

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. # 203/2006

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SECTION OFFICER (Judl.)

Kabils
25/10/19

ORDERS SHEET

1. Original Application No. 203/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) K. K. DAS

Respondant(s) W. O. F. Jones

Advocate for the applicant(s). J. L. Sankar...
...S. M. Tamuli...

Advocate for the Respondant(s)..... Case: H. L. Ahmed

Contd/-

Contd/-

17.08.2006 Heard Dr. J.L. Sarkar, learned Counsel for the Applicant and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents.

Pl. comply order
dated 12-8-06.

12-8-06.

Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents submitted that there is a common cadre and it is the policy of the Government and he would like to take instructions on that point. It is also brought to my notice that O.A. Nos. 115/2006, 125/2006, 143/2006 and 246/2006 are pending before this Tribunal on the same issue and since the O.A.s had already been admitted, this O.A. also has to be admitted. Accordingly, the O.A. is admitted.

Notice Recd
by M.U. Ahmed
for Respondent No-4
24/8/06

Recd
for J.L. Sarkar
28/8/06

Post on 19.09.2006 for filing reply statement. In the meantime, in the interest of justice, this Tribunal directs the Respondents not to disturb the Applicant from his place of posting till the next date.

Vice-Chairman

/mb/

19.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman

Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents wanted to have some time to file reply statement. Let it be done.

Post on 16.11.2006. Interim order will continue till the next date.

Notice & order sent
to D/Section for
issuing to resp. nos.
1 & 2, 3, 5, 6 & 7 by regd.
A/D post and resp. no-4
received by hand.

Class 25/8/06. D/No- 870 to 874.
Dt= 28/8/06.

/mb/

Vice-Chairman

Notice duly served
on resp. no-4.
Handed over to the parties & sent the copies.

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

15-11-06

① Notice duly served
on R.No - 4.

Learned Counsel for the
Respondents wanted time to file reply
statement. Let it be done.

Post on 08.12.2006.

3y

No Wts has been
filed.

3y
7.12.06

Six weeks time is granted to the
Respondents to file reply statement. Post
on 23.01.2006. Interim order shall
continue till the next date.

✓
Vice-Chairman

/mb/

23.1.2007

No reply filed. Further time is
granted for the same.

Post on 22.2.2007. Interim order
will continue till such time.

order dt. 8/12/06
serving to learned
advocate's for both
the parties.

Ca
11/12/06

No Wts has been
filed.

3y
22.1.07

order dt. 23/1/07
serving to learned
advocate's for both
the parties.

Ca
24/1/07

No Wts has been
filed.

3y
21.2.07

order dt. 22/2/07 serving to
both the parties.

Vice-Chairman

/bb/

22.02.2007

Mr.M.U.Ahmed, learned Addl.
Sr.C.G.S.C. is represented and three
weeks time is sought for filing of reply
statement. Three weeks time is granted.

Post on 16.03.2007. Interim order
will continue till such time.

Vice-Chairman

/bb/

16.3.07.

post the matter on 19.3.07 as part heard. Counsel for the respondents liberty is given for filing written statement. Interim order shall continue.

Member

Vice-Chairman

lm

19.03.2007

Post this matter before the next Division Bench.

Member

Vice-Chairman

nkm

W.B. has been
billed.

22.5.07.

4.4.07.

Post the matter on 23.5.07.

Vice-Chairman

23.5.2007

Mr. M. U. Ahmed, learned Addl. C.G.S.C. submitted that Respondents have filed written statement. Dr.J.L.Sarkar, learned counsel for the Applicant wanted time to file rejoinder. Let it be done within three weeks.

Post on 22.06.2007.

Vice-Chairman

Counsel for Respondent at 22.6.2007

Agree to draft not higher than 20% of the

Rejoinder not filed by 15.07.2007

Case adjourned to 15.08.2007 for hearing

31.7.07.

Adjourned to 20.8.07

At the request made by Dr.J.L.Sarkar, learned counsel for the Applicant let the case be posted on 01.08.2007.

Vice-Chairman

/bb/

1.8.07.

Pleadings are completed. Post the matter before the next Division Bench.

24.12.07

Additional Statement
filed by the Applicant. *lm*
copy served.

Vice-Chairman

25.01.2008

On the prayer of Mr. M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents, this case stands adjourned to 15.02.2008; when Mr Ahmed should cause production of the records called for from the Respondents.

Having heard Dr J.L.Sarkar, learned counsel appearing for the Applicants and Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents, the interim order that has been passed in this case earlier stands modified.

"Notwithstanding pendency of this case, the Respondents shall remain free to move these Applicants to go on duty to different stations/States of North Eastern Region of India on tour basis."

Send copies of this order to the Applicant and also to the Respondents and free copies be also handed over to learned counsel appearing for both the parties.

Call this matter on 15.02.2008.

Khushiram
(Khushiram)
Member(A)

M.R.Mohanty
(M.R.Mohanty)
Vice-Chairman

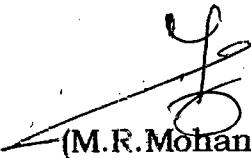
15.02.2008 On the prayer of the counsel for both the parties call this matter on 20.03.2008 for hearing.

The case is ready for hearing.

33
19.3.08.

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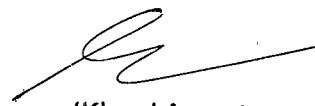

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

20.03.2008

Adjourned to 24.04.2008 for hearing. Respondents should cause production of the records (called for in M.P. No.27/2008) through their Standing counsel on the date fixed.
Supply a copy to Ld. Asc

/bb/


(Khushiram)
Member (A)

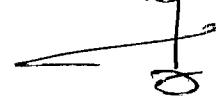

(M.R. Mohanty)
Vice-Chairman

24.04.2008

Call this Part heard matter on 22nd May, 2008.

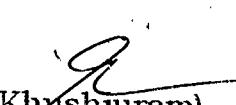
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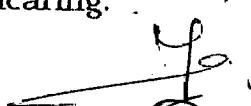
33
The case is ready for hearing.


(M.R. Mohanty)
Vice-Chairman

22.5.08
The case is ready for hearing.

33
21.5.08.

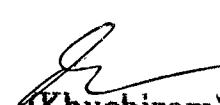

(Khushiram)
Member(A)

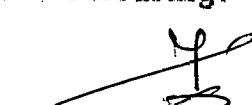

(M.R. Mohanty))
Vice-Chairman

33
The case is ready for hearing.

12.06.2008 Heard further in part. Call this matter on 22.07.2008 for further hearing.

nkm


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

19.6.08
W/S filed by the
Respondents. Copy
served.

33

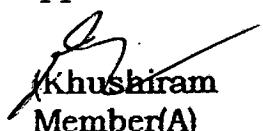
22.07.08 Heard Dr J.L.Sarkar, learned counsel appearing for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents. Perused the materials placed on record. Hearing concluded. Order reserved.

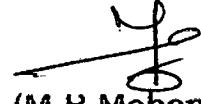

(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman


pg

01.08.2008 Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed with cost of Rs. 1,000/- levied on each Applicant.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.154/07, 155/07, 27/07, 28/07, 203/06 & 204/06.

Date of Order : This the 1st Day of August, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

O.A. 154/2007

- 1.Smt Perly Kharpran, Sr. Accountant
- 2.Shri Jubanlak Hynniewta, Sr. Accountant
- 3.Shri Woston Hynniewta, Sr. Accountant
- 4.Smti Sheree M. Swer, Sr. Accountant
- 5.Shri Paokhotinthang Haokip, Sr. Accountant
- 6.Smti Dariti Mawiong, Sr. Accountant
- 7.Smt Bebedicta wallang, Sr. Accountant
- 8.Smt Saira POassah Haque, Sr. Accountant
- 9.Shri Frankie A. Pariat, Sr. Accountant
- 10.Smti Arbina Pathaw, Sr. Accountant
- 11.Shri Samsul Kharkongor, Sr. Accountant
- 12.Shri Sudesh Pradhan, Sr. Accountant
- 13.Mrs Mary L. Warjri, Sr. Accountant
- 14.Smti Silma Kharmpen, Sr. Accountant
- 15.Smti Costarica Shadap, Sr. Accountant
- 16.Shri Jangkhokam Guite, Sr. Accountant
- 17.Smti Fatima Nongkyrih, Sr. Accountant
18. Shri Pramod Kr. Basumatary, Sr. Accountant
- 19.Smti Ropsidora Nongsiej, Sr. Accountant

.....Applicants

All the Applicants are working in the office of the
Accountant General (A&E), Meghalaya etc. Shillong

O.A. 155/2007

- 1.Shri Sujit Kumar Dey
Son of Late Motilal Dey
Senior Accountant
Office of the Accountant General (A&E)
Meghalaya, Shillong.

- 2.Sri Sitesh Das
Son of Sri J. Das,
Senior Accountant,
Office of the Accountant General (A&E)
Meghalaya etc, Shillong

.....Applicants

O.A.27/2007

- 1.Methelda Lyngdoh, Accountant
- 2.Bethelda Sohtun, Accountant



3. Shimti Hek, Accountant
 4. Emerencia Sohtum, Accountant
 5. Maybolyne Kharmujai, Sr. Accountant
 6. Bijoy Laxmi Dutta C/T
 7. Man Bahadur A/c, C/T
 8. Sumit Ghatak, Sr. Accountant
 9. L.B. Buam, Sr. Accountant
 10. Nandalal Raj, Sr. Accountant
 11. Kwissida Dkhar, Sr. Accountant
 12. Raju Chyne, Sr. Accountant
 13. Icydora Kurbah, Sr. Accountant
 14. Francis Xav Marbaniang, Sr. Accountant
 15. Keshab Pradhan, Sr. Accountant
 16. Debabani Deb Roye, Sr. Accountant
 17. Aloka Biswas, Sr. Accountant
 18. Phai Singh Swer, Sr. AccountantApplicants

O.A.28/2007

1. Daplut Nongbri, Accountant
 2. James S. Sohtun, Sr. Accountant
 3. Hazel M. Rapsang, Accountant
 4. Barbara Sawkmie, Accountant
 5. Bobby B Laloo, Accountant
 6. Dapkyrmen Lyngdoh, Sr. Accountant
 7. Freddy Kharpran, Accountant
 8. Manjul Dey, C.O
 9. Joptimai Syiem, Accountant
 10. Bianghun Chyne, C/T
 11. La I Kyntimon Khyriem, C/T
 12. Ashley Kharkongor, CO
 13. Amrit Kumar Ghosh, DEO
 14. Evethshisha War, DEO
 15. Banriknyti Kharsamai, DEO
 16. Tony F Thangkhiew, Sr. Accountant
 17. Devendra Chettri, Sr. Accountant
 18. Antina M. Marpna, Sr. Accountant
 19. Klen Singh Bhuphang, Sr. Accountant
 20. R. Deigracia Sohtun, Sr. Accountant
 21. Lumkur Kharnaior, Accountant
 22. Dipankar Chatterjee, C/T
 23. Newstar Roy Marbaniang, Sr. Accountant
 24. Klesster Nongkynrih, Sr. AccountantApplicant

By Advocate Dr J.L. Sarkar, S.N.Tamuli

· Versus ·

1. Union of India, represented through Respondent No. 2.
2. The Comptroller & Auditor General of India,
 10 Bahadur Shah Zafar Marg,
 New Delhi.



3. The Accountant General (A&E)
Meghalaya etc, Shillong.
4. The Accountant General (A&E)
Assam, Guwahati.
5. The Accountant General (A&E)
Mizoram, Shillong.
6. The Accountant General (A&E)
Arunachal Pradesh, Shillong.

.....Respondents

By Advocate Mr G. Baishya, Sr.C.G.S.C

O.A.203/2006

Shri Kalyan Kumar Das
Senior Audit Officer (Group B)
Office of the Principal Accountant General (Audit),
Assam, Guwahati.Applicant

O.A.204/2006

1. Shri Ashis Kumar Acharjee
2. Shri Sankar Lal Paul
3. Shri Hitendra Dutta
4. Shri Ashutosh Deb
5. Shri Dwijesh Ranjan Saha
6. Shri Tapan Kumar Halder
7. Shri Ranadhir Singha
8. Shri Sahadev Ghosh
9. Shri Subhendu Chakraborty
10. Shri Sujit Kumar Deb
11. Shri Bikash Roy
12. Shri Bimal Kanti Bhowmik
13. Shri Dipan Das

.....Applicants

All the Applicants are working as Senior Audit Officer (Group B) in the office of the Principal Accountant General (Audit), Assam, Guwahati.

