

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.....

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SECTION OFFICER (Judl.)

Central Administrative Tribunal
Guwahati Bench:

ORDERS SHEET

1. Original Application No. 215/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) B.K. Chander

Respondent(s) U.O.I. Tony

Advocate for the Applicant(s) Chandrasekhar Sinha

Advocate for the Respondent(s) M.C.A.C. M.U. Ahmed

Notes of the Registry Date Order of the Tribunal

22.08.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Application is in form
of O.A. Nos. 204
54.E.7042/7-20

Dated 16.08.06

Signature
Dy. Registrar

PAI

Adv. Secy.

S. Steps. m/s. Taken

Signature

Heard Mr C.S. Sinha, learned
Counsel for the Applicant and Mr M.U.
Ahmed, learned Addl. C.G.S.C. for the
Respondents.

The matter is identical to other
matters, viz. O.A. Nos. 115/2006
146/2006, 203/2006, 204/2006, etc.
which were filed by the similarly situated
persons and the same have already been
admitted and posted for hearing.
Therefore, I am of the view that this O.A.
has also to be admitted. Admit. Post on
18.10.2006.

In the interest of justice, this
Tribunal directs the Respondents not to
disturb the Applicant till the next date.

Not Certified
in the Annexure

Signature
N.S.
22.8.06

*Received
Subd. Off.
22.8.06*

Imp.

Vice-Chairman

O.A. 215 of 2006

23.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Notice & order sent
to D/Section for
issuing to resp.

nos. 1 & 4 by

regd. A/D post

~~Class~~ R-2, 3 received by

28/8/06. D/No Hand

D/ - 882 Hand

D/ - 883

31/8/06.

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

Post on 23.11.2006. Interim order
dated 22.08.2006 shall continue till the
next date.

Notice duly served

on resp. nos. 1, 2 & 3.

1. JAVATI TIRANTSIWADA
/mb/ 2. JAVATI TIRANTSIWADA
3. JAVATI TIRANTSIWADA

Vice-Chairman

~~Class~~
29/8/06.

Notice duly served
on resp. nos. 1, 2 & 3.

~~Class~~
18/9

18-10-06

Notice issued.

No reply filed.

10y

bb

22.12.2006

Mr. M. U. Ahmed, learned Addl.

order dt. 23/10/06
issuing to learned
Advocate's for both
the parties.

C.G.S.C. submits that reply statement is
being filed today. Let it be brought on
record, if it is otherwise in order. Copy
of the same shall be served on the
counsel for the applicant by Mr. Ahmed.

Post the matter on 31.1.2007. In
the meantime applicant is at liberty to
file rejoinder, if any.

Pl. comply order dated

23.11.06.

NS
24.11.06

Interim order to continue till then.

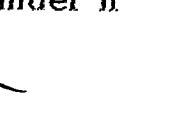
Vice-Chairman

order dt. 23/11/06 issuing /bb/
to learned advocate for

both the parties.

23.11.06. No W/Ls has been
billed.

23.11.06. Pl. comply order
23.12.06. Pl. comply order
23.12.06. Pl. comply order
23.12.06. Pl. comply order

Notes of the Registry	Date	Order of the Tribunal
29.12.06. Wts submitted by the Respondents No. 1 to 4, page Nos. 1 to 7.	9.2.2007	Reply statement has already been filed. Post the matter on 2.3.2007. In the meantime Applicants are at liberty to file rejoinder, if any. Interim order shall continue till then.
Order dt. 22/12/06 issuing to learned advocate's for both the parties.		 Vice-Chairman
Wts has been filed.	/bb/	
2.3.07.	2.3.07.	Rejoinder has not been filed. Two weeks time is granted to the counsel for the applicant to file rejoinder, if any.
Order dt. 9/2/07 issuing to learned advocates for both the parties.	1m	 Vice-Chairman
13.3.07	At the request of learned counsel for the applicant the matter is preponed to-day and heard. Counsel also submitted that he is going to Chennai for his treatment and he prays for six weeks time. Prayer is allowed. Post the matter on 4.5.07. Liberty is given to the applicant to file rejoinder if any.	
15.3.07 Rejoinder submitted by the Applicant, page 1 to 9.	1m	 Vice-Chairman
Wts and rejoinder has been filed.	4.5.07.	Respondent Nos. 1 to 4 has filed their written statement. Other respondents has filed rejoinder reply to the rejoinder. Applicant is at liberty to file rejoinder. Post the matter on 6.6.07.
3.5.07.	1m	 Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

4.5.07.

Written statement has been filed by the Respondents No.1 to 4. Four weeks time is granted to the other respondents to file their written statement. Liberty is given to the applicant to file written statement. Post the matter on 6.6.07.

Zg
5.6.07

lm

Vice-Chairman

06.06.07

Written statement has been filed. Post the matter on 28.6.07.

Wts and rejoinder
bilef.

lm

Vice-Chairman

Zg
27.6.07

28.6.2007

Rejoinder has been filed. Post the case on 23.7.2007.

Rejoinder
bilef.

/bb/

Vice-Chairman

Zg
20.7.07

23.7.07.

Pleadings are completed. Post the matter on 8.8.07 before the Division Bench.

Wts and rejoinder
bilef.

Vice-Chairman

Zg
30.8.07

31.8.07

The counsel for the respondents submitted that he has filed Written statement.

Post on 14.9.07 for order. In the meantime applicant may file rejoinder if any.

Wts and rejoinder
bilef.

Zg
13.9.07

Vice-Chairman

The case is ready
for hearing.

3
1.1.08.

Call this matter on 11.01.2008.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Lm

11.01.2008

At the request of learned counsels for
both the parties, call this matter on 12.02.2008.

The case is ready
for hearing.

3
1.1.08.

/bb/


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

12.02.2008

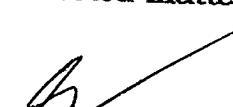
Mr C.S.Sinha, learned counsel
appearing for the Applicant is present and
Mr M.U.Ahmed, learned Addl. Standing
counsel for Union of India is also present.

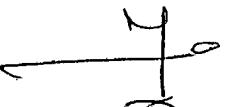
Call this part heard matter on
20.03.2008 to be heard along with other
connected matters.

The case is ready
for hearing.

3
19.3.08.

pg


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

20.03.2008

Adjourned to 13.05.2008 for hearing.

The case is ready
for hearing.

3
12.5.08.

/bb/


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

04-215/06

14.9.07 Let the case be posted on
12.11.07 for order.

W/B and respondent
briefs by the parties.

Vice-Chairman

pg

22/11/07

12.11.2007

Mr.C.S.Sinha, learned counsel for the
Applicant is present. Mr.M.U.Ahmed,
learned Addl. Standing counsel for the
Union of India is also present.

Call this matter for hearing on

21.11.2007.

The case is ready
for hearing.

Y
(M.R.Mohanty)
Vice-Chairman

22/11/07

/bb/

21.11.07 Heard Mr C.S.Sinha, learned counsel for
the Applicant and Mr M.U.Ahmed, learned Addl.
Central Govt. Standing counsel for the
Respondents in part.

The case is ready
for hearing.

Call the matter on 3.12.07.

22/11/07

Khushiram
Member(A)

Y
(M. R. Mohanty)
Vice-Chairman

pg

03.12.2007

Call this matter on 07.01.2008 for final
hearing; on consent of the learned counsel for
both the parties.

31.12.07
PL. send order copy to
the parties

order dt. 31/12/07 sent
to D/Section for issuing
to applicant and learned
advocate for respondents.
(C) No. D/No-1712 and 1713

D/ 5/12/07.

Notwithstanding pendency of this case,
Respondents shall remain free to ask the
Applicants to go to different stations/States of
N.E.Region of India on tour basis. The Interim
order, passed earlier in this case, stands
modified to this extent.

Send copies to parties.

Khushiram
Member(A)

Y
(M.R.Mohanty)
Vice-Chairman

13.05.2008 Heard Mr C.S. Sinha, learned Counsel appearing for the Applicant, and Mr M.U. Ahmed, learned Addl. Standing Counsel for the Union of India, further in part.

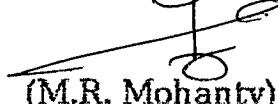
The case is ready for hearing.

33
16.6.08.

It is stated that the Applicant is already 59 years old and hardly 1^{1/2} years in hand to go before reaching the age of superannuation. Mr M.U. Ahmed, learned Addl. Standing Counsel, intends to take instructions from the Respondents in the matter.

Call this matter on 17.06.2008.

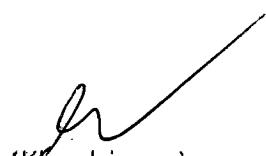

(Khushiram)
Member (A)

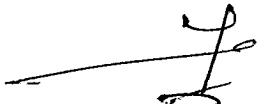

(M.R. Mohanty)
Vice-Chairman

nkm

17.06.2008 Mr.C.S.Sinha, learned counsel appearing for the Applicant, is present. Mr.M.U.Ahmed, learned Addl. Standing counsel appearing for the Union of India is also present.

Call this matter, along with other Accountant General matters, on 22.07.2008.


(Khushiram)
Member (A)

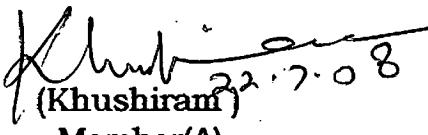

(M.R.Mohanty)
Vice-Chairman

/bb/

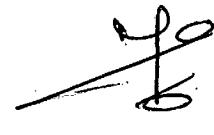
22.07.08 Heard Mr C.S.Sinha, learned counsel appearing for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel for the Respondents. For the reasons recorded separately the Original Application is disposed of. No order as to costs.

7.8.08
 Copy of the Judgment
 sent to the parties
 for issuing the same
 to the parties along
 with the copy to the
 LIA for the
 parties.

tds

 22.7.08

(Khushiram)
 Member(A)

 22.7.08
 (M.R. Mohanty)
 Vice-Chairman

pg

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.215 of 2006.

DATE OF DECISION :22 -07 -2008

Shri Bijoy Kumar Chanda

.....Applicant/s

Mr C. S. Sinha

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

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

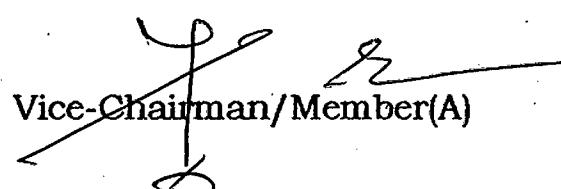
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.


Vice-Chairman/Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.215 of 2006.

Date of Order : This the 22nd Day of July, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Bijoy Kumar Chanda,
S/o Late Sashi Bhusan Chanda
Residing at a.G. Quarter
No. Type-II/16, 79 Tilla,
Agartala, P.S. East Agartala,
District - West Tripura

.....Applicant

By Advocate Shri C.S.Sinha

-Versus-

1. Union of India, represented by the
Comptroller & Auditor General of India,
10, Bahadurshah Jafar Marg,
New Delhi – 110002.
2. The Accountant General (A&E)
Assam, Maidamgaon, Beltola,
Guwahati – 781029.
3. Sr. Deputy Accountant General (Admn. & VLC)
Office of the Accountant General (A&E)
Assam, Maidam Gaon, Beltola,
Guwahati 781029.
4. Deputy Accountant General,
Office of the Sr. Deputy Accountant General,
(A&E), Tripura, Agartala.Respondents

By Shri M.U.Ahmed, Addl. C.G.S.C.

