exercise their options in the enclosed "Form of Option" within one month from the date of issue of this circular (i.e., within 02.12.2003) and submit the same within the stipulated period to the Asstt. Audit Officer, Estt-I Section who shall maintain a Register of Option to be signed by both the optioner and the receiving officer for records.

The option once exercised shall be final.

(Authority: Accountant General (Audit)'s order dated 23-10-2003 in File No. Estt-I/Audit/1-51/2003-04/ at P/4th)

Sd/-

Sr. Deputy Accountant General (Admn).

Memo No. Estt-I/Audit/1-51/2003-04/
3265-3273.

Dated: 3rd. November 2003

Copy forwarded for information and necessary action to:-

1. The Principal Accountant General (Audit), Meghalaya etc., Shillong-1. He is requested to obtain the option from the officers on deputation/foreign service from his side.

2. Secretary to the Accountant General (Audit), Assam, Guwahati-29.

3. Sr. Deputy Accountant General (A&G).

4. Deputy Accountant General (C&K).

5. Deputy Accountant General (W&CA).

They are requested to bring the contents of the Circular to the knowledge of all the Group 'B' Officers deployed on field duty with the instruction that the officers should personally collect and submit the option paper within the stipulated date to AAO/ESTT-I Section.

6. Sr. Audit Officer (Admn). He should prepare a list of officers on leave and ensure sending of the option paper to them by Registered Post.

7. Person concerned (Sini.....)

8. Notice Board.

9. Officer Order File.

S. S.
Sr. Deputy Accountant General (Admn).

*Attestd
S. S.
Adm-2003*

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA
NEW DELHI-110 002.

No. 108-N.2/127-88

Dt. 29 Feb 1990.

To

The Accountant General (A&E),
Assam, Shillong-793061.

Subject: Posting of Section Officers/Assistant Accounts Officers to the office
of the Accountant General (A&E) Tripura, Agartala.

Sir,

I am directed to refer Shri S.K. Chakraborty, Accountant General (A&E), Tripura d.o. letter No. Estt/Restruct/1-1/1983/Vol. II/2665 dated 26/12/1989 addressed to you on the subject mentioned above and to request that as far as possible the Section Officer Grade Examination passed staff of Accounts and Entitlement offices in North Eastern region of their promotion as Section Officers may be posted in the offices from which they passed the above examination.

Yours faithfully,

Sd/-

(R.N. BANDYOPADHYAY)
ADMINISTRATIVE OFFICER, (N)

*Attested
S. N. Bandyopadhyay
Advocate*

Admn. I/erned 71
All communications should be
addressed to the Comptroller
and Auditor General of India
or to the
Telegraphic address: ARGII.

Annexure - 4

Annexure - 4
Secty/101/001101
100-N.2/127-087
Date: 17.12.1989
No. 260
RE. Dated 110002
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA
Gurukul Ke Niyontrik-Khalakshik
Parikshak Ka Karyalay
NEW DELHI-110002
P.T.O.
Dated

- 65 -

Annexure - 4 A

गारंत के नियन्त्रक-प्रहोलानदीपाल
रफ नियंत्र-110002
THE COMPTROLLER AND AUDITOR GENERAL OF INDIA
NEW DELHI-110002

The Accountant General(A&E),
Assam
SHILLONG-793001

Posting of Section Officers/Assistant Accounts Officer to the
office of the Accountant General(A&E) Tripura, Agartala.

Sir,

I am directed to refer Shri S.K.Chakraborty,
Accountant General(A&E), Tripura d.o. letter No. Estt/Restruct/
1-1/1983/Vol.II/2665 dated 26.12.1989 addressed to you on the
subject mentioned above and to request that as far as possible
the Section Officer Grade Examination passed staff of Accounts
and Entitlement offices in North Eastern region on their promotion
as Section Officers, may be posted in the offices from which they
passed the above examination.

Yours faithfully,

(R.N.BANDYOPADHYAY)
ADMINISTRATIVE OFFICER (N)



A Herd
Bandy
Advocate

CIVIL AUDIT ASSOCIATION, AAO's / SO's (CIVIL)
(Recognised as per C.C.S (RSA) Rules, 1993)
OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT),
ASSAM, BELTOLA, GUWAHATI - 781 029.