By Advocate Dr J.L.Sarkar, S.N.Tamuli

· 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.

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

By Advocate Mr M.U.Ahmed, Addl.C.G.S.C

ORDER (ORAL)

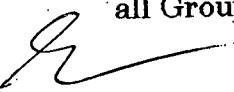
KHUSHIRAM, (MEMBER-A)

Since all these applications involve common questions of law and almost similar facts, all the six cases are being disposed of by this common order with the consent of the parties.

2. These Original Applications No. 154/07, 155/07, 27/07 and 28/07 have been filed by the Applicants who are working in different capacities in the office of Accountant General (A&E) Meghalaya, Shillong. On the bifurcation of this office into five offices of the Accountant General, Assam, Meghalaya, Mizoram, Arunachal Pradesh, Nagaland etc. The staff was allocated/deputed to different offices on the basis of their seniority and option given by them. Applicants have challenged the circular No.3307 dated 12.7.2006, Establishment Order No.198 dated 21.11.2006 and Order No.53 dated 9.6.2006 (and circular dated 31.03.2006 and 24.03.2006 in O.A.203 & 204/2006) and prayed for quashing of the same and not to send the Applicants on deputation without their consent, nor the Applicant be disturbed from their place of posting without publication of a just and fair policy by giving full



scope to the Applicants. The Circulars/Orders challenged in these O.As are relates to the following matters. Estt.1 order No.53 dated 09.06.2006 relates to permanent allocation of Group 'C' and 'D' cadres between the office of the AG (A&E) Meghalaya etc. Shillong and AG(A&E) Assam, Guwahati with effect from 01.12.2005 on the basis of the options exercised by the individual officials. Estt.1 Order No.198 dated 21.11.2006 relates to allotment of Group 'C' & 'D' officials of the office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram after creating independent offices of the Accountant General for those States and the Circular No. 3307 dated 12.07.2006 which relates to calling of option from Group 'C' & 'D' officials of AG(A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong for permanent allocation to the offices of their choice in the prescribed option form enclosed with the circular. In O.A. No.203/06 and 204/06 the Applicants have challenged the circulars dated 31.3.2006 issued by the Principal Accountant General, Audit, Meghalaya etc. Shillong being cadre controlling authority had notified for fresh options from all the Group 'B' Officers of this office from Section officer to Sr. Audit Officer except Commercial Officer born on common cadre on or before 17.04.2006 for onward transmission to the Cadre Controlling Authority. The circular dated 24.03.2006 issued by the Comptroller & Auditor General of India relates to separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region along with option form calling for fresh option from all Group 'B' officers belonging to common cadre for permanent transfer



to the Civil Audit Offices in North East Region for allocation of concerned offices on the basis of their seniority-cum-options exercised by them.

3. The Circulars/Orders challenged in these O.As are relates to the following matters. Estt.1 order No.53 dated 09.06.2006 relates to permanent allocation of Group 'C' and 'D' cadres between the office of the AG (A&E) Meghalaya etc. Shillong and AG(A&E) Assam, Guwahati with effect from 01.12.2005 on the basis of the options exercised by the individual officials. Estt.1 Order No.198 dated 21.11.2006 relates to allotment of Group 'C' & 'D' officials of the office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram after creating independent offices of the Accountant General for those States and the Circular No. 3307 dated 12.07.2006 which relates to calling of option from Group 'C' & 'D' officials of AG(A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong for permanent allocation to the offices of their choice in the prescribed option form enclosed with the circular. The other circulars dated 31.3.2006 issued by the Principal Accountant General, Audit, Meghalaya etc. Shillong being cadre controlling authority had notified for fresh options from all the Group 'B' Officers of this office from Section officer to Sr. Audit Officer except Commercial Officer born on common cadre on or before 17.04.2006 for onward transmission to the Cadre Controlling Authority. The circular dated 24.03.2006 issued by the Comptroller & Auditor General of India relates to separation of common cadre of Group 'B' officers in the A&E and Civil Audit offices in North East Region along with option form

calling for fresh option from all Group 'B' officers belonging to common cadre for permanent transfer to the Civil Audit Offices in North East Region for allocation of concerned offices on the basis of their seniority-cum-options exercised by them as per instruction^{is} contained in para 3 of the policy.

"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 officers who have exercised their option for allocation to such offices, irrespective of their base office."

The option so exercised shall be final and no further change in the above option would be allowed in any case. Option be given for final allocation in the order of preference. The circular dated 20.4.06 issued by the Principal Accountant General (Audit), Assam, Guwahati and relates to separation of common cadre from Group 'B' officers of civil audit offices of North East Region extending the date to exercise fresh option from 19.04.2006 to 28.04.2006 stating that previous option exercised in compliance of the office circular dated 31.03.2006 may be treated as cancelled.

4. In brief in all the six cases, the Applicants have protested the allocation of the applicants to different offices on account of bifurcation of the office of the Accountant General (A&E), Meghalaya, Shillong and their placement on allocation or alternatively on deputation on the basis of their options and seniority.

5. In this background of the above circulars, the separation of the cadre based on the option exercised by the individuals of

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different categories was acted upon strictly based on seniority. The junior staff who were to be shifted to man the deficit offices are also entitled to receive deputation pay on their transfer. Learned counsel for the Applicants while arguing the case submitted that pick and choose policy was adopted while the Applicants were taken on deputation. The entire scheme is perverse and violative of Articles 14 and 16 of the Constitution of India. The whole scheme should be operated after making modifications in scientific, transparent and practical manner.

6. The Respondents have filed written statement stating that office of the Accountant General of undivided Assam operated from Shillong. The Controller and Auditor General keeping in view the requirements of work, public interest and the interest of the States concerned established Accountant General offices at Kohima (Nagaland), Imphal (Manipur), Agartala (Tripura) and Guwahati (Assam). All these offices were initially manned by Group 'B', 'C' and 'D' staff from the Accountant General's office at Shillong. Subsequently the Accountants General Offices in Nagaland, Manipur and Tripura recruited their own Group 'C' and 'D' staff and these cadres became exclusive to these offices. However, the Group 'C' and 'D' cadres in the offices of the Accountant General (Meghalaya, Arunachal Pradesh and Mizoram) at Shillong and Accountant General (Assam) at Guwahati continued to share common cadres of Group 'C' and 'D' staff. The office of AG(A&E), Assam subsequently shifted to Guwahati in the year 1980. Even after the shifting, the two offices continued to share common Group 'C' and 'D' cadres with the office of the AG(A&E) Meghalaya.



Arunachal Pradesh and Mizoram at Shillong also continued to exercise cadre controlling responsibility. It may be pointed out that in the appointment letters of the applicant there was a clause that the person being offered appointment was liable to be posted in any of the existing offices or any new office opened by the Department in the North East Region. The offices of the AG(A&E) Arunachal Pradesh and Mizoram at Shillong was also simultaneously shifted with effect from 01.04.2006. As per requirements of the Department in fulfilling its statutory and constitutional obligation under the Comptroller & Auditor General (Duties, Powers and Conditions of Service) Act 1971 and the hardship that may be caused to his employees in this regard, the office of the AG(A&E) Meghalaya, Arunachal Pradesh and Mizoram, the Comptroller & Auditor General had the option of declaring the staff in these offices surplus and surrendering them to the surplus cell of the department of Personal & Training for redeployment as per the policy of the Government of India. Considering the hardship involved in such an action, the CAG has, in all cases where new offices have been set up/existing offices reorganized, decided upon a policy that would keep the hardship to the minimum level by adopting the option of temporarily transferring employees who cannot be accommodated in the office of their choice from the surplus offices to the newly created offices on the principle of seniority viz. 'Last Come First Go'. The policy inter alia envisages that all the employees who exercised option for permanent posting to a particular office would eventually be posted back to the office of his/her choice. For the period where the employee is

posted to another office, not being his/her office of choice, the employee is compensated by payment of an allowance as if the employee is sent on deputation. Thus the Comptroller and Auditor General has followed a consistent and uniform policy in this regard which has been determined by the need to minimize inconvenience to employees, ensure transparency and impartiality in the separation process balanced with the Comptroller & Auditor General's responsibility to discharge his statutory and constitutional obligations in an efficient and effective manner. AG(A&E), Meghalaya, Arunachal Pradesh & Mizoram etc. vide circular dated 24.09.2004 called for option from Group 'C' & 'D' staff for permanent allocation to the AG offices for the States of Assam, Meghalaya, Arunachal Pradesh and Mizoram. Those options were considered on the principle of seniority with optees of surplus offices being required to man the deficit offices on the basis of 'Last-Come-First Go'. Due to ban of fresh recruitment, all the offices of the Indian Audit & Accounts Department are currently functioning with below the sanctioned strength and the department is adopting "persons-in-position" as the basis of manpower management and accordingly the concept of sanctioned strength has lost all relevance. The cadre separation was actually effected after 15 months of issue of the policy Circular dated 24.9.2004 and there was no any undue haste. In response to the circular dated 24.09.2004 the following Group 'C' and 'D' staff of AG(A&E), Meghalaya, Arunachal Pradesh, Assam & Mizoram had submitted options for permanent allocation/deputation.

No of options for permanent allocation (first choice) to the office of the			
AG(A&E)	AG(A&E)	AG(A&E)	AG(A&E)

	Assam	Meghalaya	Arunachal Pradesh	Mizoram
Group 'C'	539	342	Nil	Nil
Group 'D'	55	56	Nil	Nil

No of options for deputation (first choice) to the office of the				
	AG(A&E) Assam	AG(A&E) Meghalaya	AG(A&E) Arunachal Pradesh	AG(A&E) Mizoram
Group 'C'	679	225	02	Nil
Group 'D'	07	24	Nil	01

The persons in 'persons in position' in each cadre as on 01.04.2005 in Shillong and Guwahati offices was as below :

Persons in position	AG(A&E) Assam	AG(A&E) Meghalaya Arunachal & Mizoram
Group 'C'	588	300
Group 'D'	64	50

The Respondents stated that the cadre separation exercise between Shillong and Guwahati offices was done in a very fair, impartial and transparent manner. Since the Guwahati office was a deficit office and hence all Group 'C' and 'D' staff who had permanently opted for that office would have inevitably been accommodated in that office anyway. There were no permanent optees either for Arunachal Pradesh or Mizoram offices. Therefore all optees for Assam office would have got their choice, the optees from the surplus Meghalaya office only would have in any case been sent on deputation to Assam, Arunachal Pradesh and Mizoram which are deficit offices in terms of seniority. The deputation arising in this situation is not a deputation in the normal sense of the term. Since all employees on creation/reorganisation of the offices cannot be immediately straightway accommodated in the office of his/her choice, the staff from the surplus offices will have to man positions in the deficit offices ^{and} they are being deputed to as dictated by the work. The formulation of a policy is a function of the Government



and cannot be interfered with by the Tribunal unless there is arbitrariness. It is within the competence of the executive to change a policy, re-change it, adjust it and readjust it according to the compulsions and requirements of the circumstances. Hence the Applications are devoid of any merit and may be dismissed.

7. Dr J.L.sarkar, learned counsel appearing for the Applicant argued the matter in favour of the Applicants and he agreed to the over all criteria of the formulation of the policy as issued by the CAG vide circular dated 24.09.2004. He argued that in implementation of the policy some confusion has been created to give benefit to some of the employees and the conditions laid down in the above circular have not been strictly adhered to. The Respondents had adopted "pick and choose" policy for some of their favourite employees and thereby implementation of the policy has result in the miscarriage of justice. He also argued that cadre separation scheme was implemented ignoring the "sanctioned strength" which was replaced subsequently by words like "required strength" and "person in position" which is fluctuating, variable and is not legally and administratively just and fair. The entire process of cadre separation is colourable, under camouflage to favour a few and thus arbitrary. The learned Sr. Standing counsel for the Respondents Mr G.Baishya argued that scheme of separation was made attractive by the Respondents by offering the deputation allowance to the junior most staff being deployed to the deficit offices otherwise also the scheme was based on willingness of the staff taking into account their seniority and options. He also stated that in the



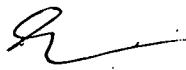
appointment letters of Respondents there was a condition that they are duty bound to serve in the then existing offices or any of offices which were to be ~~set up~~ in future in North East Region. Meanwhile some of the Applicants have also got relief and thus the OAs in respect of such Applicants have become infructuous. The learned Sr. Standing counsel argued that the policy is an executive decision and this cannot be a subject matter of judicial review. The Applicants have approached this Tribunal without exhausting the departmental remedies available to them for redressal of their grievances. Since transfer and posting of the employees is not a subject matter for judicial scrutiny and the Applicants had not approached the Respondents for redressal of their grievances, the learned Sr. Standing counsel pleaded that the Applications may be dismissed. He also demanded that heavy cost should be imposed on the Applicant for approaching this Tribunal without exhausting the available remedies with the department.