R D E R (ORAL)

KHUSHIRAM, (MEMBER-A)

On establishment of the offices of six Accountant Generals in different states in the North Eastern Region the officers and the staff were asked to exercise option for 'deputation' to the deficit offices vide circular dated 16.05.2006. The Applicant, having attained the age of 56



✓

years, filed representation that he cannot be sent on 'deputation' against his will. His representation was not accepted and impugned order dated 28.07.2006 (posting him on deputation to the office of Senior Deputy Accountant General (A&E) of Nagaland at Kohima was issued and, vide order dated 31.07.2006, he was treated as stand relieved instantly. By another order of the same date (31.07.2006) the Applicant was prevented for making any prayer for leave etc. Earlier O.A. No.196/2006 (filed by the Applicant) was disposed of by this Tribunal, on 09.08.2006, staying the operation of the order dated 28.07.2006 (under which the Applicant was posted to Nagaland/ Kohima) pending disposal of the representation within a month.

2. The representation was later on disposed of (vide order dated 14.08.2006) without any relief to the Applicant. The Applicant has (in the present Original Application No.215 of 2006) has claimed that the orders passed by the authorities are illegal and arbitrary and contrary to natural justice. Aggrieved by the decision of the Respondents, the Applicant has filed the present Original Application seeking mainly the following reliefs :-

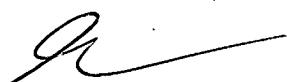
- i) To set aside the order No. Admn.1 Order No.107 dated 14.08.2006 (Annexure-10 to O.A).
- ii) To set aside the order No.AG/Sep/Gr.B/2006/65 dated 28.07.2006 so far as the Applicant is concerned (Annexure-5).
- iii) To set aside the order in Estt(A&E)/Cadre Separation/2003-06/483 dated 31.07.2006 so far as the Applicant is concerned (Annexure-6).
- iv) To declare the Circular No.AG/Sep/Gr.B/2006/141 dated 30.03.2006 as unreasonable and unjustified so far as non whispering of maximum age of deputation as per Appendix-5 of the Fundamental Rules, tenure of deputation and provision for taking prior consent



of the Applicant for the purpose of posting on deputation outside Tripura (Annexure-1).

v) To direct the Respondents to allow the Applicant to continue to the office of the Accountant General (A&E), Tripura.

3. The Respondents have filed written statement stating that the O.A. is hit by the principles of waiver estoppel and acquiescence and the action taken by the Respondents is in public interest and does not suffer from any vice of illegality. The Respondents have stated that on separation of Group 'B' cadre (on the basis of seniority cum preference and as per seniority) the Applicant could not be allocated to his choice posting in the office of the Senior DAG(A&E) of Tripura at Agartala. As per policy of the cadre separation (circulated vide circular dated 30.03.2006) and in pursuance of further circular dated 16.05.2006, the excess persons in each cadre (who could not be accommodated in the office of their preference) were asked to give option for deputation along with a list of vacancies in various offices. The Applicant was posted (in terms of his option) in the office of the Sr. DAG(A&E) of Nagaland at Kohima, and, accordingly, the Applicant will be brought back to his parent office as soon as vacancy arises in that office. The circular dated 17.11.1992 issued by DOPT of Government of India is in the context of sending an officer on 'deputation' to an organization other than his parent organization where the deputation term is fixed and that, in the instant case, deputation of the Applicant to the office of the Sr. DAG (A&E) of Nagaland as a part of cadre separation scheme and is within the same department i.e. IA&AD, where the official will continue to be deployed on similar duties as in his earlier office. The objective of



'deputation' is to man the office which has deficit manpower in the relevant cadre. As the cadre separation scheme was acceptable to the deficit office, it would be assumed that the Applicant would be able to contribute effectively to that office. As regards the advanced age of the Applicant for being sent on deputation, it cannot be considered to be relevant in the instant case as the cadre separation was not analogous to the deputation referred to in the DOPT OM dated 17.11.1992. The Respondents had complied with the order dated 09.08.2006 passed by this Tribunal in O.A.196/2006 and has justified their action while disposing of the representation of the Applicant. Accountant General (A&E) Assam, being the cadre controlling authority for the Applicant, vide order dated 14.08.2006 allowed the Applicant to join the office of the Sr. DAG(A&E) of Nagaland at Kohima. In terms of the policy for cadre separation various cadres in the office of the AG were separated to facilitate the work in different States and transfer in question of the different AGs was issued with a view to creating least administrative instability as well as to minimize and mitigate human problems of the concerned officers.

4. Heard Mr C.S.Sinha, learned counsel appearing for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents. Learned counsel for the Applicant argued that the Applicant having attained the age of 56 years he can not be moved on 'deputation' without his will. The order of redeploying the Applicant to Kohima is arbitrary. In terms of the order dated 09.08.2006 of this Tribunal passed in O.A.196/2006, the Applicant want



to resume duty in the office of AG(A&E) Tripura on 11.08.2006 & 14.08.2006 but he was not allowed to resume duty and, rather, they have issued order dated 14.08.2006. In his representation he has also requested for a direction to the Respondents to release his pay and allowances for the period from 11.06.2006 to 30.08.2006.

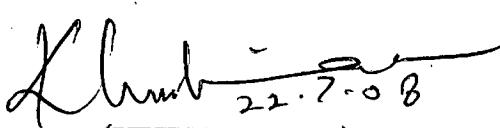
5. Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the Respondents, argued that the Applicant's transfer to Kohima was made on the basis of policy decision of cadre separation and to man the deficit offices of A.G (established in different States). Option of the Applicant was also called for before he was deputed to Kohima and, therefore, the order of transfer cannot be faulted as the same was passed as per law.

6. We have considered the rival contentions of both the parties and perused the materials placed before us. Since the transfer and posting is an administrative matter and the Accountant General concerned has taken the decision, in terms of the stated policy, this Tribunal is not to interfere in such matters. The circular dated 30.03.2006 was issued in the interest of the department for cadre separation and under this circular the different functionaries have to apply for a posting of their choice. The transfers were made only after obtaining the option of the officials concerned and, therefore, this deputation is not really a 'deputation' in actual terms but a transfer. There is no age bar to transfer of an officer on 'deputation' transfer. Therefore, the Applicant is directed to submit a fresh representation before the Respondents and as soon as vacancy becomes available in

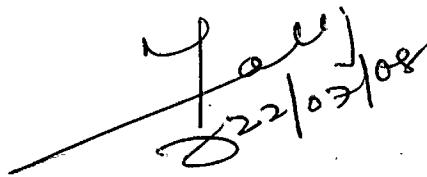


Tripura, he may be considered for posting back to Tripura against the possible vacancy in future. Since this issue cannot be adjudicated by this Tribunal, the Applicant will have to file his representation at approximate time before the Respondents for appropriate relief.

The Original Application is accordingly disposed of.



22.7.08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER



22/07/08
(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/

Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

34

(AN APPLICATION UNDER SEC. 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985).

ORIGINAL APPLICATION NO. 215 OF 2006 A.D.

Shri Bijoy Kumar Chanda.

...

APPLICANT.

- VERSUS -

Union of India and 3
others.

...

RESPONDENTS.

I N D E X

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-:(2):-

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Submitted.

Antarjanibha

(C.S. Sinha)
Advocate.

36

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O. A. NO. 215 OF 2006 A.D.

Shri Bijoy Kumar Chanda.

...

APPLICANT.

- VERSUS -

Union of India and
others.

...

RESPONDENTS.

SYNOPSIS

1. The Applicant, Sr. Accounts Officer of the Office of the A.G., Tripura was said to exercise option for deputation to deficit offices by Circular dated 16.5. 2006 (Annexure - 3).
2. The Applicant represented against such order to the fact that he attained 56 years of age and against his will such deputation cannot be held.
3. The Respondent Authorities did not pay heed to his representation, rather made impugned orders dated 28.7.2006 posting him on deputation basis to the office of the Sr. D.A.G. (A&E) of A.G., Nagaland, Kohima and order dated 31.7.2006 stating him as stand released with effect from 31.7.2006.
4. On 31.7.2006 another order was made preventing him from making prayer for leave etc.
5. O.A. No.196/2006 was disposed of on 9.8.2006 staying operation of Order dated 28.7.2006 pending disposal of representation within a month from the date of receipt of this order. But that representation was disposed of illegally and arbitrarily against the Applicant vide order No. Admn.1 Order No.107 dated 14.8.2006.
6. The actions of the Authorities are illegal and contrary to natural justice.
7. Hence this application seeking justice.

Amrit Sinha
C.S. SINHA
ADVOCATE.

3X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O. A. NO. 215 OF 2006 A.D.

Shri Bijoy Kumar Chanda.

... APPLICANT.

- VERSUS -

Union of India and others.

... RESPONDENTS.

LIST OF DATES

10.06.1974 - Joined as Auditor, redesignated as Accountant.
Presently holding the post of Sr. Accounts Officer.

30.03.2006. $\frac{1}{4}$ Circular on Cadre Separation. ANX-1

16.05.2006 - Circular No. AG/Sep/Gr.-B/2006/25 ANX

17.05.2006 - Circular No. Estt. (A&E)/11

22.05.2006 - Representation against Circular dated 16.5.2006.

28.07.2006. - Order of deputation to the office of the A.G., Nagaland, Kohima.

31.07.2006 - Release order.

14.08.2006. - Order No. Admn.1 Order No. 106.

14.08.2006 - Order No. Admn.1 Order No. 107.

Amritpal Singh

C. S. SINHA
ADVOCATE.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUNAHATI BENCH.

(AN APPLICATION UNDER SEC. 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985).

ORIGINAL APPLICATION NO. 215 OF 2006 A.D.

BETWEEN

Shri Bi joy Kumar Chanda,
S/O.Lt. Sashi Bhuseen Chanda,
Residing at A.G. Quarter
No. Type-II/16, 79 Tilla,
Agartala, P.S. East Agartala,
District - West Tripura.

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APPLICANT.

- VERSUS -

1. Union of India, represented by the Comptroller & Auditor General of India, 10, Bahadursha Jafar Marg, New Delhi - 110002.
2. The Accountant General (A.&E.), Assam, Maidam Gaon, Beltala, Guwahati - 781029.
3. Sr. Deputy Accountant General (Admn. & VLC), Office of the Accountant General (A.& E.), Assam, Maidam Gaon, Beltala, Guwahati - 781029.
4. Deputy Accountant General, Office of the Sr. Deputy Accountant General (A.& E.), Tripura, Agartala.

1

RESPONDENTS.

S
Anand Kumar Chanda
Brijendra
Sinha

-:(2):-

1. PARTICULARS OF THE ORDERS AGAINST WHICH APPLICATION IS MADE :-

The Applicant is aggrieved by the Order No. Admn.1 Order No.107 dated 14.08.2006, Order No. AG/Sep/Gr.-B/2006/65 dated 28.07.2006 and Order No. Estt.(A.&E)/Cadre Separation/2003-06/483 dated 31.07.2006.

2. JURISDICTION OF THE HON'BLE TRIBUNAL :-

The Applicant declares that the subject matter of this application falls within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

The Applicant declares that he made representation on 22.05.2006, which has been disposed of by the Authority vide Admn. 1 Order No.107 dated 14.08.2006. Hence this application is very much within limitation.