No. CAA/GB/49

Dated. 25.4.2006.

To,

*The Pr. Accountant General (Audit),
Assam, Guwahati.*

Sub: Separation of Group B Officers in N.E. Region.

Sir,

I am to forward herewith a copy of the representation on the subject cited above. The copy of the same may be forwarded to the C&AG of India and cadre controlling authority i.e. Pr. A.G. (Audit), Meghalaya, etc. Shillong.

Yours faithfully,
P K Datta
General Secretary

*Recd
CAG
25/4/06*

*A Hcfc 22
Bhup
Advocate*

CIVIL AUDIT ASSOCIATION, AAO's / SO's (CIVIL)

(Recognised as per C.C.S (RSA) Rules, 1993)

**OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT),
ASSAM, BELTOLA, GUWAHATI – 781 029.**

No. CAA/GB/48

Dated. 25-04-2006

To

**The Comptroller and Auditor General of India,
10, Bahadur Shah Zafar Marg,
Indraprastha Head Post Office,
New Delhi – 110 002.**

Subject: Representation regarding separation of cadres of Group 'B' officers in North-Eastern Region.

Sir,

With due honour and humble submission I beg to lay before your good self the following few lines arising out of the Headquarters' decision regarding separation of common cadre of Group 'B' officers in NE Region communicated vide Headquarters' Office letter No. 144-NGE (APP)/17-2004 dated 24.03.2006 for kind consideration and sympathetic action at your end –

1. The proposed policy of cadre separation formulated by Headquarters' office on seniority basis by ignoring the base office concept would cause a huge displacement of Group 'B' Officers in the office of the Principal Accountant General (Audit), Assam, Guwahati. There would be great difficulties and untold sufferings for the Group 'B' Officers who will be displaced from this office they are serving since inception. This is more painful for them, who had already transferred to different outstations on various occasions under the existing policy of common cadre of Group 'B' Officers. Further, due to perceived surplus optees the promotional avenues in all cadres of Group 'B' Officers are bound to be jeopardised.

2. However, if the headquarters' office intends to separate the common cadres of Group 'B' Officers, the same may be made without displacement of Group 'B' Officers of this office with due consideration to ensure their timely promotion.

If the creation of Audit Offices for Arunachal Pradesh and Mizoram is considered indispensable, the new Audit Offices of Arunachal Pradesh and Mizoram may be created with existing manpower, which is catering to the need of the proposed offices in the combined office of the Principal Accountant General (Audit), Meghalaya, Arunachal Pradesh & Mizoram. It is worthy to mention here that, the O/o the Accountant General (Audit), Assam, Guwahati was created in 1997 from the erstwhile office of the Principal Accountant General (Audit), Assam, Meghalaya, Arunachal Pradesh & Mizoram, Shillong by transferring the Group B Officers against strength of Assam in the combined office and no option was invited from the officers in Nagaland, Tripura and Manipur offices on that occasion though the officers were in common cadre.

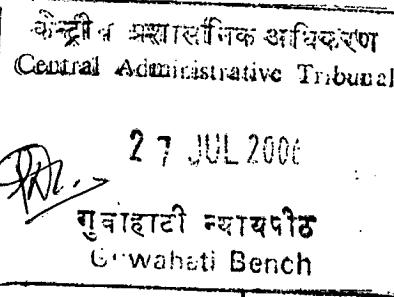
I, on behalf of the Civil Audit Association, AAO's/SO's (Civil) of the office of the Principal Accountant General (Audit), Assam, Guwahati beseech your high office to kindly keep the entire process of cadre separation in abeyance and frame a new acceptable policy of separation of cadre after giving due cognizance to this Association's view.

Yours faithfully,

P K Deka

General Secretary

*Attested
Original
Autograph*



Filed by

Shrikant
Ch. न्यायदीठ/विकार

न्यायदीठ प्रधान न्यायदीठ/विकार लेबर एवं रिटायर
O/G Mr. Principal Accountant General (Audit)
असम, बেलগाम, ग. द. 29
Assam, Beliaghata, G. D. 29
File No. 23

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO. 146/2006

SHRI OM PRAKASH UPADHYAY & OTHERS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & OTHERS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through the same and have understood the contentions made thereof. Save and except the statements, which are specifically admitted herein below, rest may be treated as total denial. The statements, which are not borne on records, are also denied and the applicants are put to the strictest proof thereof.
- 2) That the respondents before traversing various paragraphs of the OA, the respondents beg to give the Brief History of the case.