8. In most of the cases the order not to disturb the Applicants from their present posting and to maintain status quo was passed earlier which were modified to the extent to allow the officials to be sent on short deputation/tour to deficit offices/stations.

9. We have considered the arguments advanced by the learned counsel for the rival parties and perused the material placed before us. We are of the opinion that bifurcation of the cadre is a policy matter and Applicants as a condition of their service were duty bound to serve in any offices of the Accountant General in North Eastern Region which were then existing or were to be opened in future. They



have no right to question the policy of separation of cadre to man the newly opened office of the Accountant General in North East Region. We did not find any lacuna in the policy to favour a few employees as alleged by the learned counsel for the Applicants. However, if such a mistake take place in some case, the Applicants had the opportunity to represent (in individual cases) and the Respondents should be obliged to examine the matter and rectify the mistake, if any. But the Applicants instead of exhausting the grievance redressal mechanism available within the department have approached the Tribunal by filing this Application under Section 19 of the Administrative Tribunals Act, 1985. Applicants cannot take advantage of the situation and avoid the transfer/deployment without exhausting the opportunity for grievance redressal available to them within the system under Section 20 of the Administrative Tribunals Act, 1985. Without having exhausted all possible avenues for grievance redressal this application could not have been filed before the Tribunal. The Respondents are duty bound to take such type of policy decision, as has been taken by them to deploy the personnel of the Respondent Organisation. The word 'deputation' used in this case is also not 'deputation' in real sense of the term but the Applicants will get deputation allowance for working in the same department and that too in accordance with the conditions of their appointment. The Apex Court in the case of S.C.Saxena vs. U.O.I & Ors. (reported in (2006) 9 SCC 586 para 6), held that "a Government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances" and that it is



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his duty to first report for work where he is transferred and make a representation as to what may be his personal problems and that the tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. Since opening of offices of Accountant General (A&E) in various State Headquarters of North Eastern Region in public interest is a matter of public policy and transfer is an incident of service and the Applicants have not availed of the opportunity for redressal of their grievances within the system, the Tribunal has no reason to interfere with the matter and we feel that Applicants, by misuse the process of the Court, have held the entire system to ransom in the interest of their own personal benefits (without any regard for the condition of service laid down in their own appointment letters making them liable to be transferred/posted to their existing or any new offices to be ~~set up~~ in future in North Eastern Region and the requirement of public service) by filing applications without availing the available remedies for redressal of grievances under Section 20 of the Administrative Tribunals Act, 1985. We are of the considered opinion that these cases are devoid of any merit, as we have found that the scheme for redeployment of staff by obtaining their option (and to deploy them on deputation) to be outcome of a healthy personnel management; and, if any of Applicants still have got any grievances, then he/she should represent to the authorities only after joining at the new station in terms of the Apex Court decision in **S.C.Saxena vs. U.O.I & Ors. (supra)**.



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10. Original Applications are accordingly, dismissed (being devoid of any merit) with costs of Rs.1000/- on each Applicant which should be realized by the Respondents.. All the Misc.Petitions No. 27/08 & 140/07(in O.A.203/06), 141/07 & 28/08 (in O.A.204/07) & M.P.41/08 (in O.A.28/07) also stand disposed of and all orders for maintaining status quo or not to disturb the Applicants from their present posting etc. also stand vacated.

sd/-
MANORANJAN MOHANTY
VICE CHAIRMAN

sd/-
KHUSHIRAM
MEMBER (A).

16 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

গুৱাহাটী বিধুৰণী
Guwahati Bench OA No 203 /2006

Shri Kalyan Kumar Das

VS -

Union of India & Others

S Y N O P S I S

The applicant is SOG Examination qualified officer now working as Senior Audit Officer in Group 'B' cadre. He is posted 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 is common cadre/ combined cadre, cadres of SO, AAO, AO and Sr.AO. 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 applicant is likely to be very adversely affected by the scheme in the matter of seniority and place of posting. Moreover, sending on deputation without consent / option is illegal. The applicant prays for setting aside/quashing of the scheme and formulation of the scheme in scientific, practical and transparent manner.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

OA No 263 / 2006

Shri Kalyan Kumar Das

VS -

Union of India & Others

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

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

O.A No. 203 /2006

1. *Shri Kalyan Kumar Das*

Applicant

The applicant is working as Senior Audit Officer (Group B) 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--

Filed by the applicant
through S.N. Tamuli
Advocate
Kalyan Kumar Das

11/4 18/06

1. Particulars for which this application is made

The application is made against the so-called 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 applicant declares 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.

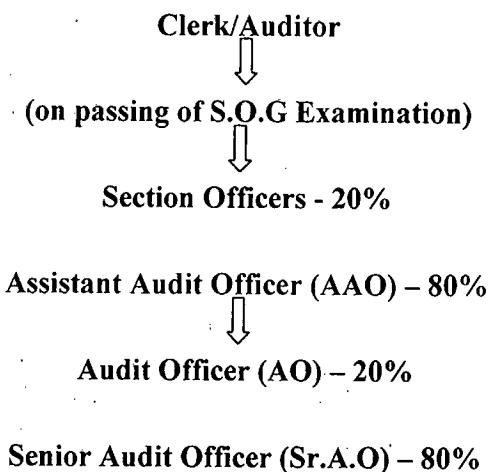
4. Facts of the Case

- 4.1 That the applicant is Citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.
- 4.2 That the applicant is Group 'B' Officer Designated as Senior Audit Officer (for Short Sr.AOs) posted in the Office of the Principal Accountant General (Audit), Assam, Guwahati. ~~He has~~ qualified S.O.G Examination, which is basic requirement for Section Officer. That in the N.E region there are Audit Officers under respective Accountant General (Audit) for Assam, Nagaland, Manipur, Tripura, and Meghalaya etc.

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4.3 That in the N.E region there are Audit Officers 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 the same terms. 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 office has circulated a Transfer policy in 1996, which reflects some working arrangement together with D.O Letter dated .8.9.98. The applicant has been guided by the said policy circulars as being within the term common cadre therein. (Copy of the Transfer policy of 1996 and letter dated 8.9.98 are enclosed as **Annexure 'A' and 'B' respectively**).

4.4 That the post of SOs under restructured Policy of the Government of India for opening promotional avenue to the officers have been divided as SO (20%) and

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upgraded as AAO (80%). The upgraded higher scale is given to AAOs on seniority basis without positive act of selection, and incumbents in the posts continue to discharge the same function. From AAO, promotion is to Audit Officer. 80% of the posts are upgraded as Senior Audit Officer and promotion is given according to seniority as Audit Officer and the A.Os and Sr.A.Os discharge the same function. In other words, Sr.A.Os are senior persons in Audit Offices and 80% of such Audit Officers are designated as Sr.A.Os. It is stated that with increase in the total number of A.Os, the number of Sr.A.Os and A.Os (20%) shall increase, and with decrease in the total number of A.Os, the number of Sr.A.Os and A.Os (20%) shall decrease.

- 4.5 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. The Scheme has not been formulated in a scientific and practical manner.
- 4.6 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 24.3.2006, 31.3.2006 and 20.4.2006 are enclosed as **Annexure 'C', and 'D'** respectively.

4.7 That the letter dated 13-04-2006 enclosed with letter dated 20-04-2006 (Annexure D) unambiguously stipulates as under:

"It has already been made clear in the policy for separation of cadres that final allocation of Group 'B' Officers belonging to common cadre shall be made strictly on the basis of their seniority-cum-option exercised by them irrespective of their base office."

It is stated that the A.Os (20%) are junior to the applicant.

4.8 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, which the applicant came to know later, regarding **Para V** of the policy of separation of Group 'B' officers earlier circulated replacing the phrase '**SANCTIONED STRENGTH**' by '**REQUIRED STRENGTH**'

Copy of letter dated 25.4.2006 is enclosed as Annexure-E

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4.9 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

4.10 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

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

4.12 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 applicant exercised his option on the understanding that the number of optees for the Office of the Pr. Accountant General (Audit), Assam, Guwahati would likely to be within the sanctioned strength and therefore he would be accommodated in their present office. After the process of exercise of

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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 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 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

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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 applicant begs to state that in the circumstances the 'Option' becomes misnomer. It is stated that upto now the respondents have neither issued any memorandum showing number of posts/ vacancies according to their own scheme of separation nor has notified the required numbers of officers in the so called deficit offices after receipt of options as per their own scheme and as such, denied the scope of preference as directed by Para IV of the policy of separation of common cadre, the applicant is highly prejudiced and handicapped.

4.13 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.

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4.14 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.

4.15 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 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.

4.16 As per Para IV of the policy 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 cannot 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 namely deficit offices. If sufficient volunteers are not available for posting on deputation basis to the deficit offices

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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 applicant begs to state that in the circumstances the 'Option' becomes misnomer.

4.17 That the respondents are working in utter confusion in the matter of forming the 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 applicant as disciplined officer had to submit the option. Most unfortunately the respondents again were caught in their administrative inexpediency and issued letter dated 8/5/2006 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.

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4.18 That the matter of separation of common cadre of Group B officers of NE Offices was discussed on various occasions by the respondents. The applicant has 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 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 applicant has come to know that such options were not called for. The cadres of Group B officers have been separated and never declared common cadre.

4.19 That it is stated that the respondents are working on wrong premises that there have been the cadres of S.O, AAO, A.O and Sr. AO are separate cadres. In fact, under cadre structure, SO and AAO form a cadre of officers 20% as SO and 80% as AAO i.e., total 100%. With the variation of this 100% the numbers in SO and AAO shall vary in other words SO and AAO is a composite cadre of officers. Similarly, AO (20%) and Sr.AO (80%) form 100% of Audit officers, which forms

Kalyan Kumar, D.O.

the composite cadre. 20% and 80% posts are inextricably mixed. In the case of separation under impugned policy the respondents have not yet determined the separate cadre for SO/ AAO/ AO/ Sr.AO. No memorandum of showing strength of watertight cadre of SO/ AAO/ AO/ Sr.AO has been issued till now.

4.20 That the applicant may be transferred on deputation under the vexed scheme/ policy of separation of cadre. There is no scope of deputation without option of the concerned officers. No option has been called for from the applicant. The applicant has exercised option for posting at Guwahati under the policy circulated. Under the policy junior officers shall first be transferred. The applicant is a Sr. Audit Officer and is senior to the Audit Officers and he is liable to be transferred only after the transfer of Audit Officers, who are junior to him. (The cadre position in each category with number of post in each office should be first determined including 20% and 80% post and after that only the scheme may be operated in a scientific manner.)

4.21 That in the circumstances of the case the applicant begs 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.

4.22 That OA Nos.125/2006, and 146/2006 have been **pending before this Hon'ble Tribunal** on the similar matter including the circulars and scheme annexed in this application. **Interim orders have been passed in the said cases not to disturb the applicants in those cases.**

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(Copies of the orders dated 29-05-2006 in OA No.125/2006, and order dated 25-07-2006 in MP No.59, 52, 55 and 56 of 2006 are enclosed as **Annexure- "H"**, and **"I"** respectively)

4.23 That the Assistant Accounts Officers of A & E office, Assam have also filed applications (OA No.115/06, 143/2006), which are also pending before this Hon'ble Tribunal and interim orders "not to disturb them" have also been passed in those cases.

4.24 That the applicant has come to know that in the Accounts side some officers have been ordered for transfer without making any policy in scientific manner said to be under impugned policy.

The applicant has reasonable apprehension that he may also be transferred without making any scientific method, and dehors the seniority position – after obtaining option and preference for deficit offices under the scheme of the respondents themselves.