4. FACTS OF THE CASE :-

4.1 That the Applicant joined the Indian Audit and Accounts Department as Auditor on 10.06.1974, later on redesignated as Accountant and is currently holding the post of Sr. Accounts Officer posted at the office of the Accountant General (A.&E.), Tripura.

4.2 That on 30.03.2006 the Office of the Accountant General (A.&E.), Assam, Guwahati made Circular bearing

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Enjoy Kumar Chanda
Copy
Subhankar Das

-:(3):-

No. AG/Sep/Gr.-B/2006/141 on Cadre separation of Gr.-B
Section Officers to Sr. Accounts Officers in the A.& E.
Offices of the North-East Region.

A copy of the Circular dated 30.03.2006
is enclosed as Annexure - 1.

4.3 That relying on Clause - V of the Circular dated 30.03.2006, the office of the Accountant General (A.&E), ~~Tripura~~ Assam made Circular No. AG/Sep/Gr.-B/2006/25 dated 16.05.2006 which was circulated by the Agartala Office vide Circular bearing No. Estt. (A.&E)/11 dated 17.05.2006. In the Circular the Petitioner's name appears at Sl. No. 3. By the Circular it is said that the excess persons in each Cadre, who cannot be accommodated in the offices of their preference, shall be posted on deputation basis to the office in which number of optees is less than the required strength of that office, i.e., the deficit office and the Applicant was asked to give his preference for posting to the deficit office on deputation basis.

Copies of Circular dated 17.5.2006 and
relevant portion of Circular dated 16.5.
2006 are enclosed as Annexure - 2 & 3
respectively.

4.4 That the Applicant made representation dated 22.5.2006 against the Circular dated 16.05.2006 stating inter alia

CII
Brijoy Kumar Chanda
6/2/2006

-:(4):-

that he has already attained 56 years of age and as per
Government of India, Department of Personnel &
Training, O.M. No. AB-14017/48/92-Estt(RR) dated 17.11.1992
he is not desirable for appointment by deputation/transfer.
Furthermore, in the representation he has stated that such
deputation cannot be against his will. However, provisionally
he has exercised option to the office of the Sr. D.A.G.(A&E),
Nagaland, Kohima stating inter alia that his such option
should not be considered as final till receipt of reply from
his higher authorities and requested for his accommodation
in the office of the Sr. D.A.G.(A&E), Tripura, which is his
first choice of posting.

A copy of the representation dated 22.5.

2006 is enclosed as Annexure - 4.

4.5 That without paying any heed to his representation
dated 22.05.2006, the office of the Accountant General (A&E),
Assam under the signature of Sr. Deputy Accountant General
(Admn. & VLC), Assam, Guwahati issued order bearing
No. AG/Sep/Gr.-B/2006/05 dated 28.07.2006 posting the
Applicant on deputation in the office of the Accountant
General (A&E), Nagaland, Kohima.

A copy of the order dated 28.07.2006 is
enclosed as Annexure - 5.

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Bijoy Kumar Chanda
Bijoy
Chanda

-:(5):-

4.6 That on 31.07.2006 the Deputy Accountant General, Tripura made order No. Estt.(A&E)/Cadre Separation/2003-06/483 dated 31.07.2006 stating the Applicant as stand released with effect from 31.07.2006 (A/N).

A copy of the order dated 31.07.2006 is enclosed as Annexure - 6.

4.7 That on 31.07.2006 itself the Deputy Accountant General, Tripura made another Office Order bearing No. Estt/A&E/Leave/Gr.-B/2006/532 stating that consequent upon Cadre Separation of Group-B Officers of North-East Region, it is ordered that no fresh leave or extension of leave of any kind in respect of Group-B Officers would be entertained without prior approval of the Deputy Accountant General, which also the Applicant received on 31.07.2006.

A copy of the Office Order dated 31.07.2006 is enclosed as Annexure - 7.

4.8 That the Applicant made O.A. No.196/2006 before the Hon'ble Central Administrative Tribunal, Guwahati Bench challenging the validity of actions of the authorities and that application was disposed of on 09.08.2006 with a direction that the 2nd Respondent and/or any other competent Authority shall consider dispose of the representation of the Applicant and pass appropriate order within a time frame

of 1(one) month from the date of receipt of the order and in the interest of justice, the Hon'ble Tribunal made direction that the impugned order dated 28.07.2006 be kept in abeyance and status quo ante as on 28.07.2006 shall be maintained in respect of the Applicant till disposal of the representation.

A copy of the order dated 09.08.2006 ~~is~~ Appx-5a

enclosed as Annexure - 8&8a

4.9 That the Applicant with the order of the Hon'ble Central Administrative Tribunal went to resume duty in the office of the Accountant General (A&E), Tripura on 11.08.2006 at 09-30 A.M. But he was not allowed to resume duty without assigning any reason and accordingly as 12th and 13th August, 2006 were holidays, on 14.08.2006 the Applicant again went to resume duty when he was again prevented from resuming duty. On that very date of 14.08.2006 he made a Demand Notice through his Ld. Counsel stating inter alia that if he is not allowed to resume duty, he would file a Contempt Petition against the Deputy Accountant General (A&E), Office of the Accountant General (A&E), Tripura in person. In the Notice the Applicant categorically stated that with the order of Hon'ble C.A.T. he went to resume duty on 11.8.2006, but he was not allowed to resume duty when copy of the order dated 09.08.2006 was received by the Assistant Accounts

Officer, Establishment Section.

Brinoy Kumar Chakraborty
B
Hand written

A copy of the Demand Notice dated 14.8.2006
is enclosed as Annexure - 9.

4.10 That on 14.08.2006 itself at about 06-30 P.M. an order, namely, No. Admn.1 Order No.106 dated 14.08.2006 was delivered to the wife of the Applicant at his quarter at Kunjaban. The order was issued by the Sr. Deputy Accountant General (Admn.& VLC), office of the Accountant General (A&E), Assam and was sent to the Accountant General, Tripura by FAX No.2303142 dated 14.08.2006 at it was FAXED at 1724 hrs. By this order it is stated that status quo ante 28.7.2006 in respect of the Applicant is maintained as per order of the Hon'ble C.A.T. dated 09.08.2006.

A copy of the order No. Admn.1 Order No.106 dated 14.08.2006 is enclosed as Annexure-10.

4.11 That on receipt of the order dated 14.08.2006, on 16.08.2006 at 09-30 A.M. the Applicant went to resume duty in the office of the Accountant General (A&E), Tripura, but he was prevented to resume duty and he was given a copy of the order No. Admn.1 Order No.107 dated 14.08.2006, which was also issued by the Sr. Deputy Accountant General (Admn. & VLC), office of the Accountant General (A&E), Assam and It was sent to the Accountant General, Tripura by FAX No. 2303142 dated 14.08.2006 and by this order his

representation was disposed of against him.

Dnyoy Kumar Chakraborty
Advocate

A copy of the order No. Admn.1 Order No.107
is enclosed as Annexure - 11.

4.12 That with the disposal of the representation dated 22.05.2006 by the Authorities against him illegally and arbitrarily, the Applicant had no other option than to approach this Hon'ble Tribunal for ends of Justice. Hence this application is filed following new cause of action as arisen.

5. GROUND FOR RELIEF :-

5.1 For that the order No. Admn.1 Order No.107 dated 14.08.2006 is a fallout of misconception and misconstruction of facts and Law and accordingly, the impugned order dated 14.08.2006 cannot stand in the eye of Law.

5.2 For that the maximum age of deputation is 56 years of age as per Appendix - 5 of the Fundamental Rules and it is wellknown to the Respondent Authorities and it is evident from the letter No. PAD/1-270/BSF/2005-6/6437-39 dated 15.12.2005 addressed to the Accountant General, West Bengal, Kolkata and Accountant General (A&E), Tripura, Agartala on the subject of selection of staff for deputation, etc., wherein at Clause - 10c) it was categorically stated that the maximum

age shall not be exceeding 56 years.

Om Prakash Kumar
O.P.T. O.M.
Lokayukta
Court of
Appeal
Karnataka
High Court
Mysore

A copy of the letter dated 15.12.2005 is
enclosed as Annexure - 12.

5.3 For that from the statement "the Scheme of deputation under the instant Cadre Separation is not analogous to the deputation referred to in the D.O.P.T. O.M." made in the order No. Admn.1 Order No.107 dated 14.08.2006 is intelligible and misconstrued and in absence of the reason as to why deputation in the Scheme not analogous to the deputation referred to in the D.O.P.T. O.M., the impugned order dated 14.08.2006 is a non-speaking order.

5.4 For that the Circular No. AG/Sep/Gr.-B/2006/141 dated 30.03.2006 itself speaks of deputation and Deputation Allowance and there is no scope to say on the part of the Respondents that deputation in the Scheme is not analogous with the deputation referred to in the D.O.P.T. O.M.

5.5 For that the Scheme, namely, Circular on Cadre Separation dated 30.3.2006 has got no whispering about the maximum age of deputation as well as the tenure of deputation and it is because of this the Respondent Authorities have got scope to exercise their whims arbitrarily and unreasonably and to this extent the Circular No. AG/Sep/Gr.-B/2006/141 dated 30.03.2006 is liable to be declared unreasonable and unjustified and inapplicable so far as the case of the Applicant is concerned.

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Komal
Bijoy
P.M.

5.6 For that the impugned order No. Admn.1 Order No. 107 dated 14.08.2006 is the result of unfairness and unreasonable exercise of power by the Respondent Authorities, which is very much evident from the facts & that on receipt of the order of the Hon'ble Tribunal dated 09.08.2006 the Applicant went to the office of the Accountant General (A&E), Tripura on 11.08.2006 at 09-30 A.M. to resume duty, but he was denied to resume duty. On 14.08.2006 he was compelled to make Demand Notice through his Ld. Counsel for allowing him to resume duty, otherwise a Contempt Petition was said to be filed against the Authorities and as a result of this on the very date of 14.08.2006 at 06-30 P.M. an order issued by the Sr. D.A.G. (Admn.& VLC) of the Office of the Accountant General, Assam, was delivered to his wife at his quarter at Kunjaban by the Office of the Accountant General (A&E), Tripura. Thereafter again another order was issued only within a gap of 1/2 hours by the same Authority on the same date, which is impugned in this application. But that was given to him only on 16.8.2006 when the Applicant went to resume duty. Again on the basis of the order No. Admn.1 Order No.106 dated 14.08.2006 the Applicant was denied to resume duty. The action of the Respondent Authorities itself is arbitrary and result of ulterior motive somehow not to allow the Applicant to resume duty even though the Hon'ble Tribunal made order of status quo ante 28.07.2006.

Kumar
Rajesh
Ranjan

5.7 For that from the communication No.3230/OE & Bills/Estt/11-2005 dated 07.06.2005 of the Office of the Comptroller & Auditor General of India to all Heads of Office in Indian Audit & Accounts Department, (shortly I.A.& A.D.), it is ex facie that there is a provision of deputation in the same Department when same nature of duties and as such, the impugned order dated 14.08.2006 suffers from non-application of mind on the part of the Respondents.

A copy of the communication dated 07-06-2005
is enclosed as Annexure - 13(13).

5.8 For that the present age of the Applicant crossed 56 years and as such he deserves not to be sent on deputation outside the present place of posting, namely, office of the Accountant General (A&E), Tripura.