Shri Gunaram Kalita and 16 others Assistant Audit Officers of the Office of the Pr. Accountant General (Audit), Assam, Guwahati have moved the Hon'ble Tribunal, Guwahati Bench against the policy formulated for separation of the cadres of Group 'B' officers in North-Eastern Region. The applicants are of the opinion that the scheme for separation has been formulated on the wrong premises that there was common/combined cadre. The applicants are of the opinion that there has not been any formal common/combined cadre. The applicants are also of the opinion that the scheme called for option and after receiving option brought into play the concept of required strength substituting the sanctioned strength. The term required strength adds to badness of the scheme. The applicants also submitted that the scheme will very adversely affect them in the matter of seniority and place of posting.

In the premises as aforesaid the applicants moved the Hon'ble Tribunal for setting aside and quashing of the scheme of separation of cadres.

X2

- 3) That with regard to the statements made in paragraphs 1, 2, 3, 4.1 and 4.2 of the OA, the respondents beg to offer no comment. However the respondents do not admit anything contrary to the records of the case.
- 4) That with regard to the statements made in paragraph 4.3 of the OA, the respondents while denying the contentions made therein beg to state that on the appointment to the cadre of Clerks/Typists, Auditors up to the promotion of Sr. Auditors, these officials fall under Group 'C' cadre which have been separated on 01.09.1981 in the Civil Audit offices of the N.E. Region except the office of the Pr. Accountant General (Audit), Assam and office of the Pr. Accountant General (Audit), Meghalaya, Arunachal Pradesh and Mizoram. Hence unto cadre of Sr. Auditors the respondents have no comments.

That from the post of Section Officers to the posts of Assistant Audit Officers, Audit Officers, Sr. Audit Officers, Group 'B' cadre is combined for all Principal Accountants General/ Accountants General offices in the N.E. Region for which Pr. Accountant General (Audit), Meghalaya, Shillong is the cadre controlling authority.

That the Section Officers Grade Examination passed officials of different Audit Offices in N. E. Region are considered for promotion to the post of Section Officer which is entry point of Group 'B' combined cadre. The promotion to the post of Section Officers is made with the condition that the person concerned is liable to be transferred to any of the Audit offices of NE Region. The above condition is laid down in the promotion order itself. If the above condition is not acceptable to any person he may not take the promotion. Once the person is promoted to the post of Section Officer and become a part of the common cadre Group 'B' officers in the Audit Offices of NE Region, the office in which he belonged prior to such promotion is not relevant. All the Group 'B' officers belonging to common cadre had been given equal opportunity to opt for permanent allocation to any of the offices in NE Region for the purpose of separation of common cadre so that these offices have their own separate cadres of Group 'B' officers. As the permanent allocation to these officers is to be made

as per seniority of the Group 'B' officers belonging to common cadre and the option exercised by them for this purpose, the applicants have no claim for their allocation to Guwahati Office in preference to their seniors who belonged to other offices of NE Region prior to their promotion as Section Officers. In the instant case all the 17 applicants accepted the promotion to the posts of Section Officers/Assistant Audit Officers. Hence the concept of parent office is not correct. There is also a common gradation list for all the officers of NE Region in respect of the cadres from Section Officers to Sr. Audit Officers.

That it would be evident from the above that the term common cadre is not vague concept. However, to facilitate formation of Group 'B' cadres ⁱⁿ respect of each individual Civil Audit Offices in the NE Region the Comptroller and Auditor General of India has formulated the aforesaid policy separation of Cadres.

