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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 255/2006

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SECTION OFFICER (Judl.)

Shahru
27/10/17

FROM NO. 4
 (SEE RULE 24)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH:

1. Original Application No. 255/06
 2. Misc Petition No. /
 3. Contempt Petition No. /
 4. Review Application No. /

Applicant(s) Bigoy Bohnam Dey

Respondent(s) U.O.F. Forum

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

G.N. Chakraborty, M. L. Dutta
S. Choudhury

Advocate for the Respondent(s) S.C.G.S.C. G. Baishya...

Notes of the Registry	Date	Order of the Tribunal
Application is in the form of F. F. R. No. 30/2006 deposited via L.P. BD. No. 28.6.9.32.338	24.10.2006	Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.
Dated 12.10.06 In Dy. Registrar 23.10.06		This is the second round of litigation. In the earlier O.A. 206 of 2006 filed against the impugned transfer order dated 8.8.2006, this Tribunal vide order dated 17.8.2006 directed the applicant to file a comprehensive representation and further directed the respondents to dispose of the same. In furtherance of the said order, the applicant filed a representation and the impugned order dated 18.9.2006 at Annexure-10 was passed rejecting his claim. Hence, this O.A.
R. T. D. 27.10.06		Heard Mr. M. Chanda, learned counsel for the applicant. Mr. G. Baishya, learned S.C.G.S.C. representing the respondents submits that he would like to take instruction. Let it be done within one week. Post on 2.11.2006. In the meantime status quo as on today shall be maintained.
order dt. 24/10/06 issuing to learned advocates for both the parties. 27/10/06.	bb	Vice-Chairman

O.A. 255/2006

06.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted a week time to get instructions and to file reply statement.

Post on 14.11.2006. Interim order will continue till the next date.

order dt. 6/11/06
issuing to both
the parties.

7/11/06

Vice-Chairman

/mb/

14.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

When the matter came up for hearing, Mr G. Baishya, learned Sr. C.G.S.C. for the respondents wanted two weeks time to file reply statement. Post on 28.11.2006. Mr M. Chanda, learned Counsel for the Applicant submitted that since identical matter O.A. No. 267/2006 has already been admitted, this matter also may be admitted. However, consideration of admissibility will be considered on the next date.

27-11-06
No reply filed by Mr
S. G. Baishya
Advocate

Learned
Advocate
for the
Applicant

Vice-Chairman

/mb/

29.11.06.

order dt. 29/11/06
issuing to learned
Advocate's for both
the parties.

8/12/06

Notice of order sent
to D/Section for
issuing to R-1304
by regd. A/D post.

19/12/06 D/No-1267 to

D/ No- 1270

21/12/06 (1) Service report awaited.
(2) No 1013 has been filed.

lm

Vice-Chairman

22/12/06

17.1.07. Counsel for the Respondents has submitted that the written statement has been sent for vetting. Post the matter on 13.2.07. Interim order shall continue.

order dt. 17/1/07
issuing to learned
advocate's for both
the parties.

lm

Vice-Chairman

Cc/s
18/1/07

Notice duly served
on R. I.

Cc/s
24/1/07

No W/s has been
filed.

13.2.07 Three weeks time is granted to the
counsel for the respondents to file reply
statement. Post the matter on 6.3.07.
Interim order shall continue

Vice-Chairman

lm

order dt. 13/2/07
issuing to learned
advocate for both
the parties.

Cc/s
20/2/07

No W/s has been
filed.

22
5.3.07.

order dt. 6/3/07
issuing to learned 16.5.2007
advocate's for both
the parties.

6/3/07

12.3.07

/bb/

W/s filed to
Respondents page

1 to 9.

W/s has been filed.

20.3.07

6.3.07 Counsel for the respondent has
submitted that written statement is
ready. He will file the same. Post the
matter on 21.3.07. Interim order shall
continue.

Vice-Chairman

lm

21.3.07.

Counsel for the applicant wanted to
file rejoinder. Let it be done. Post the
matter on 13.4.07. Interim order shall
continue.

Member

Vice-Chairman

lm

Post on 01.06.2007 granting time to the
Applicant to file rejoinder.

Vice-Chairman

Order dt. 21/3/07
issuing to learned
advocate's for both
the parties.

11.6.07. Counsel for the applicant prays for
time to file rejoinder. Let it be done. Post
the matter on 28.6.07. Interim order shall
continue.

Vice-Chairman

lm

23/5.
No rejoinder has
been filed.

2m
13.5.07.