5.9 For that before issuance of order dated 28.07.2006 no consent of the Applicant was taken and as such the order dated 28.07.2006 is an order against his will.

5.10 For that as the actions of the Respondents Authorities in respect of issuance of orders dated 28.07.2006, 31.07.2006 being the release order and the impugned order dated 14.08.2006 are not right orders made through right procedures, all the said orders deserve to be set aside/quashed in limine in respect of the Applicant.

5.11 For that the Applicant made provisional option for the office of the Sr. D.A.G. (A&E), Nagaland, Kohima stating that such option should not be considered as final till receipt of reply from his higher authorities and as such it cannot be said as final option for the office of the Accountant General, Nagaland, Kohima. This provisional option had to be given by the Applicant being forced by the Authorities vide their Circular No. AG/Sep/Gr.-B/2006/25 dated 16.05.2006.

6. DETAILS OF REMEDIES
EXHAUSTED :-

The Applicant states that against the orders dated 28.07.2006 and 31.07.2006 he approached this Hon'ble Central Administrative Tribunal with O.A. No.196/2006, which was disposed of on 09.08.2006 with reliefs to the Applicant including disposal of his representation dated 22.5.2006. But that representation has been disposed of by the Respondent Authorities illegally and arbitrarily and accordingly, the Applicant has no other alternative and efficacious remedy than to file this Application, inasmuch as the matter calls for quick justice from this Hon'ble Tribunal.

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

The Applicant declares that as per direction of the Hon'ble Tribunal given in order dated 09.08.2006 in O.A. No.196/2006, the Respondent Authorities illegally and arbitrarily made order No. Admn.1 Order No.107 dated 14.8.2006

Bijoy Kumar
Biju

and against this order dated 14.08.2006 the Applicant has to approach this Hon'ble tribunal for ends of justice because of fresh cause of action arisen after the impugned order dated 14.08.2006 and in this respect the Applicant has not any other Application / Writ Petition / Suit in any other Court/Authority/Tribunal, etc.

8. RELIEFS SOUGHT FOR :-

Under the facts and circumstances stated above, the Applicant most respectfully prays that the Hon'ble Tribunal may be pleased enough to admit this Application, call for the records of the case and upon hearing the parties be pleased enough to grant the following reliefs to the Applicant :-

- (a) To set aside the order No. Admn.1 Order No.107 dated 14.08.2006.
- (b) To set aside the order No. AG/Sep/Gr.-B/2006/65 dated 28.07.2006 so far as the Applicant is concerned.
- (c) To set aside the order in No. Estt(A&E)/Cadre Separation/2003-06/483 dated 31.07.2006 so far as the Applicant is concerned.
- (d) To declare the circular No. AG/Sep/Gr.-B/2006/141 dated 30.03.2006 as unreasonable and unjustified so far as non-whispering of maximum age of deputation as per Appendix - 5 of the Fundamental Rules, tenure of

Kumar
Brij
Brij
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deputation and provision for taking prior consent of the Applicant for the purpose of posting on deputation outside Tripura.

(e) To direct the Respondents to allow the Applicant to continue to the office of the Accountant General (A&E), Tripura.

(f) To grant any other relief/reliefs which the Hon'ble Tribunal may deem fit and proper.

9. INTERIM ORDER PRAYED FOR :-

To stay operation of the Order No. Admn.1 Order No.107 dated 14.08.2006, Order No. AG/Sep/Gr.-B/2006/65 dated 28.07.2006 and release order No. Estt(A&E)/Cadre Separation/2003-06/483 dated 31.07.2006 pending disposal of this Original Application so far as the Applicant's case is concerned.

10. This Application is filed through the Lt. Advocate Mr. Chandrasekhar Sinha.

SAE 704216 to 704220
11. Particulars of Postal Order No.
dated 18.8.06. (5 nos) of Rs 50/-

12. LIST OF ENCLOSURES :-

As stated in the Index.

-: (15) :-

VERIFICATION

I, Shri Bijoy Kumar Chanda, S/O.Lt. Sashi Bhushan
Chanda, residing at A.G. Quarter No. Type-II/16,
79 Tilla, Kunjaben, Agartala, P.S. East Agartala,
District - West Tripura, Applicant, do hereby
declare and state that the statements contained
in Paragraphs 01 to 11 are true to
my knowledge and I have not suppressed any
material fact.

And I sign this verification this 20th
day of August, 2006.

Bijoy Kumar Chanda.

ANNEXURE - I

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

Circular on Cadre Separation

Circular No. AG/Sep/Gr. 'B'/2006/141.

Dated :-30/03/2006.

- I. Headquarters office has decided to separate the common Group 'B' cadre from Section Officers to Sr. Accounts Officers in the A&E offices of the N. E. region hitherto controlled by the Accountant General (A&E), Assam, Guwahati.
- II. The offices to which the staff may exercise their one time option are the A&E offices at Assam, Meghalaya, Manipur, Tripura, Nagaland and the newly created offices of Mizoram and Arunachal Pradesh.
- III. The separation of Group 'B' Cadres would be in accordance with the following criteria :-
- IV. The existing staff may be allocated on permanent posting against the required strength on the basis of the seniority of the officers who have exercised their option for allocation to such offices, irrespective of their base office.
- V. If the number of optee for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAG/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 for which number of optees is less than the required strength of that 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.

VI. 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 by deputation of surplus optees as per guidelines laid down at V 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.

VII. 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.

VIII. Direct recruitment will be done in the deficit offices only against the requisition already placed to be placed to Staff Selection Commission.

IX. With a view to implement the above scheme of separation of cadres of Group 'B' posts, all the present Group 'B' officers (Section Officers to Senior Accounts Officers including these on deputation and on foreign service) of this office are hereby directed to exercise their options in the enclosed "FORM OF OPTION" and submit the same to the Senior Accounts Officer/Admn. of this office by 15th April 2006 positively. He should also prepare a list of officers on leave and ensure sending of this circular with 'Option Form' to them by Registered post.

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

[Handwritten signatures and initials are visible on the left side of the page, including 'M', 'S. D. A. G.', and 'S. D. A. G. (Admn.)'.

OFFICE OF THE SR. DEPUTY ACCOUNTANT GENERAL (A&E)
TRIPURA :: AGARTALACIRCULAR

Circular No. Estt.(A&E)/11.

Dated:- 17-05-2006

Subject :- Separation of Common Group B cadre amongst the Accounts & Entitlement Office of the North East.

With reference to the D.O letter No. AG/Sep/ Gr-B/2006/35 dated 17-05-2006 on the subject cited above, all concerned Officers are hereby requested to submit the FORM OF OPTION in the prescribed Proforma regarding deputation to other deficit offices by 19-05-2006 positively to the Senior Accounts Officer (Admn.) for onward transmission of the same to the cadre controlling authority.

(Authority:- DAG's order dt. 17-05-2006 at P/22^N of file no Estt.(A&E)/Cadre separation/2003-06)

Sd/-
Sr. Accounts Officer/Admn.

Memo No. Estt(A&E)/Cadre Separation/2003-06/202-06. Dated:- 17-05-2006

Copy to :-

1. The Secretary to A.G.
2. The P.A. to DAG(A&E)
3. AAO/TMC
4. All Officers by name
5. Notice Board.


Sr. Accounts Officer(Admn)

**OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM,
MAIDAMGAON, BELTOLA, GUWAHATI-781 029.**

Circular No. AG/Sep/Gr.'B'/2006/25

May 16, 2006

As per clause V of policy for Separation of Common Cadre of Group 'B' officers in the A&E offices in N.E. Region as circulated vide Circular No. AG/Sep/Gr.'B'/2006/141 dated 30/03/2006 if the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre(Sr. A.O./A.O./A.A.O/S.O.), 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 for which number of optees is less than the required strength of that office i.e. deficit offices as mentioned in the option form. As such, the following surplus Gr. 'B' officers are hereby asked to give their preference for posting to the deficit offices on deputation basis. Posting, however, will be made on the basis of seniority and preference. Preference for deputation (if any) may kindly be given on or before 24th May, 2006 in the enclosed 'Form of Option'.

Sl. No.	Name	Designation	Office to which attached
1.	TRIDIB RANJAN DEY	SR. ACCOUNTS OFFICER	O/o the A.G(A&E) Assam, Guwahati.
2.	JOSHODHIR CH. GHOSH	SR. ACCOUNTS OFFICER	O/o the A.G(A&E) Assam, Guwahati.
3.	BIJOY KR. CHANDA	SR. ACCOUNTS OFFICER	O/o the Sr. D.A.G(A&E) Tripura, Agartala.
4.	JAGAT JYOTI TOY(II)	SR. ACCOUNTS OFFICER	O/o the Sr. D.A.G(A&E) Tripura, Agartala.
5.	RATHINDRA KUMAR DAS	SR. ACCOUNTS OFFICER	O/o the A.G(A&E) Meghalaya, Shillong.
6.	MEGNAD SAHA	SR. ACCOUNTS OFFICER	Deputation.
7.	RATHINDRA CH. DHAR	SR. ACCOUNTS OFFICER	O/o the Sr. D.A.G(A&E) Tripura, Agartala.
8.	LOKAPRIYA DAS	SR. ACCOUNTS OFFICER	O/o the A.G(A&E) Assam, Guwahati.
9.	DILIP KUMAR DAS (III)	SR. ACCOUNTS OFFICER	O/o the A.G(A&E) Assam, Guwahati.

[Handwritten signatures and initials are present here]

ANNEXURE - A

To
The Accountant General (A&E) Assam
Maidamgaon, Beltola
Guwahati 781029
(Through proper channel)

Subject: Option for posting on deputation basis in deficit office(s) in N.E. Region.

Sir,

With reference to your circular No. AG/Sep/Gr-'B'/2006/25 dated 16.05.2006, on the above subject, I am to state that I made an appeal in regard to the separation of Gr-'B' cadres on 25.10.2004 and 14.02.2006 to the cadre controlling authority. A copy of the appeal dated 25.10.2004 was also endorsed to HQs Office but reply in this regard is still awaited.

Now keeping aside the existing transfer policy without considering the problems of a good number of existing staff, the option for posting in deficit office(s) on deputation basis from a prospective date as called for in your circular under reference, I am to state that I have already attained 56 years of age which as per G.I. Dept. of per.& Trg., O.M. No. AB 14017/48/92-Estt.(RR), dated 17.11.92 is not desirable for appointment by deputation/transfer. Moreover, one may not be placed on deputation unilaterally beyond his willingness.

However to adhere the order of my superior authority, I exercise my option provisionally to the Office of the ... Sr.D.A.G (A&E) Nagaland, Kohima and accordingly my option/placement there may not be considered as final till receipt of reply from my higher authorities.

In view of the above and as per G.I. O.M. dated 17.11.92, I would request your kind honour to consider to accommodate me in the Office of the Sr.D.A.G.(A&E) Tripura, Agartala which is my first choice of posting.

Yours faithfully,

22/5/06

(BIJOY KUMAR CHANDA)
Sr. Accounts Officer

Received
22/5/06
Copy to the Principal Director(Staff), Office of the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi-110002. This has a reference to my application dated 25.10.2004. Considering the above position my humble submission to the highest authority of our department to place me in the Office of the Sr.D.A.G.(A&E) Tripura, Agartala which is my first choice of posting.

22/5/06

(BIJOY KUMAR CHANDA)

Swamy's Compilation of
FR SR - Part-I General Rules
incorporating orders received
up to June 2004.