4.25 That it is stated that the sanction strength in Guwahati office is-

Sr.AO : 42 (80%) + AO : 9 (20%) equal to 51

(Copy showing staff strength in office is enclosed as **Annexure – J**)

4.26 That there are separate offices under the different Accountant General which are popularly called the base offices and also the terms common cadre/ combined cadre have been used resulting to the formulation of a policy/scheme in most unscientific and impractical manner devoid of transparency.

4.27 That the applicant is an employee of the Principal Accountant General (Audit) Guwahati, which is his base office. The separation of cadre as circulated may jeopardize the posting position, which shall adversely affect them.

Kalyan Kumar Das

4.28 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 sending on deputation without option is not permissible under the process of law.

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 the concept of '**base office**' and **common cadre** cannot function together.

5.6 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.

5.7 For that the seniors cannot be disturbed before their juniors, and the scheme cannot be implemented before finalizing the matter.

Kalyan Kumar Das

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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.

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

The applicant declares that he has not filed any other Original Application in any Tribunal or Court. The O.A. No.115/2006, 125/06 and 146/06 on similar matter concerning the Group 'B' officers of the office of the Accountant General (Accounts and Entitlement) Assam, and Principal Accountant General (Audit), 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 or be operated after making modifications in scientific, transparent and practical manner.
- 8.2 The newly sanctioned posts for SO, AAO, AO and Sr.AO in each office be notified as per sanctioned memorandum.
- 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 applicant prays for the following interim order:

Kalyan Kumar Das

The applicant shall not be transferred/disturbed from his present place of posting at Guwahati, which is his 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 352216
(2) Date of Issue	-- 12/8/06
(3) Issued From	-- GPO P.O.
(4) Payable at	-- GPO Guwahati

12. Enclosures as stated in the index.

Kalyan Kumar Das,

VERIFICATION

I, Shri Kalyan Kumar Das, son of Late Krishna Pada Das, aged about 50 years working as Senior 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 not suppressed any material facts.

Guwahati

Date 27 Aug'06

Kalyan Kumar Das,
Signature



कार्यालय महालेखाकार (ले. ए. ए.) , असम
 OFFICE OF THE
 ACCOUNTANT GENERAL (A&E , ASSAM)

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-NCE/ 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 month.

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

Attested

Parul

(Advocate)

CONFIDENTIAL

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

58

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 ~~vacancy~~ 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

Surul
(Advocate)

OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT), ASSAM,
MAIDAMGAON, BELA GOLA, 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 'B' 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(AI-P)/-2004 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/1-51/2005-06/4101-67

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 & AOs 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 sick duty with the instruction to collect the "Option Form" personally and submit the same with the indicated date to Estt.I Section.

Attested

Suru
(Advocate)

WANWAN

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

No: Estt. I/Audit/12-31/2005-06/05-03

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 all the offices 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(Audit.)

AHusted

Surj
(Advocate)

Annexure-C continued
61

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

File: 144-FNCE(App)/17-2004

Dated: 24.03.2006

To

The Pr. 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.

Attested

(Advocate)

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

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6V

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. PAG (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 surplus 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 against the requisition already placed/to be placed to Staff Selection Commission.

A. Husted
Burd
 (Advocate)

24

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.

Attested

Ram
(Advocate)

25

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

Name of the Office	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
Shanti
 (Advocate)

26

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/I-51/2005-06/22

Dated: 20-4-06

CIRCULAR

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/I-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) Meghaiaya, etc., Shillong under letter No. Estt.I/Audit/I-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/I-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-NGL/PP/17-2004 dated 13.04.2006
2. Revised "FORM OF OPTION"

This issues with the approval of Principal Accountant General.

Wary, 27.4.06
 Deputy Accountant General (A&W)

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

*Nepal Ch. Sarker
 KOKS F.C. Dated 27.4.06*

Wary
 Sr. Audit Officer (Admin.)

Attested

Ramya

(Advocate)

27

66

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 re 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) Sr.A.O, A.O/AAO and S.O. will be treated from separate cadres and ratio of 80:20 in Sr.A.O/AAO 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 for his seniority he will be posted on deputation to the deficit office(s) till he is finally allocated to any of the office/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)
Asst. Comptroller &
Auditor General (N)

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 P&G(Audit), Meghalaya etc., Shillong for information.

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

Attested

Samir
(Advocate)

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

Ram
(Advocate)

Mr. Audit Officer (Admn.)

महालेखा परीक्षक का कार्यालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA
26.04.2006
Date
To

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

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

A Husted

Ram
(Advocate)

110

16002/006

69

(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.

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

Attested

Bimal
(Advocate)

ANNEXURE - F

(31)

20

FFICE 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.

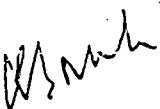
Sub: Separation of common cadre of Group 'B', 'C' & 'D' staff in
the Civil Audit Offices in N.E. Region.

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.

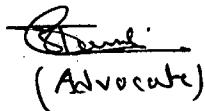
This issues with the approval of Principal Accountant General.

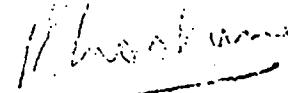
Yours faithfully,



Senior Audit Officer (Admn.)

Attested


(Advocate)


S: Deputy Accountant General (Admn.)

भारत के विधायक-महानोखी परीक्षक तथा कायालय
OFFICE OF THE COMPTROLLER
AND AUDITOR GENERAL OF INDIA

Replies
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-U/Audit/13-
11/2003-2007/03 dated 28.3.06 on the above cited subject. The now 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, NCIE (Apptd)
4. PS to PD (Staff)

For P.A.G. (Audit)

Administrative Office (BRS)

10. वलायती शाह नगर, नई दिल्ली-110002
10. Bahadur Shah Zafar Marg, New Delhi-110002

A.A.O/EOH-1

O/H - (1/100)

Attested

Surinder Singh
(Advocate)

Se Deputy Accountant General (Admn)

33

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

Cadre	Meghalaya				Arunachal Pradesh				Assam Offices				Mizoram		Total	
	SS	PIP	SS	PIP	SS	PIP	SS	PIP	SS	PIP	SS	PIP	SS	PIP	SS	PIP
Sr AO/AO	12	11	11	10	9	8	32	29								
AAO/SO/Supr	24	15	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								
Cl/Ty/DEO	11	3	9	2	7	2	27	7								
Welfare Assstt	1	1											1	1		
Asst. Caretaker																
Steno	2	1	2	1	1		5	2								
Hindi Officer	1												1	0		
Senior Translator	1	1														
Junior Translator	3												1	1		
Hindi Typist	1												3	0		
Staff Car Driver	1	1											1	0		
Record Keeper	2	2	2	2	2	2	2	1								
Group D	13	11	10	8	9	7	32	6								
Turral	166	118	126	92	97	70	388	280								

Sanction of marginal cadres may be considered at a later stage

A Husted

Ram
(Advocate)

SD: Deputy Accountant General (Admn)

Fax / Speed Post

No. 221-NGE(App.)/17-2004



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

34

25.04.2006

The Accountant General (Audit),
Tripura,
Agartala

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

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:-

Subject and to furnish

(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. 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.

04

10. नांदुराम जाहर गांव, कुड डिल्ली-110002

10, Bahadur Shah Zafar Marg, New Delhi-110002

Attested

(Advocacy)

S. Deputy Accountant General (Adm)

(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)

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Endo. No. 222 -NGE(App)Y4-2006

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)

Affested

(Advocate)

1/1/2006
S: Deputy Accountant General (Admn)

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

Circular No. Estt.I/Au/I-SI/03-04/1077

Dated: 06/07/2004

Subject: *Separation of Common Group "B" Cadres against the Audit offices of the North East.*

Consequent upon Headquarter's office decision to establish separate offices for Arunachal Pradesh and Mizoram (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 Group "B" officers (other than Supervisor) for their final allocation to different Audit office of N.E State in the event of separation of common Group "B" Cadres.

In view of above all the incumbents in Group "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 Estt-I Section) on or before 19-07-2004 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. I/Audit/1-01/03-04/275 dated 3.11.2003 stand cancelled.

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

Sd/-

Sr. Deputy Accountant General (Admn)

Memo No. Estt.I/Au/I-SI/03-04/1078-1086

Dated: 06/07/2004

Copy forwarded to-

- 1 The Pr. 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)
- 3 Sr. D.A.G (IC&CA)
- 4 Sr. D.A.G (C & R)
- 5 Secretary to Pr. Accountant General (Audit), Assam.
- 6 Sr.A.O (Admn). He should maintain the Register of option like previous occasion and also prepared a list of officers on leave and ensure sending of the option paper to them by registered post.
- 7 All Group "B" officers deployed in HQ. Section/Branch.
- 8 Notice Board.
- 9 O. O. File.

Sd/-

Sr. Deputy Accountant General (Admn)

Attested

(Signature)
(Advocate)

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 Sri/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:

On the

Attested

Signature

(Advocate)

Annexure - G - continued

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

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22

Circular No. Estt-I/Audit/1-51/03-04/275 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 incumbent 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

Attested

(Advocate)

P. T. O. .

39

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 optionee 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/4)

Sd/-

Sr. Deputy Accountant General (Admn).

Memo No. Estt-I/Audit/1-51/2003-04/ Dated: 3rd November 2003
3265-3273.

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&IC).

4. Deputy Accountant General (C&R).

5. Deputy Accountant General (W&CA).

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 (Smti.....)

8. Notice Board.

9. Officer Order File.

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 stipulated date to AAO/ESTT-I Section.

Attested

(Signature)
(Advocate)

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

PROM NO. 4
(See back side)GENERAL AUDITORIAL OFFICE
GUWAHATI, ASSAMORIGINALE

Original Application No. 125/06

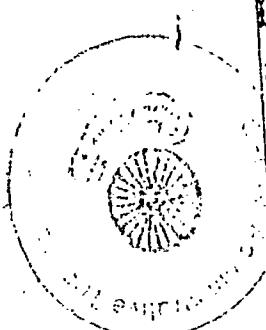
Section H:

Contempt Petition No. /

Review Application No. /

Applicant(s) Gulma Rawn Kalita, et al.Respondents U.O.I. Govt.Advocate for the Applicant(s) Mr. J. L. Sarkar, Mr. S. TamuliAdvocate for the Respondent(s) Case.....

Notes of the Registry | Date | Order of the Tribunal

29.05.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

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. 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.

Attested

(Advocate)

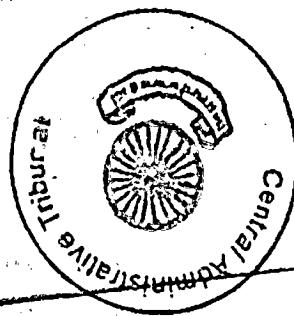
Contd/-

29.05.2006 Heard Dr. J.L. Sarkar, learned counsel for the applicants and Ms. U. Das, learned Addl. C.G.S.C. for the respondents.

When the matter came up for admission hearing, 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 06.06.2006. 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.

Sd/ VICE CHAIRMAN



etc of Application : ... 30-5-06

etc on which copy is ready : ... 30-5-06

Date on which copy is delivered : ... 30-5-06

Certified to be true copy

30/5/06
Section Officer (Jdcl)
C. A. T. Guwahati Bench

Guwahati-5.

10/5/06
30/5/06

SC

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Misc. Petition No. 59/2006 (In O.A. No. 143 of 2006)
Misc. Petition No. 52/2006 (In O.A. No. 115 of 2006)
Misc. Petition No. 55/2006 (In O.A. No. 125 of 2006)
Misc. Petition No. 56/2006 (In O.A. No. 146 of 2006)

Date of Order: This the 25th day of July 2006.

The Hon'ble Shri K. V. Sachidanandan, Vice-Chairman.

1. Misc. Petition No. 59 of 2006 (In O.A. No. 143 of 2006)

Union of India & Ors.Petitioners

By Advocate Mr G. Baishya, Sr. C.G.S.C.

- Versus -

Sri Dhrubajyoti Deb and Others Opposite Party

By Mr G.K. Bhattacharyya, Sr. Advocate, Mr B. Choudhury and
Mr D. Goswami, Advocates

2. Misc. Petition No. 52 of 2006 (In O.A. No. 115 of 2006)

Union of India & Ors. Petitioners

By Advocate Mr G. Baishya, Sr. C.G.S.C.