No rejoinder has
been filed.

3
8.6.07.

BBM
/bb/

order dt. 11/6/07
issuing to learned
advocate's for both
the parties.

2/6.

No rejoinder filed.

27.6.07.

28.6.2007

Two weeks' time is granted to file
rejoinder.

Post the case on 12.7.2007. In the
meantime, interim order shall continue.

Vice-Chairman

/bb/

order dated 28/6/07
issuing to learned
advocate's for both
the parties.

27/7/07.

Rejoinder not filed.

Rejoinder 11.7.07. lm
not filed.
30.7.07.

12.7.07. Counsel for the applicant wanted
time to file rejoinder. Post the matter on
31.7.07. In the meantime liberty is given
to the respondents for further pleadings.
Interim order shall continue.

Vice-Chairman

04.12.2007 Mr M. Chanda, learned Counsel for the Applicant and Mr G. Baishya, learned Senior Central Government Standing Counsel are present.

Rejoinder not
filed.

Call this matter on 07.01.2008.

321
4.1.08.

nkm

K
(Khushiram)
Member (A)

M
(M. R. Mohanty)
Vice-Chairman

07.01.2008. Judgment pronounced in open Court. Kept in separate sheets. Application is disposed of. No order as to costs.

Khushiram
Member(A)

M
(M. R. Mohanty)
Vice-Chairman

lm

Rejoinder
Grantam Baishya
so file

Notes of the Registry	Date	Order of the Tribunal
<u>Pl. comply.</u> order dt. 31/7/07 issuing to both the parties. 11/8/07	31.7.2007 <u>Rejoinder not filed.</u> 14.9.07.	Post the matter on 17.08.2007 for filing of rejoinder. Interim order shall continue till such time. Vice-Chairman
<u>Pl. comply.</u> order dt. 11/10/07 issuing to both the parties. 21/9/07	14.9.07. <u>Rejoinder not filed.</u> 10.10.07.	At the request of learned counsel for the applicant one week further time is granted to file rejoinder. Post the matter on 11.10.07. Interim order shall continue. Vice-Chairman
<u>Pl. comply.</u> order dt. 11/10/07 issuing to both the parties. 21/9/07	11.10.2007 <u>Rejoinder not filed.</u> 10.10.07.	In this case, written statement has been filed by the Respondents. Mr.G.Baishya, learned Sr. Standing counsel for the Central Government undertakes to file his appearance memo for record of the case. Despite several adjournments, no rejoinder has yet been filed. Call this matter on 04.12.2007 for final disposal/hearing. Interim order shall continue to remain in force till the next date. (Khushiram) Member (A)
<u>Pl. comply.</u> order dt. 11/10/07 issuing to both the parties. 16/10/07.	11.10.2007 <u>Rejoinder not filed.</u> 16/10/07.	 (M.R.Mohanty) Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No 255 of 2006

DATE OF DECISION: 07.01.2008

Mr. Bijoy Bhushan Deb Applicant/s

Mr. M.Chanda Advocate for the
..... Applicant/s.

- Versus -

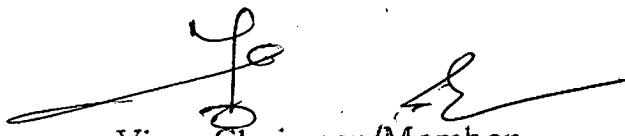
U.O.I. & Ors Respondent/s

Mr.G.Baishya, Sr.C.G.S.C. Advocate for the
..... Respondents

CORAM

THE HON'BLE MR.M.R.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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.255 of 2006

Date of Order: This the 7th Day of January, 2008

HON'BLE MR.MONORANJAN MOHANTY, VICE-CHAIRMAN

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Bijoy Bhusan Deb
Assistant Audit officer,
Office of the Principal AG (Audit)
Beltola, Guwahati-29,
Assam.

..... Applicant

By Advocates Mr.M.Chanda, Mr.S.Nath, Mr.G.N.Chakraborty, Ms. U.Dutta & Mr.S.Choudhury,

-Vs-

1. The Union of India,
Represented by the Comptroller & Auditor General,
10, Bahadur Shah Jafar Marg,
New Delhi-2
2. Principal Accountant General (Audit)
Maidamgaon, Beltola,
Guwahati-29
3. The Accountant General (Audit)
Beltola, Guwahati-29,
Assam
4. The Accountant General,
Nagaland, P.O. Kohima

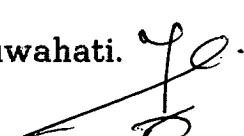
..... Respondents

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

ORDER (ORAL)

M.R.MOHANTY,V.C:

Mr.M.Chanda learned counsel appearing for the Applicant states that, for the reason of his health problem, the Applicant represented to be posted at Guwahati.