Amrit
Amrit

**OFFICE OF THE ACCOUNTANT GENERAL(A&E)-ASSAM, MAIDAMGAON,
BELTOLA, GUWAHATI-781 029**

No. AG/Sep/Gr.B/2006/65

28 July, 2006

Consequent on their Promotion to the cadre of SO/AAO/AO/Sr.AOs, the officers were liable to be transferred and posted to any of the offices of the Accountant General(A&E) Assam, Nagaland, Tripura, Manipur, Meghalaya etc. or any other offices likely to be opened in future in the N.E. Region.

As per Policy on Cadre Separation issued under Circular No. AG/Sep/Gr.B/2006/ 141 dated 30/3/2006 the following Group 'B' officers are hereby transferred and posted on deputation basis in the office(s) as shown below:

SI No	Name	Designa- tion	Present place of posting O/o the A.G (A&E)/Sr. DAG (A&E)	Place of posting on deputation O/o the A.G (A&E)/Sr. DAG (A&E)
1.	BIJOY KUMAR CHANDA	Sr. A.O	Tripura	Nagaland
2.	JAGAT JYOTI ROY(H)	Sr. A.O	Tripura	Meghalaya
3.	RATHINDRA KUMAR DAS	Sr. A.O	Meghalaya	Meghalaya
4.	MEGNAD SAHA	Sr. A.O	Assam	Meghalaya
5.	RATHINDRA CH. DHAR	Sr. A.O	Tripura	Meghalaya
6.	SUBHAS CHANDRA DEY	Sr. A.O	Assam	Arunachal Pradesh
7.	SANKAR PAUL	Sr. A.O	Meghalaya	Mizoram
8.	SWAPAN KUMAR NATH	A.O	Meghalaya	Meghalaya
9.	JANARDHAN GOSWAMI	A.O	Nagaland	Nagaland
10.	L. BOYAIMA SINGH	A.O	Meghalaya	Arunachal Pradesh
11.	PH. JUGINDRA SINGH	A.O	Meghalaya	Nagaland
12.	PAUL TIGGA	A.A.O	Assam	Arunachal Pradesh
13.	MRINMOY DAS	A.A.O	Assam	Arunachal Pradesh
14.	PARTHA PRATIM CHOWDHURY	A.A.O	Moghalaya	Arunachal Pradesh

[Handwritten signatures and initials over the table]

15. SAIKAT DAS	A.O	Nagaland	Arunachal Pradesh
16. RAMAPADA ADHIKARI	A.O	Tripura	Nagaland
17. AJIT KUMAR DEB	A.O	Meghalaya	Mizoram
18. RAMAMOY BHATTAGHARJEE	A.O	Meghalaya	Nagaland
19. AMRIT LAL DAS	A.O	Tripura	Nagaland
20. SUBRATA DAS CHOWDHURY	A.O	Tripura	Nagaland
21. SURENDRA PRASAD ROY	A.O	Meghalaya	Nagaland
22. DHIRENWAR BORO	S.O	Meghalaya	Arunachal Pradesh
23. PRADIP KUMAR DAS (II)	S.O	Meghalaya	Mizoram
24. KHOKAN CHANDRA ROY	S.O	Manipur	Meghalaya
25. MANDIRA PURKAYASTHA	S.O	Meghalaya	Manipur
26. NEPAL CH. BISWAS	S.O	Tripura	Nagaland

On their transfer they stand released w.e.f. 31-07-06 (A.N) to enable them to join in their new place of posting on deputation basis.

[Authority A.G's Order dated 28-07-06 ar/p 21 N in file No. No. AG/ Sep/Gr 'B'/2006]

sd/-

Sr. Deputy Accountant General (Admn. & VLC)

Memo No. AG/ Sep/Gr 'B'/2006/1445

28 July, 2006

Copy forwarded to:

The Comptroller & Auditor General of India,

10, Bahadur Shah Zafar Marg,

Indraprastha Head Post Office,

New Delhi- 110 002.

sd/-

Sr. Deputy Accountant General (Admn. & VLC)

[Handwritten signature]

ANNEXURE-6

OFFICE OF THE SR.DEPUTY ACCOUNTANT GENERAL (A&E)
TRIPURA:: AGARTALA.

No. Estt(A&E)/Cadre Separation/2003-06/ 483

Dated 31-07-2006

In pursuance of order No. A.G./Sep/Gr.-'B' /2006/65 dt. 28-07-2006 (Copy enclosed) the following Gr.-'B' officers stand released w.e.f. 31-07-2006(A/N) to enable them to join in their new place of posting on deputation basis.

SI No	Name	Designa ⁿ tion	Present place of posting [O/o the A.G (A&E)/Sr. DAG (A&E)]	Place of posting on deputation [O/o the A.G (A&E)/Sr. DAG (A&E)]	Remarks
1.	SHRI BIJOY KUMAR CHANDA	Sr. A.O	Tripura	Nagaland	Deputation Basis
2.	SHRI JAGAT JYOTI ROY(II)	Sr. A.O	Tripura	Meghalaya	Deputation Basis
3.	SHRI RATHINDRA CH. DHAR	Sr. A.O	Tripura	Meghalaya	Deputation Basis
4.	SHRI RAMAPADA ADHIKARI	A.A.O	Tripura	Nagaland	Deputation Basis
5.	SHRI AMRIT LAL DAS	A.A.O	Tripura	Nagaland	Deputation Basis
6.	SHRI SUBRATA DAS CHOUDHURY	A.A.O	Tripura	Nagaland	Deputation Basis
7.	SHRI NEPAL CH. BISWAS S.O		Tripura	Nagaland	Deputation Basis

Sd/-
Deputy Accountant General

Memo No. Estt(A&E)/Cadre Separation/2003-06/ 484-96

Dated. 31-07-2006

Copy to:-

1. All concerned Officers.
2. Secretary to the A.G.
3. P.A.to D.A.G.
4. P.A.O.(Local)
5. A.G. (A&E) Assam, Beltola, Guwahati.
6. A.G. (A&E), Meghalaya, Shillong.
7. Sr. D.A.G (A&E), Nagaland, Kohima.

Amj
Sr. Accounts Officer/Admn.

ANNEXURE - 7

(24)

6

OFFICE OF THE SR. DEPUTY ACCOUNTANT GENERAL(A&E)
TRIPURA :: AGARTALA.

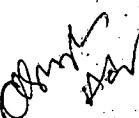
No. Estt/A&E/Leave/Gr-B/2006/ 532

Dated 31-07-2006

OFFICE ORDER

Consequent upon Cadre Separation of Group 'B' Officers of North East Region, it is hereby ordered that no fresh leave or extension of leave of any kind in respect of Group B officers will be entertained without prior approval of the Dy. Accountant General


31/7
Dy. Accountant General.

S.L. 708

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No. 196 of 2006.

Date of Order : This the 9th day of August 2006.

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

The Hon'ble Sri Gautam Ray, Administrative Member.

**Shri Bijoy Kumar Chanda
S/o Late Sashi Bhushan Chanda
Residing at A.G. Quarter
No. Type-II/16, 79 Tilla
Agartala, P.S. East Agartala
District - West Tripura.**

... Applicant

By Advocate Mr C.S. Sinha.

- Versus -

1. Union of India

**Represented by the Comptroller & Auditor General of
India, 10 Bahadursha Jafar Marg,
New Delhi - 110 002.**

2. The Accountant General (A & E)

**Assam, Maidam Gaon, Beltola
Guwahati - 781 029.**

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

4.

**Sr. Deputy Accountant General (Admn. & VLC),
Office of the Accountant General (A & E), Assam,
Maidam Gaon, Beltola, Guwahati - 781 029.**

5.

**Deputy Accountant General,
Office of the Sr. Deputy Accountant
General (A & E), Tripura, Agartala.**

... Respondents

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

.....



Received

*Shri B. Ray
11/8/06*

M. H. H. H. H.

L

ORDER (ORAL)K.V. SACHIDANANDAN, (V.C.)

The Applicant is presently working as Sr. Accounts Officer in the office of the Accountant General, Tripura and as per the policy for separation of common cadre of Group 'B' officers in the A&E offices in N.E. Region as circulated vide Circular dated 30.03.2006 option has been called for from the employees. The Applicant has submitted his option as Tripura itself. While so, vide order dated 16.05.2005 the Group 'B' officers were asked to give their preference for posting to the deficit offices on deputation basis. The Applicant has given Tripura as his choice. Subsequently, vide annexure - 5 dated 28.07.2006 the Applicant has been promoted to the cadre of SO/AAO/AO/Sr.AOs and transferred and posted to Nagaland. This was reiterated vide annexure - 6 for releasing the officers with effect from 31.07.2006 (A/N). The Applicant submitted that he is on leave on personal grounds. Aggrieved by the said inaction, the Applicant has filed representation on 22.05.2006 to the 2nd Respondent to consider and retain him at Agartala.

2. Heard Mr C.S. Sinha, learned Counsel for the Applicant and Mr G. Baishyn, learned Sr. C.G.S.C. for the Respondents.

3. Mr C.S. Sinha, learned Counsel for the Applicant has taken to our attention to annexure - 8 Circular, which is quoted herein below:

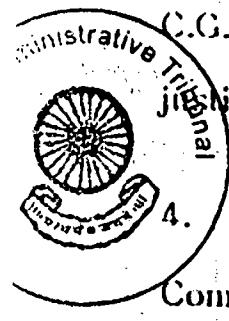
"Deputation should be restricted to officers below 56 years of age - The Recruitment Rules in respect of a number of posts provide for appointment to the post on deputation (including short-term contract)/transfer. The existing instructions relating to cases where this method of

recruitment is provided do not provide for any upper-age limit for eligibility for appointment by deputation (including short-term contract)/transfer. This sometimes results in appointment of persons who are left with very short service before retirement. It is desirable that appointments of such persons are avoided as during this short span they would be unable to contribute effectively to the organisations where they are appointed.

2. The matter has, therefore, been examined in consultation with the UPSC and it has been decided that the maximum age-limit for appointment by deputation (including short-term contract) and absorption shall be not exceeding 56 years as on the closing date of receipt of applications by the UPSC or the Ministry/Department/Office, as the case may be. This fact should, therefore, be clearly mentioned in the circular inviting applications for filing up vacancies by this method of recruitment."

Learned Counsel for the Applicant submitted that the Applicant has crossed 56 years and action of the Respondent in transferring him to Nagaland is not justified. Learned Counsel for the Applicant further submitted he will be satisfied if a direction is given to the 2nd Respondent to consider the representation of the Applicant and dispose of the same within a time frame. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents submitted that it will suffice the ends of justice and he has no objection.

Therefore, the 2nd Respondent and/or any other Competent Authority shall consider and dispose of the representation of the Applicant and pass appropriate order within a time frame of one month from the date of receipt of this order. In the interest of justice, this Court directs that the impugned order dated 28.07.2006 annexure - 5 will be kept in abeyance and status quo ante as on



28.07.2006 shall be maintained so far as the Applicant is concerned till the disposal of the representation.

The O.A. is disposed of at the admission stage itself. No order as to costs.