- Versus -

Sri Sirazuddin Ahmed & Ors. Opposite Party

By Mr G.K. Bhattacharyya, Sr. Advocate, Mr S.M.H. Haque, Mr
B. Choudhury and Mr D. Goswami, Advocates

3. Misc. Petition No. 55 of 2006 (In O.A. No. 125 of 2006)

Union of India & Ors. Petitioners

By Advocate Ms U. Das, Addl. C.G.S.C.

- Versus -

Shri Guna Ram Kalita & Ors. Opposite Party

By Advocates Dr. J.F. Sarker and Mr S. N. Samuli.

Attested

Ranjan
(Advocate)

4. Misc. Petition No. 56 of 2006 (In O.A. No. 146 of 2006)

Union of India & Ors.

.....Petitioners

By Advocate Ms U. Das, Addl. C.G.S.C.

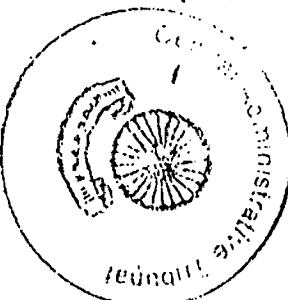
Versus -

Shri O.M. Prakash Upadhyay & Ors. Opposite Party

By Advocates Dr. J.L. Sarker and Mr S.N. Tamuli.

C R D E RKV. SACHIDANANDAN (V.C.)

This is an application filed by the respondents in the O.A. for vacation/modification/alteration of the status quo order. The prayer in the M.P. is:


 "In the premises aforesaid it is respectfully prayed that your Lordships may be pleased to vacate and/or modify and/or alter the interim order dated 14.6.06 and 20.6.06 passed in OA No.143/2006 and/or pass such further or other order or orders as your Lordships may deem fit and proper."

2. An identical M.P. No.56/2006 was filed in O.A.146/2006 for modification of the interim order dated 19.06.2006 therein. So also M.P.No.52/2006 was filed in O.A.115/2006 by the Sr. C.G.S.C. and M.P.No.55/2006 filed in O.A.115/2006 for the same purpose. All these M.P.s are filed for the alteration/modification/cancellation of the interim orders. All the above O.A.s are identical and are challenging the same scheme for separation of combined cadre for Office of the Accountant General at Shillong, Imphal, Kohima and Agartala. This court in all the above O.A.s passed interim order on various dates, the gist of which is as follows:

O.A.No.125/2006

"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 Accountant General (Audit) in Meghalaya, Manipur, Tripura and Nagaland States. Vide circulars dated 31.03.2006 and 20.94.2006, 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 have also stated that the respondents are changing their options from time to time.

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

When the matter came up for admission hearing, 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 06.06.2006. 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.

Attested

Parimal
(Advocate)

Identical orders have been passed in the other O.A.s also which are under challenge.

3. Dr J.L. Sarkar and Mr G.K. Bhattacharyya, learned Sr. counsel for the applicants in the various O.A.s and Mr G. Balshya, learned Sr. C.G.S.C. and Ms U. Das, learned Addl. C.G.S.C. for the respondents are present and argued the matter.

4. The case of the Misc. petitioners (respondents in the O.A.s) is that the applicants in the O.A.s are challenging the separation of the common cadre of Group 'B' officers in the office of the Accountant General (A&E) and challenged the circular on Cadre separation dated 30.03.2006. According to them the matter pertains to a policy decision and the bifurcation of common cadre is necessary for the public interest. Prior to separation of cadre the Group 'B' officers of different offices of North Eastern Region are transferred and posted to any of the offices of AG (A&E) in North Eastern Region and such liability of transfer was accepted by the officers at the time of promotion to the post of Assistant Accounts Officer (Group "B"). A gradation list of common cadre of SO/AAO/AO/Senior AO is maintained by the AG (A&E), Assam, Guwahati being the cadre controlling authority. Though separate seniority for each cadre is given in the gradation list, but due to administrative exigencies it became necessary to separate the existing common cadre of Group 'B' officers of A&E offices of the North Eastern Region for the purpose of conducting the function of A&E in the offices of each State in the North Eastern Region being fair and transparent and taken into consideration the larger issue involved and considering the public interest the circular dated 30.03.2006 was issued. As per the circular if the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre, shall be posted on deputation basis, for which they may give their

Attested

Shyam
(Advocate)

preference, to deficit offices. These officers posted on deputation basis 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 the office for which they exercised option. As per the policy, therefore, each officer will be ultimately posted permanently in the office of his/her choice, and meanwhile he/she is waiting for posting to the office of his/her choice which happens to be surplus office, and draw deputation allowance for this period as admissible under the rules.

5. The case of the applicants in the O.A.s is that the cadres were already separated in 1981 in terms para 5.6.1 of Comptroller Auditor General's Manual of Standing Order (Administration) Vol. I and the respondents are aware of the position and have made a vague statement by stating "prior to separation of cadre". As per the policy communicated vide circular dated 31.03.2006, optees in a particular cadre for a particular office were to be accommodated as per the sanctioned strength of cadre of that office. The term 'required strength' introduced in the policy is an afterthought by way of clarification communicated on 05.2006 after the exercising of option by the applicants was completed on 26.04.2006 has altered the basic complexion of the modality for accommodation of optees in the Office of their choice. The Group 'B' officers exercised their option on their understanding that the number of optees would be very much within the sanctioned strength of the office and therefore all of them would be accommodated in the said office which will be their Base/Parent Office. The adoption of the new 'required strength' is not in conformity with the existing norms and is therefore without any basis.

Attested

Parul
(Advocate)

which will lead to incorrect position of vacancies in different cadres in the offices causing scope for arbitrariness. The applicants were working in the base office concerned.

6. I have heard the learned counsel for the parties. The learned counsel for the parties has taken my attention to various Circulars, Office Orders etc. to substantiate their contention. The learned counsel for the parties also cited certain court decisions to substantiate their contention on merits of their case. We are only on the preliminary issue of the interim order - whether to be vacated or not. The learned counsel for the respondents has taken my attention to a decision of the Hon'ble Supreme Court reported in 1998 (4) SCC 598 in the case of S.P. Shivprasad Pipal Vs. Union of India and canvassed for the following three principles that has to be followed by the court in granting interim orders:

- (a) Whether there is a *prima facie* case
- (b) Whether irreparable loss will be caused to the respondents
- (c) Balance of convenience.

7. The learned counsel for the original applicants are in agreement with the above proposition of law and both parties canvassed very vehemently and argued that these ingredients are in their favour. The learned counsel for the parties tried to establish their case on merit. Since this is a subject matter of the Division Bench and sitting singly the court cannot go on merits of the case at this point of time. Therefore, this court considers whether the three ingredients that has been canvassed by the learned counsel for the respondents tilt in favour of the respondents or the applicants. I am not going into the merits of the case since that may affect and lead

Attested

S. P. Pipal
Advocate

ultimately to a final decision, which is not within the ambit of the Single Bench.

8. The simple facts of the case are that as per the said notification the respondents have introduced a policy decision for separation of the cadre and for that purpose options were called for. The applicants who have been working in the respective Sections for years together have been discarding their promotions and seniority have opted for the respective stations they are put in, hoping that they will be accommodated therein. According to them there are large number of vacancies as well if the respondents design the transfers in a scientific manner. The applicants have reiterated that their options are only for a particular station and not anywhere else. Therefore, attempt on the part of the respondents to transfer the applicants to non-optee place par se seems to be not in conformity with the employees' choice which will put them to irreparable injury. The understanding and willingness of the employees is for a particular station alone. They are not questioning the policy of the scheme but its modality.

9. Then the question comes how can the applicants be transferred to hard stations for which they have not exercised option? The respondents would argue that these applicants are being sent on deputation wherein the applicants will get deputation allowance. It is well settled law that an employee cannot be sent on deputation without his/her consent.

Attested

Advocate

10. When a restructuring or a scheme is implemented, the hardship that will be caused to the employees must be minimal. It appears that no scientific study has been made by the respondents in

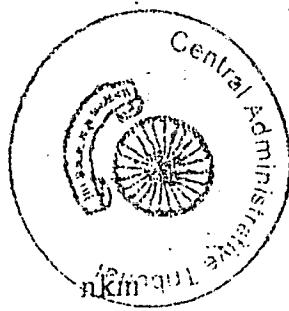
implementing the so called circular and compelling the employee to accept transfer to a non-optee station under the guise of deputation is not in general spirit of law.

11. Therefore, considering the balance of convenience, hardship, legal injury etc. in favour of the original applicants in the O.A.s, 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.

12. 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.

All the Misc. Petitions are dismissed with the above observations. No costs.

Sd/ VICE CHAIRMAN



Date of Application : 24.7.06
Date on which notice is served : 24.7.06
Date on which order is delivered : 24.7.06

N.M. 24.7.06
Section 11
C. A. I. Guwahati Bench
Guwahati

24/7/06

Attested

Ram
(Advocate)

***Sanctioned strength of Sr.A.Os/ A.Os and AAOs/ Sos in N.E.Region
(other than Commercial Officers)***

Name of the Office	Sanctioned Strength	Sanctioned Strength
	SR.A.O/ A.O	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
Ramul
(Advocate)

90
Mr. Anil
fr. 4
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH

IN THE MATTER OF:

O.A.No. 203/2006

Shri Kalyan Kr. Das

..... Applicant

- Versus -

Union of India & Others.

..... Respondents

- AND -

IN THE MATTER OF :

Written statement submitted by
the Respondents No. 1

WRITTEN STATEMENT

The humble answering
respondents submit their written
statements as follows :

1.(a) That I am S. D. Accarul Goveil (Adv.)

Gravels,

and Respondents No. 1 in the case. I have gone through a copy of the
application served on me and have understood the contents thereof. Save
and except whatever is specifically admitted in the written statement, the
contentions and statements made in the application may be deemed to
have been denied. I am competent and authorized to file the statement
on behalf of all the respondents.

- (b) The application filed is unjust and unsustainable both on fact and in law.
- (c) That the application is bad for non joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.
- (e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the respondents, against the applicant had suffered from vice of illegality.

2. BRIEF FACTS OF THE CASE OF THE APPLICANT /PETITIONER.

Shri Kalyan Kr. Das, Sr. Audit Officer of the Principal Accountant General (Audit), Assam, Guwahati while exercising option for posting to Assam during separation of the cadres also indicated his preference for posting to the office of the Accountant General (Audit), Mizoram, Aizawl. On separation of cadres as there was no slot available for him in Guwahati, he was posted to the office of the Accountant General (Audit), Mizoram, Aizawl on deputation basis.

Aggrieved by the aforesaid order Shri Das moved the Hon'ble Tribunal and obtained stay.

3 That with regard to the statement made in para 1, 4.1, 4.6 to 4.11, 4.25, 7, 10, 11 and 12 of the application, the answering respondents do not admit anything except those are based on

record and legal and/or rational foundation. As such the applicant is put to strictest proof thereof.

4. That with regard to the statement made in para 2 of the application, the answering respondents beg to submit that in terms of Section 20 of the Administrative Tribunals Act, 1985 as amended a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances. Further, in terms of Rule 23 of the CCS (CCA) Rules, 1965, subject to the provisions of Rule 22, a Government servant may prefer an appeal against an order which: (a) denies or varies to his disadvantage his pay, allowance, pension or other condition of service as regulated by rules or by agreement. Thus it was open to the applicant to file an appeal to the Comptroller and Auditor General of India being the competent appellate authority for redressal of his grievances. Since the applicant has not exhausted departmental remedies available to him, the applicant may be considered with cost.

5. That with regard to the statement made in para 3 of the application, the answering respondents beg to submit that in view of the what has been stated in the preceding paragraph the question of limitation does not arise.

6. That with regard to the statement made in para 4.2 of the application, the answering respondents beg to submit that as already stated the applicant should have exhausted all official channels for redressal of his grievances before moving the Hon'ble

Tribunal. As he has not exhausted all official channels, the applicant has no right to file any application in the Tribunal.