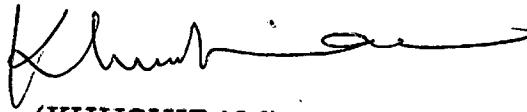


2. Mr.G.Baishya, learned Sr. Standing Counsel appearing for the Respondents states that, by an order dated 29.11.2006, the Applicant has already given a posting at Guwahati.

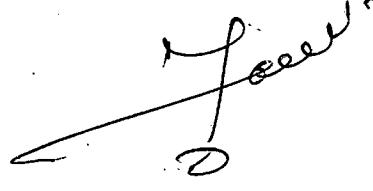
3. Since during the pendency of this case, the grievance of the Applicant has already been redressed; there remains nothing to be adjudicated in this case.

4. In the aforesaid premises, this O.A stands disposed of.

5. Send copies of this order to the Applicant and the Respondents through their respective counsels. Free copies of this order be also supplied to the Advocates for the parties.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE-CHAIRMAN

LM

23 SEP 2007

GUWAHATI BENCH
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 255 /2006

Shri Bijoy Bhushan Deb

- Versus -

Union of India & Others

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

10.09.1976- Applicant was initially appointed as Auditor and posted at Kohima under the Administrative control of AG, Nagaland, Kohima. He was promoted to the post of Sr. Auditor in 1984 and further promoted to the cadre of Section Officer on 17.07.98.

01.01.2002- Applicant was promoted to the cadre of Assistant Audit Officer, Cr. 'B', Gazetted category and as such the Accountant General (Audit) became the cadre controlling authority of the applicant.

10.05.2004- Applicant while working as AAO at Kohima he has undergone a by pass heart surgery at Appollo Hospital, Chennai in the month of April 2004. Sr. Consultant of Appollo Hospital, Chennai suggested the applicant to stay in a plane city with good cardiology facilities.
(Annexure- 1 series)

07.07.2004- Applicant submitted a representation addressed to the Principal AG (Audit) Meghalaya, Shillong requesting him to consider his transfer and posting at Guwahati under the AG (Audit) Assam.

22.07.2004- AG (Audit) Nagaland, Kohima, vide D.O letter dated 22.07.04 forwarded the representation of the applicant certifying the genuineness of the problem of the applicant and requested the Principal AG (Audit) Assam, Meghalaya etc. shillong to consider the case of the applicant.
(Annexure- 2 series)

17.11.2004, 13.01.05- Applicant finding no response to his representation dated 07.07.04 again submitted representations on 17.11.04 and

Bijoy Bhushan Deb.

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13.01.05 for consideration of his posting at Guwahati on medical ground. (Annexure- 3 series)

19.01.2005 Principal AG (Audit) Meghalaya, Shillong vide his order dated 19.01.05 transferred and posted the applicant at Guwahati as AAO under the Principal AG (Audit) Assam. Accordingly applicant joined in the office of Principal AG (Audit) Assam, Guwahati and since then applicant is working at Guwahati. (Annexure- 4 series)

24.03.2006 Comptroller and Auditor General of India, New Delhi has issued cadre separation policy under his letter dated 24.03.06. (Annexure- 5)

30.03.2006 AG (A&E) Assam, Guwahati vide his circular dated 30.03.06 issued cadre separation policy. (Annexure- 6)
In terms of the cadre separation policy the applicant is allotted under AG (Audit) Assam, Guwahati in view of his position in the seniority list in the cadre of AAO as such he is entitled to be retained at Guwahati office on permanent basis.

08.08.2006 Office of the Principal Accountant General (Audit) Assam, Guwahati, by the impugned order dated 08.08.2006, whereby the applicant along with 26 others sought to be transferred and posted in different establishment of AG (Audit) in the N. E. Region, the applicant whose name figured at Sl. No. 16 is now sought to be transferred from the office of the AG (Audit) Assam, Guwahati to the office of the AG (Audit) Assam, Arunachal Pradesh.
Applicant who is suffering from cardio logical problem and undergone a major surgical operation, and as a result the applicant is required to maintain much restriction in his day to day activities, in the food habit as well as in the matter of movement. It is pertinent to mention here that the applicant was transferred and posted from Kohima to Guwahati due to his genuine medical problem. (Annexure- 7)