SD)- Vice-Chairman
SD)- Member (A)

Date of Application : 9.8.06
Date on which copy is ready : 9.8.06
Date on which copy is delivered : 9.8.06
Certified to be true copy

N. Sonam
Section Officer (Judi)
C. A. T. C. - Shanti Bench
Guwahati

HS
9/8/06

11. What is the specific public interest involved in the proposed extension?
12. Whether the concurrence of lending organization/ individual concerned has been obtained for the proposed extension?
13. Efforts made to select a suitable replacement for the officer?
14. According to Recruitment Rules can the post be filled up by promotion? If so, are there any eligible officers available from the feeder cadre (if there is one) and if so, why are they not being considered for promotion instead of seeking further extension for existing incumbent? ...
15. Any other relevant information considered necessary

Signature and Designation
of Administrative Authority

Deputation should be restricted to officers below 56 years of age.—The Recruitment Rules in respect of a number of posts provide for appointment to the post on deputation (including short-term contract)/transfer. The existing instructions relating to cases where this method of recruitment is provided do not provide for any upper age-limit for eligibility for appointment by deputation (including short-term contract)/transfer. This sometimes results in appointment of persons who are left with very short service before retirement. It is desirable that appointments of such persons are avoided as during this short span they would be unable to contribute effectively to the organizations where they are appointed.

2. The matter has, therefore, been examined in consultation with the UPSC and it has been decided that the maximum age-limit for appointment by deputation (including short-term contract) and absorption shall be not exceeding 56 years as on the closing date of receipt of applications by the UPSC or the Ministry/Department/Office, as the case may be. This fact should, therefore, be clearly mentioned in the circular inviting applications for filling up vacancies by this method of recruitment.

[G.I., Dept. of Per. & Trg., O.M. No. AB 14017/48/92-Estt. (RR), dated the 17th November, 1992.]

SECTION II

Revision of Central Secretariat (Deputation on Tenure) Allowance (CDTA) to officers of organized Group 'A' Services on their appointment as Under Secretary, Deputy Secretary and Director in the Central Secretariat under the Central Staffing Scheme.—The Central Secretariat

S. S. S. S.

11. What is the specific public interest involved in the proposed extension?
12. Whether the concurrence of lending organization/ individual concerned has been obtained for the proposed extension?
13. Efforts made to select a suitable replacement for the officer?
14. According to Recruitment Rules can the post be filled up by promotion? If so, are there any eligible officers available from the feeder cadre (if there is one) and if so, why are they not being considered for promotion instead of seeking further extension for existing incumbent? ...
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Signature and Designation
of Administrative Authority

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S. S. S. S.

From:

Mr. C.S.Sinha
Advocate
Guwahati High Court,
Agartala Bench, Tripura(West)

6x (30)

To,

Shri Rajiv Kumar
Dy. Accountant General(A&E)
Agartala, Tripura(West)

My Client:

Bijoy Kumar Chanda
S/O Late Shashi Bhushan Chanda
A.G. Quarter No. T/II/16, 79 Tilla
P.O. Kunjaban,
Agartala, Tripura(West)

Subject: Notice Demanding Justice

Sir,

On instruction of my client above named, I am to address as follows:

1. That challenging validity and legality of order No. AG/Sep/Gr 'B'/2006/65 dated 28.07.06, my client approached Ld. CAT, Guwahati, for justice with OA No. 196/2006.
2. That on 9th Aug, 2006 Ld. Tribunal disposed of his petition with directions for disposal of his Representation dated 22.05.06 within a period of one month and stayed order dated 28.07.06 and made further direction for maintaining status quo ante as on 28.07.06.

Copy of the order dated 09.08.06 is enclosed.

3. That with the order of the Ld. CAT my client went to your office to resume duty but he was not allowed. Only the copy of the order dated 09.08.06 of the Tribunal has been received by the Asstt. Accounts Officer of Establishment Section.
4. That your such action of not allowing my client to resume duty on 11.08.06 inspite of CAT's direction amounts to contempt of court. This being the situation, I request you to allow my client to resume duty in your office, otherwise a contempt petition will be filed against you before the appropriate court of law.

Thanking you,

Yours faithfully,
Chanchal Chandra
(C.S.Sinha)

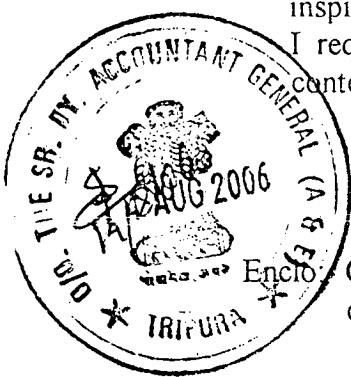
Advocate

Guwahati High Court,

Agartala Bench, Tripura(West)

14/8/06

Enclo: Copy of the order dated 09.08.06
of the Tribunal.



Open
Open

From:

Mr. C.S.Sinha
Advocate
Guwahati High Court,
Agartala Bench, Tripura(West)

6x (30)

To,

Shri Rajiv Kumar
Dy. Accountant General(A&E)
Agartala, Tripura(West)

My Client:

Bijoy Kumar Chanda
S/O Late Shashi Bhushan Chanda
A.G. Quarter No. T/II/16, 79 Tilla
P.O. Kunjaban,
Agartala, Tripura(West)

Subject: Notice Demanding Justice

Sir,

On instruction of my client above named, I am to address as follows:

1. That challenging validity and legality of order No. AG/Sep/Gr 'B'/2006/65 dated 28.07.06, my client approached Ld. CAT, Guwahati, for justice with OA No. 196/2006.
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Thanking you,

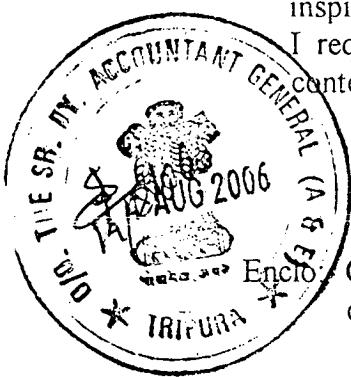
Yours faithfully,
Chanchal Chandra
(C.S.Sinha)

Advocate

Guwahati High Court,
Agartala Bench, Tripura(West)

14/8/06

Enclo: Copy of the order dated 09.08.06
of the Tribunal.



Open
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31
38

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAIDAMGAON, BELTOLA, GUWAHATI-781 029.

Admn.1 Order No. 106

14 August, 2006

With reference to Hon'ble CAT's Order dated 09-08-06; in connection with O.A. No. 196 of 2006 status quo ante 28.07.06 is hereby maintained in respect of Shri Bijoy Kumar Chanda, Sr. Accounts Officer until his representation is disposed of by A.G (A&E), Assam.

[Authority : AG (A&E) Assam's Order dated 14-08-06 in the file No. O.A 196 of 2006/Gr. 'B' - Cadre Separation/2006-07

6d/-
Sr. Deputy Accountant General (Admn. & VLC)

Memo No. O.A 196 of 2006/Gr. 'B' - Cadre Separation/2006-07/ 1752-55 14 Aug, 2006

Copy for information and necessary action to :

- 1. The Sr. DAG (A&E), Tripura, Agartala
- 2. Shri Bijoy Chanda, Sr. Accounts Officer
- 3. Secretary to the AG
- 4. Steno Gr. II attached to Sr. DAG (Admn. & VLC)

Accounts Officer (A)

JRD
ADMN

ARMED
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69

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAJUAMGAON, BELTOLA, GUWAHATI 781 029

Admn.1 Order No. 107

14 August, 2006

In pursuance of Hon'ble CAT's Order dated 09-08-06, in connection with O.A. No. 196 of 2006 the representation in respect of Shri Bijoy Kumar Chanda, Sr. Accounts Officer has duly been considered. After careful consideration it is seen that the separation of Gr. 'B' Cadre has been implemented on the basis of seniority-cum-preference. As per seniority he could not be allocated to his choice of posting i.e. the office of Sr. DAG (A&E), Tripura, Agartala. As per policy of cadre separation circulated vide Circular dated 30-03-06, option for posting on deputation basis to deficit offices were sought from the surplus optees, who could not be allocated to the offices of their choice. In response, Shri Chanda opted for Sr. DAG (A&E), Nagaland, Kohima, to which office he has been posted under the scheme.

In accordance with the scheme of cadre separation, Shri Chanda will be brought back to his office of choice as soon as vacancy arises in that office.

Further, the D.O.P.T O.M No. AB 14017/48/92-Estt. (RR) dated 17-11-92 referred to by Shri Chanda is in the context of sending an officer on deputation to a organization other than his where it is presumed that he would be unable to contribute effectively to such organization in the short span of time. In the instant case, 'deputation' of Shri Chanda to the Office of the Sr. DAG (A&E), Nagaland, Kohima as a part of a cadre separation scheme is within the same department (namely IA&AD) where the official will continue to be deployed on similar functions as in his earlier office. The objective of 'deputation' is to man the office which has deficit manpower in the relevant cadre. The cadre separation scheme is acceptable to the deficit office and there is no reason to presume that the official will be unable to contribute effectively to that office.

As regards Shri Chanda's contention about his age being 56 years and therefore beyond the age for being sent on deputation, the same cannot be considered to be relevant to the instant cadre separation scheme for the reason that the scheme of 'deputation' under the instant cadre separation is not analogous to the deputation referred to in the D.O.P.T OM.

P. T. O.

14/8/06

The representation of Shri Chanda has been considered carefully and sympathetically keeping in view the aforementioned facts, and it is hereby ordered that in the interest of the department the order dated 28-07-06 stands. This disposes off the matter with regard to Order dated 9/8/2006 in O.A. No. 196 of 2006 by which the 2nd respondent i.e. A.G.(A&E), Assam, Guwahati was to consider and dispose off the representation of the applicant and pass appropriate order within a time frame of one month.

[Authority: A.G (A&E) Assam's Order dated 14-08-06 at p/5N in file No. O.A 196 of 2006/Gr.'B' Cadre Separation/2006-07.]

- 54 -

Sr. Dy. Accountant General (Admn. & VLC)

Memo No. O.A 196 of 2006/Gr.'B' Cadre Separation/2006-07/1656-59 August 14, 2006

Copy for information to:

1. The Sr. DAG (A&E), Tripura, Agartala.
2. Shri Bijoy Chanda, Sr. A.O, O/o the Sr. DAG (A&E) Tripura, Agartala.
3. The Secretary to the A.G (A&E), Assam
4. Steno Gr. II attached to Sr. DAG (Admn. & VLC)



Sr. Dy. Accountant General (Admn. & VLC)

Min
OAS/AS

(34)

21

PAD/1-270/BSF/2005-6/6437-39

Govt. of India
Ministry of Home Affairs
Directorate General Border Security Force
Pay and accounts Division
(Genl. Admn Section)

ANNEXURE- 12

Pushpa Bhawan, Madangir
New Delhi- 110062

Dated, the 15 December 2005

To

1. The O/o The Account General
West Bengal, Kolkata
2. The O/o The Account General(A & E)
Tripura, Agartala

Sub: - SELECTION OF STAFF ON DEPUTATION TO PAY AND
ACCOUNTS DIVISION, DG BSF NEW DELHI FOR THE
POST SENIOR ACCOUNTS OFFICER ACCOUNTS
OFFICER IN IAP TRIPURA

I am to state that Pay and Accounts Division, Border Security Force requires the service of suitable officers/ Accounts Officer at IAP BSF Tripura in the pay scale of Rs. 8000-275-13500 7500-250-1200 respective by transfer on deputation basis. The qualifications, experience and other conditions for the post are furnished below:

Officer under the Central Government:

(a) (i) Holding analogous posts on regular basis in the parent cadre/Department; or

(ii) For the post of Sr. Accounts Officer with two years service in the Grade rendered after appointment thereto on regular basis in scale of pay of Rs. 7500-250-12000 or equivalent in the parent cadre/department; or for the post of Accounts Officers with two years service in the Grade rendered after appointment thereto on regular basis in the scale of pay of Rs. 7450-225-11500 or equivalent in the parent cadre/department; or

*Alm
Olm Xav*

(iii) With seven years service in the Grade rendered after appointment thereto on regular basis in the scale of pay of Rs. 6500-200-10500 or equivalent in the parent cadre/department for consideration for the post of Senior Accounts Officer; or with five years service in the Grade rendered after appointment thereto on regular basis in the scale of Pay Rs.6500-200-10500 or equivalent in the parent cadre /department for consideration for the post of Accounts Officer, and

(b) Possessing any of the following qualifications

(i) A pass in the Subordinate Accounts Service or equivalent examination conducted by any of the Organised Accounts Department of the Central Government.