- 5) That with regard to the statement made in paragraph 4.4 of the OA, the respondents while denying the contentions made therein beg to state that the gradation list of the common cadre as on 1st March is published every year with inter se seniority and circulated among all the officers of the N E Region. That the scheme for separation of cadre was formulated with total application of mind.
- 6) That with regard to the statement made in paragraph 4.5 of the OA, the respondents beg to submit that this being matter of records hence offer no comment.
- 7) That with regard to the statement made in paragraph 4.6 of the OA, the respondents while denying the contentions made therein beg to state that the clarification given by the office of the C & AG of India vide its letter No. 221-NGE (APP)/17-2004 dated 25.04.2006 in no way affected the basic principles of separation of cadres. Moreover, in Para-II of policy for separation of common cadre of Group 'B' officers in Civil Audit offices in NE Region has categorically clarified that the required strength is the sanctioned strength minus vacancies proportionately distributed in each cadre. Further SO/AAO/AO/Sr. AO are all separate cadres having distinct pay scales and appointment to each of the post is regulated by separate Recruitment Rules framed under Art 148 (5) of the Constitution of India and each is a promotional cadre for the preceding one.

8) That with regard to the statement made in paragraph 4.7, 4.8 and 4.9 of the OA, the respondents beg to submit that this being matter of records beg to offer no comment. However further beg to submit that the respondents do not admit anything contrary to the records of the case.

9) That with regard to the statement made in paragraph 4.10 of the OA, the respondents while denying the contentions made therein beg to submit that the points raised by the petitioners do not have any merit. Once a Clerk/Auditor/ Sr. Auditor of any of the offices of the Pr. Accountant General (Audit), Assam, Pr. Accountant General (Audit), Meghalaya, Arunachal Pradesh and Mizoram, Shillong, Accountant General (Audit), Manipur, Imphal, Accountant General (Audit), Nagaland, Kohima and Accountant General (Audit), Tripura, Agratala passes the Section Officer's Grade Examination, a common seniority list is prepared by the cadre controlling authority and officials are promoted to the grade of Section Officers and thereby they belong to the common cadre of Section Officers of the Civil Audit Offices of the NER. Thus the concept of parent offices of such of the Section Officers on their promotion is not based on facts.

10) That with regard to the statement made in paragraph 4.11 of the OA, the respondents while denying the contentions made therein beg to state that in view of what has been stated in the preceding paragraphs the question of separation of cadre based on parent office's concept is not correct.

11) That with regard to the statement made in paragraph 4.12, 4.13, 4.14 and 4.14 of the OA, the respondents while not admitting anything contrary to the records of the case beg to offer no comment.

12) That with regard to the statement made in paragraph 4.16 of the OA, the respondents while denying the contentions made therein beg to state that Para-II of the policy for separation of common cadre of Group 'B' officers in Civil Audit offices in NE Region clearly mentioned that the required strength is the sanctioned strength minus vacancies proportionately distributed among all offices and is not a new term as contended by the applicants.

13) That with regard to the statement made in paragraph 4.17 of the OA, the respondents while denying the contentions made therein beg to state that it is not correct to state that options were not called from Group 'B' officers for the newly created Audit offices of Arunachal Pradesh and Mizoram. In the instant case, options were called for all the Audit offices of the NE Region including the newly created offices of the Accountant General, Arunachal Pradesh and Mizoram and options have also been received from some of the officers of the common Group 'B' cadre for allocation to the newly created officers of the Accountant General, Arunachal Pradesh and Mizoram.

14) That with regard to the statement made in paragraph 4.18 of the OA, the respondents while denying the contentions made therein beg to state that the circulars for separation of cadre were made only after a policy decision was taken at the highest level of the department. Thus it is incorrect to say that these were issued whimsically and arbitrarily.

15) That with regard to the statement made in paragraph 4.19 of the OA, the respondents beg to submit that common cadre for Group 'B' officers of the NE Region has been in existence and not a new creation as has already been stated in the earlier paragraphs as such no comment is offered.

16) That with regard to the statement made in paragraph 4.20 of the OA, the respondents while denying the contentions made therein beg to state that the applicant's contentions that since they are working in the office of the Pr. Accountant General (Audit), Assam, which is their base office is not based on facts. At present they are working in the Guwahati office but they are member of the common cadre of Assistant Audit Officers of the NE Region.