7. That with regard to the statement made in para 4.3 of the application, the answering respondents beg to submit that the respondents beg to state that upto the level of supervisor the cadres had already been separated with effect from 01.09.1981 amongst the offices of Accountants General, Assam, Meghalaya, Arunachal Pradesh & Mizoram, Tripura, Manipur and Nagaland. However, on passing of S.O.G Exam from any of the aforesaid offices, a combined seniority list is prepared for promotion to the grade of Section Officers and on their promotion they belong to the common cadre of Section Officers of the office of the Principal Accountants General, Assam, Meghalaya, Arunachal Pradesh & Mizoram, Tripura, Manipur and Nagaland. Thereafter, their names are shown in the Gradation list of Group 'B' Gazetted and Non-gazetted and subsequently they are promoted to the cadre of Assistant Audit Officer from that common seniority list. It would be evident from the above that the terms common cadre has got a definite meaning and is not a vague term.

8. That with regard to the statement made in para 4.4 of the application, the answering respondents beg to submit that the contention of the applicant made in this paragraph is not based on facts. In terms of para 1.3.3 of the Manual of Instructions for Restructuring of cadres in IAAD, in keeping with the new higher scales for audit not only will higher level in training and examinations be insisted upon for audit staff but it is also proposed

to enhance the job content for Auditors, S.Os and AAOs. Allocation of actual work of audit during inspection to auditors and supervision of local audit and local inspection by AAOs will be as given in Annexure 2.9.1 (a photocopy of the Annexure 2.9.1 is enclosed as R-1).

It would be evident from Annexure 2.9.1 that the work assigned to AAOs are far more important than that of the S.Os. Moreover, the S.Os on completion of 3 years service in the grade are considered for promotion to the grade of AAO and the promotion to the higher grade of AAO is considered by a DPC consisting of 3 Pr. A.G/A.G/P.D level officers. On promotion of S.Os (scale of Rs.6500-200-10500) their pay in the higher scale AAO (scale of pay Rs.7450-225-11500) is fixed under FR 221(a)(I) which is applicable for promotion to a higher grade involving higher responsibilities.

9. That with regard to the statement made in para 4.5 of the application, the answering respondents beg to submit that there is a definite joint cadre in existence in the case of Section Officers/Assistant Audit Officers/Audit Officers/Sr. Audit Officers in the Audit Offices of the N.E. Region. To have separate cadres for each individual offices, the Comptroller and Auditor General of India after total application of mind asked all the officers of the N.E. Region to exercise their choice of place of posting. The officers of all the offices have exercised their option and they were allocated to selected place of posting in the orders of their seniority. When, however, the number of optees for a particular place was found to

contention of the applicants that the new term required strength is not in conformity with the existing norms is not based on factual position. In any case, it is within the exclusive competence of the executive to determine the number of posts fulfilling its duties

Besides above, the respondents beg to state that the sanctioned strength, person in position, etc. of Guwahati Office for which the applicant is interested had already been informed to Guwahati office.

11. That with regard to the statement made in para 4.13 of the application, the answering respondents beg to submit that with the opening of new offices as stated in the aforesaid paragraph, the Accountant General, Assam, Meghalaya etc. Shillong used to post officers on tenure basis from amongst the Section Officers of common cadre. Thus bearing the burnt by the officers of any individual office is not based on facts.

12. That with regard to the statement made in para 4.14 pf the application, the answering respondents beg to submit that the Group 'B' officers of the N.E. region belong to the common cadre and for the sake of administrative fairness and fair play all the officers were allowed to exercise portion irrespective pf their place of posting.

13. That with regard to the statement made in para 4.15 of the application, the answering respondents beg to submit that the applicants have quoted a portion of the aforesaid provisions of para 5.6.1(I) of C.&A.G.'s M.S.O. Vol-I reads as follows : "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-organized

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. In the instant case, attempt is now being made to separate the Group 'B' cadres in the Audit offices of the N.E. region. Moreover, the applicants all of whom are Assistant Audit Officers were promoted to the Grade from a common seniority list of Section Officers belonging to different offices. Thus the respondents further beg to state that to cater to the requirements of deficit offices, transfers were made from other offices.

14. That with regard to the statement made in para 4.16 of the application, the answering respondents beg to submit that the applicant while exercising option has also indicated his preference for posting on deputation to the office of the Accountant General (Audit), Mizoram, Aizawl. As the applicant was an excess person for the office of the Pr. Accountant General (Audit), Assam, he was placed on deputation to the office of the Accountant General (Audit), Aizawl on the basis of his willingness.

15. That with regard to the statement made in para 4.17 of the application, the answering respondents beg to submit that they have no further submission to make.

16. That with regard to the statement made in para 4.18 of the application, the answering respondents beg to submit that before a policy is formulated opinions from various quarters are sought for and a threadbare examination is made on the points raised and thereafter a policy based on fairness and justice for all is made. Thus deliberation made by different officers before a policy is

formulated cannot be a subject matter of assignment in a court of law. By maintaining a common gradation list of Section Officers/Assistant Audit Officers/Audit Officers/Sr. Audit Officers it was made amply clear to all the officers that they belong to the common cadre. A photocopy of the covering page of the gradation list as on 01/03/2005 is enclosed for reference (Annexure-R-1). Thus a separate declaration was never felt necessary.

17. That with regard to the statement made in para 4.19 of the application, the answering respondents beg to submit that in view of what has been stated in paragraph 8, the respondents beg to state that the contention of applicant is not based on facts.

18. That with regard to the statement made in para 4.20 of the application, the answering respondents beg to submit that the applicant while exercising option has also indicated in his option from the place of choice for his deputation. As there was no slot available for him in Guwahati office, the applicant was posted to the office of the Accountant General (Audit), Mizoram, Aizawl as per his preference.

19. That with regard to the statement made in para 4.21 of the application, the answering respondents beg to submit that in view of what has been stated in the foregoing paragraphs the separation of cadre and consequential allocation/transfer was made with all fairness.

20. That with regard to the statement made in para 4.22 of the application, the answering respondents beg to submit that in the interest of public service, this Hon'ble Tribunal may kindly consider

not to interfere in the transfer posting of applicants referred to in the original application.

21. That with regard to the statement made in para 4.23 of the application, the answering respondents beg to submit that the stay orders issued in respect of various applications may kindly be vacated by this Hon'ble Tribunal.

22. That with regard to the statement made in para 4.24 of the application, the answering respondents beg to submit that since the matter relates to Accounts stream this office has no comments to offer.

23. That with regard to the statement made in para 4.26 of the application, the answering respondents beg to submit that the reason for bring the term common cadre has already been stated above and as such the respondents have no further comments to make.

24. That with regard to the statement made in para 4.27 of the application, the answering respondents beg to submit that there is common cadre and the concept of base office is not acceptable.

25. That with regard to the statement made in para 4.28 of the application, the answering respondents beg to submit that there is complete rationale in the separation of cadres as the concept of common cadre and consequential transfer/posting of officers is not only a huge financial burden but the deficit offices has no continuity and institutional wisdom on account of very short stay of the supervisory officers.

26. That with regard to the statement made in para 5.1 of the application, the answering respondents beg to submit that in view of what has been stated in para 4.20 above, the applicant's contention is not based on facts.

27. That with regard to the statement made in para 5.2 of the application, the answering respondents beg to submit that as already stated, the concept of required strength is not a vague or abstract term. The concept was brought into force because of the existence of huge vacancy in the common cadres of Assistant Audit Officers and Section Officers.

28. That with regard to the statement made in para 5.3 of the application, the answering respondents beg to submit that it is not correct to state that the surplus staff were kept out of their allotted cadre. The officers will be borne in the cadre of their first option place. Temporarily they will be placed on deputation to other deficit office. Thus there will be no reversion to the concept of common cadre.

29. That with regard to the statement made in para 5.4 of the application, the answering respondents beg to submit that the seniority of Auditor/ Sr. Auditor of various offices are fixed correctly before they are promoted as Section Officer and brought into common cadre. Thus, the contention of the applicant is not based on facts.

30. That with regard to the statement made in para 5.5 of the application, the answering respondents beg to submit that in view

of paragraph 7, no formal declaration of common cadre is felt necessary.

30. That with regard to the statement made in para 5.6 of the application, the answering respondents beg to submit that in view of what has been stated against para 4.6 there is no further submission to be made.

31. That with regard to the statement made in para 5.7 of the application, the answering respondents beg to submit that seniors of each individual cadre were posted to their place of choice. In the case of the applicant, he is a junior officer in the cadre of Sr.A.O as such he has not found a place in the station of his choice.

32. That with regard to the statement made in para 6 of the application, the answering respondents beg to submit that the applicant has not exhausted all official channel for redressal of their grievances and as such the Hon'ble court may quash his application *ab initio*.

33. That with regard to the statement made in para 8.1 of the application, the answering respondents beg to submit that in view of what has been stated in the foregoing paragraphs, there is no reason for the Hon'ble Tribunal to quash the scheme of separation. Instead, the application may kindly be dismissed with cost.

34. That with regard to the statement made in para 8.2 of the application, the answering respondents beg to submit that the separation of Group 'B' cadres of Audit Offices of the N.E.Region is complete and therefore, each individual office may intimate the sanctioned strength of that office.

35. That with regard to the statement made in para 8.3 of the application, the answering respondents beg to submit that to curtail the tendency of filing such frivolous applications the Hon'ble Tribunal may kindly dismiss the same with cost.

36. That with regard to the statement made in para 9 of the application, the answering respondents beg to submit that in the interest of public service, the applicants may be allowed to be transferred temporarily on deputation basis.

38. That the respondents beg to submit that the application is devoid of merit and as such same is liable to be dismissed.

9. That this written statement is made bonafide and for the ends of justice & equity.

Under the above circumstances,
Your Lordship would be pleased to
dismiss the application filed by the
applicant for the ends of justice.

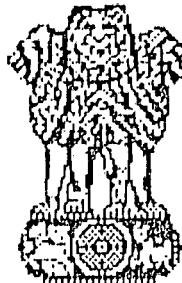
VERIFICATION

1. Shri Manoj Saloy

aged about 39 years, working as Sr. Dy. Accountant General (Acting) competent officer of the answering respondents, do hereby verify that the statements made in paragraph 2 to 3 are true to my knowledge and those of the paragraphs 8 being matter of record are true to my information derived there from which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 19th day of June 2006 at
Guwahati.

Manoj
Signature



14

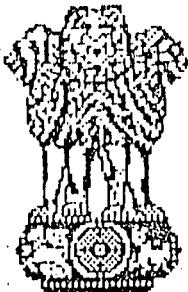
GRADATION LIST

OF

GROUP 'B' OFFICERS & SECTION
OFFICERS (AUDIT)
BELONGING TO COMMON CADRE OF
THE OFFICE OF THE PR. ACCOUNTANT
GENERAL (AUDIT), MEGHALAYA,
ARUNACHAL PRADESH AND MIZORAM
AND OFFICES OF THE PR.
ACCOUNTANTS GENERAL (AUDIT),
ASSAM, MANIPUR, NAGALAND AND
TRIPURA

AS ON

01-03-2005



(15)

GRADATION LIST

OF

GROUP 'B' OFFICERS & SECTION
OFFICERS (AUDIT)

BELONGING TO COMMON CADRE OF
THE OFFICE OF THE PR. ACCOUNTANT
GENERAL (AUDIT), MEGHALAYA,
ARUNACHAL PRADESH AND MIZORAM
AND OFFICES OF THE PR.
ACCOUNTANTS GENERAL (AUDIT),
ASSAM, MANIPUR, NAGALAND AND
TRIPURA

AS ON

01-03-2005

15

(16)

FOR INTERNAL USE IN IAAD



OFFICE OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

MANUAL OF
INSTRUCTIONS FOR RESTRUCTURING
OF CADRES IN IAAD

*Issued by authority of the Comptroller & Auditor General of India
as a supplement to the Manual of Standing Orders
(Administrative) Volume I*

(1981-84)

(17)

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redesigned departmental examinations for auditors and for promotion to the SOs' grade in the audit cadres. The Revenue Audit Examination for auditors will be discontinued and its contents incorporated into the Departmental Examination for Auditors.

1.3.3 In keeping with the new higher scales for Audit not only will higher levels in training and examinations be insisted upon for Audit staff but it is also proposed to enhance the job content for auditors, SQs and AAOs. Allocation of actual work of audit during inspection to the auditors and supervision of local audit and local inspection by AAOs will be as given in annexure 2.9.1. The intention is not only to specialise the functions but also to upgrade the skills and the level of responsibility both in the Audit Offices and the Accounts & Entitlement Offices. A scheme for training of accounts clerks recruited for the A&E offices will also be introduced to professionalise the accounts cadres from the induction level itself. Linked with the scheme for restructuring of cadres are various schemes for functionalisation of these cadres at all levels and strengthening of the basic functions of accounts, entitlement and audit.