(ii) Successful completion of training in Cash and Accounts work in the institute of Secretariat Training and Management or equivalent and experience in cash , Accounts and Budget work.

(c) The maximum age shall not be exceeding 56 years.

2. The deputation , which is for a period of one year in the first instance, is extendable up to three years and is governed by usual deputation terms. The duties of the Senior Accounts Officer/ Accounts Officers in the Internal Audit Party(IAP) at Ftr HQ BSF Tripura are of extensive touring. The officer selected for this post should be willing to undertake extensive touring and be able to conduct internal audit of Cash, Stores and other accounts of Border Security Force.

3. It is requested that names of volunteers willing for deputation may please be forwarded along with the copies of ACRs and vigilance clearance certificate for last five years at an early date.

4. An early response in the matter will be highly appreciated.

(J. R. CHOBNDAR)
Asstt. Director(A-Cs)

J. R. Chobdar

~~Copy~~

EST/Adv 21A5/53 a/c 9/4

(36)

~~Estt. 21/29~~

Annexure - 13

29

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA,
NEW DELHI

No. 3230/OE&Bills/Estt/11-2005

Dated: - 07.06.2005

To

All Heads of Offices in IA&AD
(As per mailing list except Overseas Audit Offices
and Commercial Audit Offices)

Sir/Madam,

This office requires the services of AAOs/SOs for induction in Headquarters office on deputation basis. The initial period of deputation will be for one year and may be extended thereafter subject to their continued suitability and administrative convenience. The total period of deputation will, however, ordinarily not exceed three years.

2. While working in this office, the selected AAOs/SOs will draw their grade pay plus Headquarters Special Allowance of Rs.500/- p.m. plus Deputation (Duty) Allowance as per DOPT's O.M. No. 2/8/97-Estt (Pay II) dated 11.3.98 without limitation in regard to tenure of deputation.

3. It is requested that you may kindly suggest the names of suitable and willing Officers in these cadres. The service particulars and ACRs for the last five years of such officers may kindly be sent to the undersigned latest by 15.07.2005.

Yours faithfully,

DIRECTOR (PERSONNEL)



17-5
31/6

*for
O.P.S. S.*

केन्द्रीय प्रशासनिक अदिक्षरण
Central Administrative Tribunal

22 DEC 2001

**গুৱাহাটী বিধুৰ পৰীক্ষা
Guwahati Bench**

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

IN THE MATTER OF:

O.A.No.215/2006

Sri Bijoy Kumar Chanda

..... **Applicant**

- Versus -

Union of India & Others.

..... Respondents

- AND -

IN THE MATTER OF:

Written statement submitted by the
Respondents No. One to Four

WRITTEN STATEMENT

The humble answering respondents submit their written statements as follows :

1.(a) Thatiam Sri Tarini Mohan Roy S/o Late H.C. Roy,
Sr. DAG (Admn.), c/o Itn AG (ARE), Assam, Guwahati

— and Respondents No. 3 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

Moin Ud-Din Ahmed, M.A;B.Sc,LL.B
Addl. Central Govt. Standing Counsel

22/12/06 15

have been denied. I am competent and authorized to file the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts 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. That with regard to the statements made in paragraphs 1 to 4.4, 4.10, 7, 10 and 12 of the application, the answering respondents beg to state that they do not admit anything except those are in record and based on legal/rational foundation and as such the applicants are put to strictest proof thereof.

3. That with regard to the statements made in paragraphs 4.5 to 4.7 of the application, the answering respondents beg to state that the separation of Group 'B' cadre has been implemented on the basis of seniority-cum-preference. As per seniority Shri B.K.Chanda could not be allocated to his choice of posting i.e. the o/o Sr. DAG(A&E) Tripura, Agartala. As per policy of cadre separation circulated vide Circular dated 30.03.06, and in pursuance of further Circular No.AG/Sep/Gr.B/2006/25 dated 16.5.2006 the excess persons in each cadre who could not be accommodated in the

office of their preference were asked to give option for deputation along with a list of vacancies in various offices. As Shri B.K. Chanda exercised his option for deputation O/o Sr.DAG(A&E), Kohima Nagaland, he was posted there on deputation. In accordance with the scheme of cadre separation, Shri Chanda would be brought back to his office of choice as soon as vacancy arises in that office.

The Govt. of India, D.O.P.T.O.M. No.AB 14017/48/92-Estt.(RR) dated 17.11.92 referred to by the applicant was in the context of sending an officer on deputation to an Organisation other than his where it is presumed that he would be unable to contribute effectively to such organisation in the short span of time. In the instant case, deputation of the applicant to the O/o the Sr.DAG(A&E) Nagaland, Kohima as a part of a cadre separation scheme was within the same department (namely IA&AD) where the official would continue to be deployed on similar functions as in his earlier office. The objective of 'deputation' is to man the office which has deficit manpower in the relevant cadre. As the cadre separation scheme was acceptable to the deficit office, it could be assumed that Shri B.K.Chanda would be able to contribute effectively to that office.

As regards the contention of the applicant about his age being 36 years and therefore beyond the age for being sent on deputation, the same cannot be considered to be relevant to the instant case, as cadre separation was not analogous to the deputation referred to in the DOPT OM dated 17.11.92.

4. That with regard to the statements made in paragraph 4.8 of the application, the answering respondents beg to state that in pursuance of Hon'ble C.A.T's order dated 9.8.06 in connection with O.A. No.196 of 2006 Shri B.K.Chanda's representation was considered carefully and sympathetically keeping in view the facts mentioned above, and it was ordered in the interest of the department that the order dated 28.7.06 wherein Shri E.K. Chanda was posted on deputation to O/o Sr.DAG(A&E) Nagaland, Kohima holds good.

5. That with regard to the statements made in paragraph 4.9 of the application, the answering respondents beg to state that the Accountant General (A&E) Assam being the Cadre Controlling Authority, only after receipt of order from Accountant General (A&E) Assam on 14.8.2006 (Admin.1 Order No. 106) he was allowed to join in the O/o the Sr.Dy. Accountant General (A&E) Tripura, Agartala.

6. That with regard to the statements made in paragraph 4.11 of the application, the answering respondents beg to state that the points raised by the petitioner has no merit. Shri B.K.Chanda was allowed to join in the O/o the Sr. Dy. Accountant General (A&E) Tripura, Agartala only after receipt of order from Accountant General (A&E) Assam on 14.8.2006 (Admin.1 Order No.106) as the Accountant General (A&E) Assam is the Cadre Controlling Authority. This was done by the Accountant General (A&E) Assam on receipt of order dated 9.8.2006 in O.A.No.196 of 2006.

Further, as the order dated 9.8.2006 in OA No.196 of 2006 had asked the 2nd respondent i.e. Accountant General (A&E) Assam to consider and dispose of the representation of the applicant within one month and keeping in

view the fact that delay is a form of injustice, the Accountant General (A&E) Assam passed an order on 14.8.2006 i.e. the same day after passing the earlier order, wherein the representation of Shri B.K.Chanda was considered carefully and sympathetically and it was ordered in the interest of the department that the order dated 28.7.06 wherein Shri B.K.Chanda was posted on deputation to O/o Sr.DAG(A&E) Nagaland, Kohima holds good.

7. That with regard to the statements made in paragraphs 4.12 of the application, the answering respondents beg to state that the representation of the applicant dated 22.05.2006 was duly considered by the Accountant General (A&E) Assam on 14.8.2006 and Admin.1 order No. 107 was issued on the same day in which the Accountant General (A&E) Assam taking into account the applicant's representation, the policy of cadre separation dated 30.3.2006 along with Govt. of India, D.O.P.T.O.M No.AB 14017/48/92-Estt.(RR) dated 17.11.92 ordered that in the interest of the department the order dated 28.7.2006 posting Shri B.K.Chanda on deputation to O/o Sr.DAG(A&E), Kohima, Nagaland hold good.

8. That with regard to the statements made in paragraphs 5.1 to 6 of the application, the answering respondents beg to state that the queries and/or allegations levelled by the applicant, the comments/reply have already been made against those allegations vide foregoing paragraphs.

9. That with regard to the statements made in paragraphs 8 and 9 of the application, the answering respondents beg to state that the common cadre of Group 'E' officers of A&E offices in N.E.Region was separated taking into consideration the large common interests of the Combined

Cadre Transfer and Postings are affected with the aim of creating least administrative instability as well as to minimize and mitigate human problems of the concerned officers.

In view of the position explained in the foregoing paragraphs, the petition may not be admitted and no relief may be granted to the petitioner since the cadre is separated. Any relief granted to the petitioner will not be in the public interest rather it would be against administrative convenience and it would also jeopardize the interests of most of the officers working in other offices since the cadre is separated, not just the petitioner's office but all the seven offices of the N.E. Region. All the officers had submitted their options including the petitioner. The petitioner is posted temporarily to the O/o the Sr. Dy. Accountant General (A&E) Nagaland which is a deficit office and will be ultimately brought back to the O/o the Sr. Dy. Accountant General (A&E) Tripura as per his choice/preference in keeping with the policy of cadre separation.

10. That with regard to the statements made in paragraphs 10 to 12 of the application, the answering respondents beg to state that they have no comments to offer.

11. That the respondents beg to submit that the application is devoid of merit and it is not tenable in the eye of law, as such same is liable to be dismissed.

12. 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.

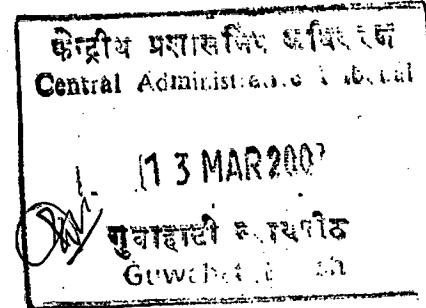
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VERIFICATION

I, Sri Tarini Mohan Roy, S/o Late H.C. Roy,
Sr. DAG (Admn), o/o Lt. AG (A&E), Anan, Guwahati being duly
authorized and competent to sign this verification, do hereby solemnly
affirm and verify that the statements made in Para 2 to 5, 8 & 9 are
true to my knowledge, belief and information and those made in Para
6 & 7 are derived from the records/facts etc, and rests are humble
submissions before the Hon'ble Court and I have not suppressed any
material facts.

And I sign this verification on this 2nd day of
November 2006 at Guwahati.