17) That with regard to the statement made in paragraph 4.21 of the OA, the respondents beg to submit that after careful consideration of every aspect, the scheme of separation of cadre has been formulated by the office of the Comptroller and Auditor General of India in public interest. The scheme has been formulated in exercise of administrative powers for administrative purposes. The

administrative policy has been framed to meet the needs of having separate cadre in each of the Accountant General offices. The need was specially felt with the setting up of new A G offices in Arunachal Pradesh and Mizoram. The Policy does not violate any statutory rule and no legal or vested right of the applicants has been infringed.

- 18) That with regard to the statement made in paragraph 5.1 of the OA, the respondents while denying the contentions made therein beg to state that the present separation of cadre will not make any junior officer to become senior for exercising option.
- 19) That with regard to the statement made in paragraph 5.2 of the OA, the respondents beg to submit that as already stated, the term required strength has already been defined in the policy document and therefore the allegation that the same is arbitrary is untenable.
- 20) That with regard to the statement made in paragraph 5.3 of the OA, the respondents deny the contentions made therein. It is not correct to state that after the separation of cadre the concept of common cadre will remain. The very intention of the separation of cadre is to form separate cadre for each individual officers.
- 21) That with regard to the statement made in paragraph 5.4 of the OA, the respondents beg to deny the contentions made therein the points raised by the applicants do not have any merit. The gradation list of common cadre of SO/AAO/AO/Sr. AO is maintained by the Pr. Accountant General (Audit), Meghalaya, Arunachal Pradesh and Mizoram, Shillong being the cadre controlling authority. Inter se seniority for each cadre as mentioned above is given in the gradation list. The date of continuous appointment of promotion to the respective above-mentioned cadres is indicated in the relevant columns against the concerned officers. Hence, the cadre of Sr. Auditors/ Auditors has no relevance in the Gradation List after coming to the Common Cadre so far transfer of Group 'B' officers are concerned.

22) That with regard to the statement made in paragraph 5.5 of the OA, the respondents beg to submit that since there in common cadre of Group 'B' officers the concept of base offices and common cadre cannot function together.

23) That with regard to the statement made in paragraph 5.6 of the OA, the respondents beg to state that it would be evident from the above that there is no reason to set aside and quash the aforesaid orders of separation.

24) That with regard to the statement made in paragraph 5.7 of the OA, the respondents beg to state that no new concept such as required strength has been added to the scheme. The present scheme for separation of cadres is not violative of any Articles of the Constitution of India.

25) That with regard to the statement made in paragraph 6 and 7 of the OA, the respondents beg to offer no comment.

26) That with regard to the statement made in paragraph 8.1, 8.2 and 8.3 of the OA, the respondents while denying the contentions made therein beg to state that in view of the submission brought out above, it submitted that the OA is without merit hence the respondents pray before the Hon'ble Tribunal that the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

27) That with regard to the statement made in paragraph 9 of the OA, the respondents pray before the Hon'ble Tribunal that in view of the facts and circumstances narrated in the fore going paragraphs, the Hon'ble Tribunal may be pleased to vacate/modify the interim order dated 28.5.2006 and allow the respondents to transfer the officers of various offices of the NE Region on the basis of their allocation to various offices based on their seniority and options.

28) That with regard to the statement made in paragraph 10 to 12 of the OA, the respondents beg to offer no comment.

29) That in view of the above facts and circumstances of the case the respondents pray that the Hon'ble Tribunal may be pleased to dismiss the Original Applicant with cost.

VERIFICATION

I Smti. Debolina Thakur aged
about 35 years at present working as

..... deputy Accountant General (A&WA)

....., who is one of the respondents and taking steps in this case, being
duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph

1, 27, 28

are true

to my knowledge and belief, those made in paragraph

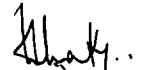
2 to 26

being matter of records, are

true to my information derived there from and the rest are my humble
submission before this Humble Tribunal. I have not suppressed any material
fact.

And I sign this verification this 26th day of June 2006 at Gauhati

DEPONENT



दूप महालेखाकार

Deputy Accountant General

कार्यालय प्रधान महालेखाकार (लेखा परीक्षा)

O/O of Principal Accountant General (A&WA)

অসম, বেলতলা, গুৱাহাটী - ২৯

Assam, Belatala, Gauhati - 29