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ANNEXURE 2.9.1

Demarcation of duties for personnel in inspection parties.

Following is a broad outline of responsibilities and duties of various categories of personnel in Civil Audit Offices. The Audit Officer in charge of the Inspection Party is not however precluded from making certain changes to be indicated by him in writing in the distribution suggested keeping in view the suitability of the individual official for the type of work in hand.

2. Similar instructions will be issued by the concerned wings for the separated Audit Offices redevolution of duties in Commercial, Railway, P.&T., Defence and Receipt Audit parties.

I. Local audit of civil offices

(A) Audit Officer:

Duties and responsibilities presently assigned are not only important but also sufficiently exhaustive. Review of the schemes executed in a department will in fact be time consuming. Further the Inspection Officer has to perform the co-ordinating functions to achieve over-all efficiency in performance.

(B) Section Officer/Assistant Audit Officer:

- (i) Audit of the accounts of receipts;
- (ii) audit of the accounts of stores;
- (iii) examination of the cash book;
- (iv) examination of vouchers for the test months which were submitted to central audit and made available to the party by the headquarters, with original records, contract documents etc.;
- (v) audit of all vouchers not submitted to central audit;
- (vi) verification of drawals and deposits into treasury with reference to treasury records;
- (vii) examination of the special points marked for special investigation by central audit;

- (viii) audit of works expenditure;
- (ix) accounts of stores, requirements etc. received under various foreign aid programmes;
- (x) departmental inspection reports.

(C) Senior of the two auditors:

- (i) examination of service books, service rolls, broad-sheets and ledgers in respect of P.F. accounts of Group 'D' staff, etc.;
- (ii) obtaining files containing important rules/orders issued by Government in respect of the institution under local audit and matters dealt with by it with a view to study them and also take notes from the Dictionary of References maintained;
- (iii) check of disposal of previous inspection reports;
- (iv) audit (triennial) of taccavi accounts;
- (v) audit of expenditure by State Government in connection with large gatherings of political organisations;
- (vi) establishment pay-bills;
- (vii) travelling allowance bills;
- (viii) register of undisbursed pay and allowances;
- (ix) Register of advances;
- (x) property accounts i.e. immovable property accounts like land, buildings and other assets;

(D) Junior of the two auditors:

- (i) dead-stock register;
- (ii) register of empties;
- (iii) stamp account;
- (iv) register of deposits;
- (v) log books and diaries of Government vehicles;
- (vi) register of stationery;
- (vii) register of uniforms;
- (viii) register of books and periodicals;
- (ix) P.F. Accounts of Group 'D' employees

The structure of the civil audit parties in certain offices is as follows: one section officer and one auditor, while the gazetted supervision is the same. In such a case, the distribution of work could be as under:

(A) Audit Officer:

Same as those in para 1 (A) above.

(B) Asstt. Audit Officer:

Items (ii), (iii), (iv), (vi) and (ix) under "1(B) Section Officer" (ii), (vi), (vii) and (viii) under "(C) Senior of the Two Auditors" in para 1(C) above.

(C) Section Officer:

Items (i), (v), (vii), (viii) and (x) under "1(B) Section Officer" and (i), (iii), (iv), (v), (ix) and (x) under "(C) Senior of two auditors" in para 1(C) above.

(D) Auditor:

Same as at present.

H. Treasury Inspection:

Keeping in view the relative importance and intricacies involved in the various items of treasury inspections the distribution of work can be as under:

Audit Officer:

1. Custody of treasure
2. Strong room
3. Currency chest balance.

Assistt. Audit Officer:

1. Government securities
2. Promissory notes
3. Cash chests and valuables of other departments
4. Accountant's cash book and balance sheet
5. Custody, supplies and sales of opium
6. Sub-Treasury accounts.

Section Officer:

1. Custody, supply and sale of stamps
2. Custody of cheque books and receipt books

3. Cheques and letters of credit
4. Treasurer's accounts
5. Civil pensions
6. Military pensions.

Auditor:

1. Deposit transactions
2. Register of repayments
3. Plus-and-minus memoranda
4. Lapsed statements.

III. Public Works Inspections

The composition of a public works inspection party is generally two section officers and one auditor. The gazetted supervision is 75%. At present there is no uniformity in the matter of distribution of work amongst the different members of the Inspection Party. The Committee of Accountants General had indicated in their report a tentative distribution of work among the members of the party.

2. Keeping in view the proposed restructuring the following could be the distribution of work to the audit officers/assstt. audit officers/section officers/auditors of public works inspection parties.

A. Audit Officer:

1. Review of all regular contracts and of a percentage of other agreements made since the last inspection.
2. Review of Register of Revenue other than rents including a review of the procedure for its assessments and realisation, special attention being paid to cases where a short fall is noticed in the revenue derived from any particular property.
3. Review of the system and the extent of check-measurements by divisional and sub-divisional officers and review of the check of measurements books by the divisional accountants.
4. Review of balance of stock system of acquisition of stores and of store verifications.
5. Review of accounts of manufacture operations.

Review of the banking arrangements to see that they are generally satisfactory.

Review of the arrangements for the custody of cash and withdrawal of money from the cash chest.

8. General review of the account of works (the nature and extent of detailed scrutiny being left to the discretion of the inspecting officer):

- (a) Muster Rolls.
- (b) Transfer Entry Books.
- (c) Suspense/Deposit Register.
- (d) Schedule of rates.
- (e) Register of rents of buildings and lands.
- (f) Establishment records.
- (g) Monthly accounts.

B. Asstt. Audit Officer:

- 1. Complete analysis of selected works with reference to sanctioned estimates, agreements, etc. and connected measurement books.
- 2. Material-at-site account for selected works.
- 3. Examination of the register of major and minor works.
- 4. Disposal of special points referred by Central Audit.
- 5. Stock accounts including general review of stores ledger, bincards, etc.
- 6. Complete checking of contractors ledger for selected months.
- 7. Examination of abnormal rates quoted by contractors.
- 8. Examination of arbitration cases.
- 9. Checking of extra or substitute items—derivation of rates etc.
- 10. Scrutiny of special repairs estimates.
- 11. Survey reports along with registers of survey reports.
- 12. Disposal of previous inspection reports.

C. Section Officer:

- 1. General review of cash book with reference to counterfoils of cheques/receipt books.
- 2. Tracing of receipts in cash books.
- 3. Remittance book.
- 4. Checking of transaction in the selected months with cash book and other allied records.
- 5. M.A.S. accounts and road metal returns in respect of works affected during the selected month.
- 6. Transfer entry book since last inspection.
- 7. Checking of contractors ledger for the affected works in the selected month including complete checking of the ledger since last inspection.
- 8. Examination of tools and plants register.
- 9. Register of leases/lease files.
- 10. Register of Muster rolls/muster rolls
- 11. Register of licence fee of buildings and lands.
- 12. Register of agreements/work orders.

D. Auditor:

- 1. 25% check of service books.
- 2. Complete checking of pay and TA bills.
- 3. Checking of leave account of Govt. servants including leave salary and checking of increments.
- 4. Provident Fund accounts of work charged establishments and Group 'D' Govt. servants.
- 5. Log books of motor vehicles/construction machinery.
- 6. Suspense and Deposit registers.
- 7. Treasury bill book.
- 8. Register of Fixed charges.
- 9. Contingent Register.
- 10. Register of Service Book/Service Books.
- 11. Register of interest bearing security.

In some of the Offices, because of shortage of qualified ds, it may not be possible to constitute P.W. Inspection Parties with two Section Officers and one Auditor. In such cases the composition of the parties will be one AAO or SO and two auditors. The distribution of work amongst the party members in such a situation would be as under:

- (A) *Audit Officer*: Same as those detailed in para 2(A) above.
- (B) *Section Officer*: Same as those for AAO/SO detailed in para 2(B) above.
- (C) *Senior of the two auditors*: Same as those for SO detailed in para III. 2 above.
- (D) *Junior of the two auditors*: Same as those for auditor in para III. 2 above.

ANNEXURE 3.1.1.

Time schedule

	Office	Last Date
1. Display and circulation of notice	All separated Audit Offices and combined Audit & Accounts Offices & Branch/Sub Offices	31.12.1983
2. Keep blank application forms ready in Administration Branch	Accounts Offices	On date of display of notice
3. Receipt of applications	—do—	31.01.1984
4. Scrutiny of applications by administration and preparation of list of applicants for consideration by screening committees	—do—	10.02.1984
5. Preparation of list of persons for consideration of fitness by screening committees for appointment against higher scales against the prescribed quota of posts	Separated Audit Offices	10.02.1984
6. Finalisation of list of selected persons by the screening committees	Combined Audit & Accounts Offices	20.02.1984
—do—	Separated Audit Offices	20.02.1984
7. Issue of orders for staff transferred and appointed in audit cadres	Combined Audit & Accounts Offices	01.03.1984
Issue of appointment orders against posts on higher scales duly sanctioned anew	Separated Audit Offices	01.03.1984

18 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.

O.A. No. 203/2006

Shri Kalyan Kumar Das

... Applicant

Vs.

U.O.I & Ors.

... Respondents.

Additional statements filed by the applicant with documents in support of the statements in O.A. No. 203/06.

That the applicant respectfully states as under :-

1. Cadres of Gr. B Officers have already been separated and as such there is no scope of further separation which the applicant has stated as "so called separation of cadre". In terms of para 5.6.1 (i) Section Officers cadres have already been separated for the states of A.G. (Audit) Assam and A.G. (Audit) Meghalaya etc. The para 5.6.1(i) of (A.G's Manual of standing orders (Administrative) Vol 1 reads as under :-

"5.6.1(i) Each Civil Audit Office and Civil Accounts Office and each Railway Audit Office has its own Officers' cadre

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Kalyan Kumar Das.

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18/12/07
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Advocate
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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".

It is stated that the office of Principal A.G.(Audit), Assam has not been reorganised into further independent offices i.e. there is only one A.G. office in Assam under Principal A.G.(Audit) Guwahati with the separation of cadres of SO's for the states of N.F. Region as explained above the promotional cadres to AAOs, AO's, Sr. AO's also have been functioning as separate cadres.

2. It is stated that the Accountant General (Audit), Meghalaya, Arunachal Pradesh, Mizoram, Shillong by letter No. Estt. I/Audit/4-8/98-99 dated 2.2.99 to the Accountant General (Audit), Assam informed that the sanction strength of the Shillong Office of A.G.(Audit) Meghalaya, Arunachal Pradesh, Mizoram, and the Guwahati office had been approved by HQ Office under Head Quarter Office letter No. 3.2.05-BRS/138-97 dated 30.11.98 with such separation of cadre strength the Shillong office wrote that proposal for additions if any, should be takenup with Head Quarters Office. It is therefore stated that Gr. 'B' cadres for the separate N.E. States had already been separated much earlier and the sanctioned strength was communicated by the Head Quarter's Office i.e. New Delhi Office by letter dated 30.11.98. It is also stated that after separation of the cadres the

sanctioned strength of Sr. AO/AO for A.G.(Audit), Assam and A.G.(Audit), Meghalaya etc. has been reallocated as 55 and 33 respectively from the total sanctioned strength of 88 under the above mentioned circular dated 30.11.98.

3. That after the separation of cadres as mentioned above some of the states of N.E. Region (A.G.(Audit) Offices) were having difficulties in having officers(deficit offices) For manning the deficite a gradation list of all the Gr. 'B' Officers of N.E. States was prepared for arranging deputation/transfer on rotation basis for 18 months on seniority basis. This gradation list clearly stipulates as under :-

"Nothing in this list is to be taken conveying any sanction or authority or may be held to supersede any standing rules or orders of the Central Government with which it may be at variance"

It is stated that the respondents parportedly project the said gradation list as common cadre, which infact is not a common cadre, and after the separation/reallocation of cadre as indicated in the preceeding paragraph no joint cadre/common cadre has been formed. Respondents have supressed the stipulation quoted above and then confasing the Hon'ble Tribunal.

Copy of the relevant pages of the gradation list is enclosed as Annexure - 'K'.

Contd....4/-

Kalyan Kumar Das.