Signature
(TARINI MOHAN ROY)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under sec 19 of the ADMINISTRATIVE
TRIBUNALS ACT 1985
Original Application No. 215 of. 2006

Sri Bijoy Kumar Chanda
-Applicant

Vs

Union of India and 3 others

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Submitted by

(Chandrasekhar Sinha) 13/3

Shriji Kumare Chandra
By
Chandrasekhar Acharya
A. M. S.

IN THE CENTRAL ADMINISTRATIVE TRINUNAL,
GUWAHATI BENCH.

(AN APPLICATION UNDER SEC. 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985).

ORIGINAL APPLICATION NO: 215 OF 2006 A.D.

BETWEEN

Shri Bijoy Kumar Chanda,
S/O. Lt. Sashi Bhusan Chanda,
Residing at A.G. Quarter No.
Type- II/16. 79 Tilla,
Agartala. P.S. East Agartala,
District - West Tripura.

APPLICANT.

- VERSUS -

1. Union of India, represented by the Comptroller & Auditor General of India. 10 Bahadursha Jafar Marg. New Delhi - 110002.
2. The Accountant General (A&E). Assam. Maidam Gaon, Beltala, Guwahati - 781029.
3. Sr. Deputy Accountant General (Admn, & VLC), Office of the Accountant General (A&E). Assam. Maidam Gaon, Beltala, Guwahati - 781029.
4. Deputy Accountant General. Office of the Sr. Deputy Accountant General (A&E), Tripura. Agartala.

RESPONDENTS.

IN THE MATTER OF

Rejoinder to the written Statement of Respondents :- 1 to 4

By
Brijendra Singh
Advocate

The Humble answering Applicant begs to state as follows :-

1. That in response to averments made in para 1 and 2 of the written Statement of Respondents, the answering Applicant denies and disputes the averments therein except those which are matters of records.
2. That in response to averments made in para 3 of the written Statements of the Respondents, the answering Applicant submits that besides matter of records, other averments of the Respondents are denied and disputed and submits that Respondents misconceived as regards transfer and deputation. The answering Applicant further submits that in case of deputation the age bar of 56 years for a deputationist can not be ignored so far as the provision in Appendix -5 of the Fundamental Rules in **Annexure - 8a** to the O.A. is concerned.
3. That in response to averments made in para 4,5,6 & 7 of the written Statements of the Respondents, the answering Applicant submits that besides matter's of records other averments therein are denied and disputed and further submits that through their averments Respondents have resorted to misrepresentations so as to confuse the Hon'ble Court of Law against the Applicant. The answering Applicant states that when order in O.A. No.196/06 was not favourably taken by the

Bijoy Kumar Ganda
Gandakuli Kishore

Respondents, the answering Applicant approached this Hon'ble C.A.T with O.A No.215/06. The interim order in the O.A. was passed on 22.08.06 which he placed before the authority for necessary action vide his prayer dated 24.08.06. But the Respondents got the Applicant delayed in resuming duties. He was given Order No. Estt (A&E)/PC/BKC/943 dated 30.08.06 and allowed him to resume duty on 31.08.06 (F.N.).

The answering Applicant submits that it was consequent upon the Advocate Notice dated 29.08.06, the Sr. Deputy Accountant General (Admn.) Assam, Guwahati issued letter No. Sr. D.A.G(A)/OA-196/2006/96 dated 30.08.06. to the Deputy Accountant General (A&E) Tripura, Agartala and the Sr. Accounts Officer, Tripura, Agartala passed order dated 30.08.06. Where the order dated 22.08.06 of the Hon'ble CAT is very specific and clear, the delay making the Applicant continue in discharging duties in the office of the Sr. D.A.G (A&E), Tripura, Agartala was arbitrary and accordingly from 11.08.06 to 30.08.06 he has been kept without pay & allowances.

Further to submit that in respect of order in O.A. No. 196/06 dated 09.08.06, the answering Applicant submits that from 01.08.06 to 10.08.06 he was on leave on medical ground and that leave got sanctioned by the authorities. On 11.08.06 he went to resume duties but he was prevented and ultimately in pursuance of Court's Order dated 22.08.06 he was made to resume duty only on 31.08.06. The delay in resuming duty was not for any fault with the Applicant and as such there is no ground on the part of the Respondents not to disburse pay & allowances of the

-4-

Applicant from 11.08.06 to 30.08.06.

Anil Kumar Chanda
Kundan Lal
Adv.

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Copies of Advocate Notice dated 29.08.06, letter dated 30.08.06 and order dated 30.08.06 are enclosed as Annexure 'A', 'B', &'C' respectively.

4. In respect to averments made in para 8, 9, 10, & 11 the answering Applicant submits that besides matter of records, other averments there in are denied & disputed.
5. That the rest would be submitted at the time of hearing.

Under the above noted facts and circumstances, your Lordships are prayed to dismiss the written statements of the Respondents and pass an order in favour of the Applicant in respect of the reliefs prayed for in A.O. No. 215/06 and also pass an order directing the Respondents to make payment of pay & allowances for the period from 11.08.06 to 30.08.06 to the answering Applicant.

AND

For this act of kindness, the answering Applicant as in duty bound shall ever pray.

VERIFICATION FOLLOWS

Prinoy Kumar Chanda
Chandannagar, India

VERIFICATION

I, Shri Bijoy Kumar Chanda, S/O Lt Sashi Bhushan Chanda, residing at A.G Quarter No. Type - II/16, 79 Tills, Kunjaban, Agartala, P.S. East Agartala, District - West Tripura, Applicant, do hereby declare and state that the statement contained in Paragraph! to 5..... are true to my knowledge and I have not suppressed any material fact.

And I sign this verification this 12th day of March, 2007

Brigoy Kumare Chanda
12.3.2007

From :

Mr. C.S.Sinha, Advocate
Guwahati High Court,
Agartala Bench, Tripura.

To

- 1) **Shri Rajiv Kumar,**
Deputy Accountant General (A & E)
Tripura, Agartala.
- 2) **Shri D.P.Chakraborty,**
Sr. Accounts Officer
Admn. Section.

My Client :

Shri Bijoy Kr. Chanda,
Sr. Accounts Officer,
79 Tilla, AG's Qtr. No. T/II/16
P.O. Kunjaban, Agartala



On 28/08/2006 at 5.15 P.M I have received your letter issued under No. 215/06 (A&E)/PC/BKC/936, dated 28/08/2006 in respect of my client above named.

- 1) Ed. Tribunal passed order dated 22/08/2006 in O.A. No. 215/06 of my client, after hearing both the parties. Ld. Sr. C.G.S.C represented the Respondents.
- 2) With my letter dated 24/08/2006 to Notice Receiver No. 1, I have already furnished the photocopy of the original order dated 22/08/2006. But you the Notice Receiver No. 1 refused benefit of the order to my client.
- 3) Neither of the parties has authority to add anything to the order of the Hon'ble CAT and as such, I fail to keep your request to furnish the order dated 22/08/2006. "In full shape".
- 4) From your request for copy of O.A and order dated 22/08/2006. "In full shape" it is ex facie that instead of showing due honour to the direction of the Tribunal, you have been sitting over the order of the Tribunal and have opted to take a decision over the decision of the Tribunal after examining the merit of the

Contd...P/2

[Page - 2]-

decision of the Tribunal. This shows your deliberate and highest disrespect to the Order of Ld. Tribunal, in as much as any order/ decision of the Court of law may be passed rightly or wrongly has to be respected so long as that order stands good.

- 6) On earlier occasion also Notice Receiver No. 1 had shown disrespect to the order dated 09/08/2006 in O.A. No. 196 of 2006 by not allowing my client to resume duty on 11/08/06 notwithstanding the direction of Ld. Tribunal to maintain statusque ante as on 28/07/2006. As such, for Notice Receiver No. 1 this is the second time that you have disrespect to the order of the Tribunal.
- 7) The letter dated 28/08/2006 has been issued by Notice Receiver No. 2 with the approval of Notice Receiver No. 1 and therefore both are liable for contempt of Court.

Under the above noted facts and circumstances I request your due respect to the order of the Hon'ble CAT and compliance thereof within a period of 03(three) days from the date of receipt of this Notice. Otherwise a contempt proceeding would be filed against you, both the Notice Receiver No. 1 & 2 before the competent Court of law.

Yours faithfully,

Dated, Agartala,

The 29th August, 2006.

Chandrasekhar Sinha

(Chandrasekhar Sinha)

Advocate

28/8

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Enclo. :

Copy of order
dated 22/08/06 in
O.A.No. 215/06



सहालेखामा (ले एवं ह) असम का क्रार्यालय

Office of the Accountant General (A & E)

Assam

मैदामगांव, बेलतोला, गुवाहाटी-781029

Maidamgaon, Beltola, Guwahati-781029

AO

No. Sr.DAG(A)/OA-196/2006/96 dated Guwahati the 30th August 2006

To

Shri Rajiv Kumar
 Dy. Accountant General (A&E)
 O/o the Sr. Dy. Accountant General (A&E)
 Tripura, Agartala 799 006.

Sub: Case O.A. No. 215/06 in respect of Shri Bijoy Kumar Chanda, Sr. Accounts Officer.

Sir,

I am to invite a reference to your letter No. Esit.(A&E)/PC/ BKC/883 dated 24/8/06 on the subject cited above and to state that the Hon'ble CAT, Guwahati Order dated 22.8.06 in respect of Sri Bijoy Kr. Chanda, Sr. Accounts Officer in O.A. No.215/06 state that the applicant is not to be disturbed till the next date of hearing i.e. 18.10.2006.

As per judgement of Hon'ble CAT, Guwahati, Sri Chanda may be allowed to resume his duties in the office of the Sr. Dy. Accountant General (A&E) Tripura till the next date of hearing.

You may kindly inform Shri C.S. Sinha, Advocate accordingly in response to notice served on you.

This issues with the approval of Accountant General.

Yours faithfully,

Sd/-

Sr. Dy. Accountant General (Admn.)

Memo No: Sr.DAG(A)/OA-196 / 2006/ 97 dated Guwahati the 30th August 2006Copy forwarded to:

1. The Sr. Dy. Accountant General (A&E), Nagaland, Kohima.
2. Shri Bijoy Kr. Chanda, Sr. Accounts Officer, O/o the Sr. Dy. Accountant General (A&E) Tripura, Agartala.
3. The Secretary to the Accountant General, Assam, Guwahati.
4. The PA to the Sr. Dy. Accountant General (A), Guwahati.

Sr. Dy. Accountant General (Admn.)

By Special Messenger

OFFICE OF THE SR. DEPUTY ACCOUNTANT GENERAL (A&E)
TRIPURA :: AGARTALA

No. Estt. (A&E)/PC/BKC/943.

Dated :- 30-08-2006.

To

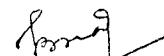
Shri Bijoy Kumar Chanda,
Sr. Accounts Officer

Subject:- Case O.A. No. 215/06 in respect of Sri Bijoy Kr. Chanda, Sr. Accounts Officer.

Sir,

In pursuance of order dated 22-08-2006 of the Hon'ble CAT, Guwahati in OA No. 215/06 and letter dated 30-08-2006 of the O/o the Accountant General (A&E), Assam, Guwahati (a copy endorsed to you) I am directed to inform you that you may resume duty in this office in accordance with paragraph 2 of the above mentioned letter of the A.G. (A&E), Assam, Guwahati.

Yours faithfully,


Sr. Accounts Officer/Admn.