4. That respondents have been dealing the case not on factual position but on unreal position. They are totally confused in the matter of separation of cadres. In their W.S. they have stated that up to the level of supervisor the cadres had already been separated w.e.f. at 01.9.1981 among the officers of Accountants General Assam, Meghalaya, Arunachal Pradesh, Nagaland, Mizoram, Manipur and Tripura, thereby explaining the position that the Gr. 'C' and 'D' cadres had already been separate w.e.f. 01.9.1981. But in fact these cadres have not been separated and circulars for separation has been issued only in 2006 and the matter of separation is under adjudication in O.A. No. 155/2006. The order dated 22.6.06 of the Hon'ble Tribunal in the said O.A. indicates the separation of cadres of Gr. 'C' and 'D' in the Audit Offices of Assam, Meghalaya, Arunachal Pradesh and Mizoram. It would therefore demonstrate that the respondents have not come with clear and clean position and wants to misguide and confuse the Hon'ble Tribunal. The factual position is that the respondents have not taken any comprehensive decision as regards separation of Gr. 'B', 'C' and D 'D' cadre.

Copy of the order dated 22.6.06
in O.A. No. 155/06 (Civil Audit
Association V. U.O.I & Ors.) is
enclosed as Annexure-'L'.

VERIFICATION.

I Shri Kalyan Kumar Das, S/O Late Krishna Pada Das aged about 51 years working as Sr. Audit Officers in the office of the Principal Accountant General (Audit), Assam a resident of Beltola Guwahati do hereby verify that the paras 1 to 4 are true to my personal knowledge and that I have not suppressed any material facts.

Date : 17/12/07

Kalyan Kumar Das
Signature

Place: Guwahati

GRADATION LIST

OF

GROUP 'B' OFFICERS & SECTION
OFFICERS (AUDIT)
BELONGING TO COMMON CADRE OF
THE OFFICE OF THE PR. ACCOUNTANT
GENERAL (AUDIT), MEGHALAYA,
ARUNACHAL PRADESH AND MIZORAM
AND OFFICES OF THE PR.
ACCOUNTANTS GENERAL (AUDIT),
ASSAM, MANIPUR, NAGALAND AND
TRIPURA

AS ON
01-03-2006

*A. Hester
G. W. S.
(Auth. copy)*

GAZETTED

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GRADATION LIST OF GROUP 'B' OFFICERS AND SECTION OFFICERS (AUDIT) BELONGING TO COMMON CADRE OF THE OFFICE OF THE PR. ACCOUNTANT GENERAL (AUDIT), MEGHALAYA, ARUNACHAL PRADESH AND MIZORAM AND OFFICES OF THE PR. ACCOUNTANT'S GENERAL (AUDIT), ASSAM, MANIPUR, NAGALAND AND TRIPURA AS ON 01-03-2006. PREPARED IN ACCORDANCE WITH THE DIRECTION CONTAINED IN THE COMPTROLLER AND AUDITOR GENERAL'S LETTERS NO. 427-N.21/1-89 DATED 26.04.1989. AND NO. 161-NGE(APP)/41-2002 DATED 15.02.2002.

NOTHING IN THIS LIST IS TO BE TAKEN AS CONVEYING ANY SANCTION OR AUTHORITY OR MAY BE HELD TO SUPERSEDE ANY STANDING RULES OR ORDERS OF THE CENTRAL GOVERNMENT WITH WHICH IT MAY BE AT VARIANCE.

**DEPUTY ACCOUNTANT GENERAL
(ADMINISTRATION)**

*Attested
G. C. K. Karmakar*

ORDERS SHEET

155/66

18

Original Application No.

Misc. Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(s) Civil Audit AssociationRespondent(s) U.O.I GovtAdvocate for the Applicant(s) D.K. Dev
Guru P.S. ChoudhuryH.C. B. PrakashitAdvocate for the Respondent(s) CASL

Notes of the Registry

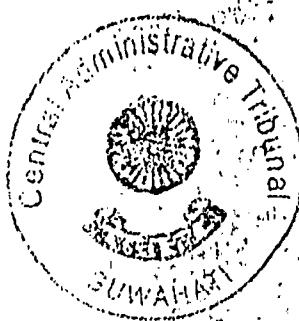
Date

Order of the Tribunal

22.06.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman

The applicant is an Association which was formed in the year 1995 for redressal of grievances of the employees of the Audit Department, Guwahati. In the year 1997, the office of the Principal Accountant General (Apdlt), Meghalaya was bifurcated and the office of the Principal Accountant General (Apdlt), Assam was separated from the main office. The members of the Audit Association opted for posting at Assam. In the year 2006 a move was initiated to separate the common group 'C' and 'D' cadres in the Audit offices of the Principal Accountant General (Audit), Assam and office of the Principal Accountant General (Audit) Meghalaya, Arunachal Pradesh and Mizoram, Shillong, vide order dated 23.03.2006 created separate offices for Arunachal Pradesh and Mizoram. Representation was submitted by the

Comd-



*Attested
By
Advocate*

22.06.2006 applicant Association. It is submitted on behalf of the applicants' Association that the applicants' have no dispute with regard to the cadre separation. However, their grievance is that in spite of the option opted for Assam, they have been deployed to various places on deputation. Counsel for the Applicant Association also brought to my notice to the administrative report, wherein it is mentioned that allocation of senior auditors sanctioned strength is 314 and PIP is 257 and allocation of senior auditors sanctioned strength is 75 and PIP is 62. They submitted that it is clear that deputation adopted is faulty and in violation of the law laid down.

Heard Mr. D.K. Das, learned counsel for the applicant association and Mr G. Baishya, learned Sr. C.G.S.C. for the respondents.

Counsel for the respondents submitted that aggrieved persons are not parties in this proceeding and since Union and 2nd applicant being the General Secretary of the Association has filed this application, it is like a Public Interest Litigation. He also quoted Rule 4(v)(b) of the CAT Act, and argued that minimum 'one aggrieved' person must be a party. Therefore, this application does not stand in its legs.

Contd/-

Attested
by
Advocate

Contd/
22.06.2006

I have given due consideration to the arguments advanced by the learned counsel for the parties. Counsel for the respondents also submitted that he would like to take instructions. Let is be done.

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Post on 25.07.2006.

Considering the facts that Association had represented the grievance of its members with the respondents and that it is recognized by the respondents, their grievance has been considered by the respondents and acted upon on representations. The contention of the respondents that Association cannot be a party in such proceeding, cannot be accepted. However, having regard to the fact that applicants are interested with the affairs of the members of the Association, I am of the view that it cannot be straight away rejected on that ground alone. However, the applicants are at liberty to improve its pleadings if they so desire.

In the interest of justice, by way of interim measures, I direct the respondents to maintain status quo till the fixed date of hearing.

S/ VICE CHAIRMAN

C. Application : 5-2-07

C. Date : 5-2-07

C. Date : 5-2-07

C. Date : 5-2-07

N.C. 5-2-07
Sect. 5-2-07 (J.D.)

C. Application : 5-2-07

Georg...

5-2-07

Attested
R. Singh
(Advocate)

File in Court on.....

15/2/08
Court Officer.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH, GUWAHATI

केन्द्रीय अधिकारी बोर्ड अधिकारण
Central Administrative Tribunal

15 FEB 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

Shri Kalyan Kumar Das

Applicant

Vs.

U.O.I. & Ors

Respondents

Addl. WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondent have received copy of the Additional Statement in OA No. 203/06 and gone through the same and have understood the contention made thereof. Save and except the statement which are specifically admitted below, rest may be treated as total denial. The statement which are not borne on records, are also denied and applicant are put to the stricter proof thereof.
- 2) The respondents beg to the state that the statement made are confusing and without any legal foundation. The correct position is that sanctioned strength was reallocated between offices of the Pr. Accountant General (Audit), Meghalaya, Shillong and Pr. Accountant General (Audit), Assam, Guwahati vide Headquarters office letter No. 3205-BRS/138-97 dated 30/11/1998 on opening of full fledged office of the Pr. Accountant General (Audit) Assam, Guwahati keeping the cadre controlling function with the Pr. Accountant General (Audit), Meghalaya, Shillong. As such, provision of Para-5.6.1 (i) of C&AG's Manual of Standing Orders (Administrative) Vol-I is clear and not contradictory.

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कर्मचार उन वक्त के बाकर (ब्रजा। 1।) ५०८
Sr. Deputy Accountant General (Admn.)
प्रशान्त महाराजाकार लेखापरीक्षा का नामान्तर असम
O/O the P.I. Accountant General (u.h.) Assam
बोर्डरन। गुवाहाटी
Beltola, Guwahati-29

15/2/08
Mr. M. U. Khan (Case 15/2/08)

Received copy
S. K. Das
15/2/08
T. Tamuli.

3) The respondents beg to state that the statements made are totally false and without any legal foundation. From the reply to Para-1 it is clear that only reallocation of sectioned strength between offices of the Pr. Accountant General (Audit), Meghalaya, Shillong and Pr. Accountant General (Audit), Assam, Guwahati was done keeping the cadre controlling function with the Pr. Accountant General (Audit), Meghalaya, Shillong. Thus there was no separation of cadre vide Headquarters latter dated 30/11/1998 which was only approval to the reallocation of sanctioned strength.

4) In reply to this paragraph, the respondents beg to state that to cater to the requirement of deficit offices transfer were made from other offices. Statement regarding gradation list is totally false and misleading. Gradation list showing seniority of common cadre of SOs to Sr. AOs of offices of NE Region was brought out only by the cadre controlling authority viz. Pr. Accountant General (Audit), Meghalaya, Guwahati Bench etc., Shillong all these years.

5) The respondents beg to state that reply to the written statement is clear wherein it was written that upto the level of Supervisor the cadres had already been separated with effect from 01/09/1981 amongst the offices of the Accountant General, Assam, Meghalaya, Arunachal Pradesh and Mizoram, Tripura, Manipur and Nagaland. It is to be kept in mind that office of Pr. Accountant General (Audit), Assam, Meghalaya, Arunachal Pradesh and Mizoram with Headquarter at Shillong was one office at that point of time. Full fledged office of Pr. Accountant General, Assam, Guwahati came into existence with effect from 13/05/1997 and office of the Accountant General, Mizoram and Arunachal Pradesh came into existence with effect from 01/04/2006 with the issue of notification. However, Group 'B' cadres were common for all NE Region offices till separation of Group 'B' cadre on 08/08/2006. Similarly, Group 'C' and 'D' cadres of offices of Meghalaya, Mizoram and Arunachal Pradesh and Assam were common till separation of cadre on 09/06/2006.

कार्यालय द्वारा प्राप्त लेखाकार (प्रशाप) / ४०८
Sr. Deputy Accountant General (Admn.)
प्रधान कार्यालय का कार्यालय असम
O/O the P.I. Accountant General (Audit) Assam
वेस्ट बेल्टोला, गुवाहाटी
Beltola, Guwahati-29.

Abdul

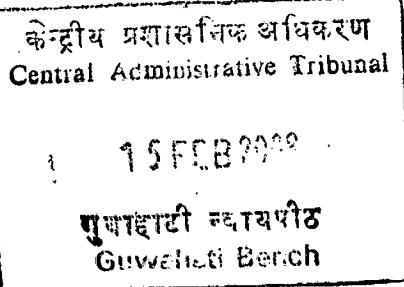
File in Court on.....

AFFIDAVIT

Court Officer.

I Shrimati Akujam Devi at
present working as Co. Dy. Accountant General at
..... who is
authorized by the competent authority to take steps and file affidavit on behalf of
all the petitioners in the present Misc. Petition and hence competent to sign this
Affidavit, do hereby solemnly affirm and state that the statement made in the
paragraph..... 1 to 5..... are true to my
knowledge and belief, those made in paragraph
.....
being matter of records, are true to my information derived there from and the rest
are my humble submission before this Hon'ble Tribunal. I have not suppressed
any material fact.

And I sign this affidavit on this 11/15 day of February 2008 at




11/15/08
DEPONENT
कर्णधर उप महालेखाकार (प्रशा)
Sr. Deputy Accountant General (Admn.)
प्रधान महालेखाकार (लेखापर्णिका) का कर्त्त्यालय, असम
O/O the P.C. Accountant General (Audit) Assam
द्रोनला गुवाहाटी
Bekola, Guwahati-29.