17.08.2006 Being aggrieved with the impugned order dated 8.8.2006, applicant approached the Hon'ble Tribunal, and the Hon'ble Tribunal give a direction to consider the representation within 1 month and shall pass speaking order communicate to the applicant and the transfer order shall be kept in abeyance so far applicant is concerned and may be allowed to continue till representation is disposed off. (Annexure-8)

31.08.2006 Applicant submitted representation addressed to Principal AG (Audit), Assam pursuant to the Hon'ble Tribunals order dated 17.08.2006. (Annexure-9)

18.09.2006 Representation of the applicant has been rejected without assigning any valid ground. (Annexure-10)

25.09.2006 Impugned order dated 18.09.2006 has been communicated through letter dated 25.06.2006. (Annexure-11)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order issued under letter No. Estt-1/Audit/133 dated 08.08.2006 (Annexure- 7) as well as impugned order dated 18.09.2006 so far the applicant is concerned.
2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Guwahati office i.e. in the establishment of AG (Audit) Assam, Beltola, Guwahati in terms of cadre separation policy dated 24.03.2006 as well as circular dated 30.03.2006 and also on consideration of medical problems of the applicant.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to stay the operation of the impugned transfer and posting order dated 08.08.2006 (Annexure- 7) as well as impugned order 18.09.2006 (Annexure-10) in respect of the applicant and also be pleased to pass order of status quo so far the applicant is concerned till final disposal of the case.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 255 /2006

Shri Bijoy Bhushan Deb : Applicant

-Versus -

Union of India & Others. : Respondents.

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Filed by

l. Dutta
Advocate

Date 23.10.2006

Bijoy Bhushan Deb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 255 /2006

BETWEEN

Shri Bijoy Bhusan Deb.
Assistant Audit Officer,
Office of the Principal AG (Audit),
Beltola, Guwahati- 29,
Assam.

...Applicant.

-AND-

1. The Union of India,
Represented by the Comptroller & Auditor General,
Government of India,
10, Bahadur Shah Jafar Marg,
New Delhi- 2.
2. Principal Accountant General (Audit),
Maidamgaon, Beltola,
Guwahati- 29.
3. The Accountant General (Audit)
Beltola, Guwahati-29,
Assam.
4. The Accountant General,
Nagaland, P.O- Kohima.

... Respondents.

DETAILS OF THE APPLICATION

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

Filed by the applicant
through Mr. Datta, Advocate
on 23.10.2006

Bijoy Bhusan Deb.

This application is made against the impugned order dated 08.08.2006 (Annexure- 7) whereby the applicant is sought to be transferred and posted on deputation basis from Guwahati to Arunachal Pradesh, Itanagar, and also against the impugned order dated 18.09.2006 (Annexure-10) rejecting the representation of the applicant, when the applicant is posted at Guwahati under AG (Audit) Assam on consideration of medical grounds and praying for a direction upon the respondents to allow the applicant to continue in the present place of posting at Guwahati in view of his seniority position in the cadre of AAO and also in consideration of his genuine medical problem and further in terms of cadre separation policy dated 24.08.2006 issued by the C&AG, New Delhi.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Auditor on 10.09.1976 and posted at Kohima under the Administrative Control of Accountant General, Nagaland, Kohima. Thereafter he was promoted to the post of Sr. Auditor in 1984 and he was further promoted to the cadre of Section

Officer on 17.07.1998 and thereby he has become member of the common cadre with transfer liability to serve anywhere in North Eastern Region, thereafter, his service was placed under the Administrative control of Accountant General (Audit), Shillong. Be it stated that the post of Senior Auditor belongs to non-gazetted, Gr - B category.

4.3 That it is stated that on 01.01.2002 the applicant was promoted to the cadre of Assistant Audit Officer, Group B, Gazetted category and as such the Accountant General (Audit) Assam has become the cadre controlling authority of the applicant.

4.4 That your applicant while working at Kohima as Assistant Audit Officer (for short AAO) has undergone a major surgical operation i.e. By Pass Heart Surgery at Appollo Hospital, Chennai in the month of April 2004. However, after his discharge from the Appollo Hospital, Chennai, the applicant started suffering from certain post operation complicity and more particularly in view of his stay in a high altitude place at Kohima, therefore the senior consultant of Appollo Hospital, Chennai in his certificate dated 10.05.2004 suggested the applicant to stay in a plane city with good cardiology facilities. Even in Guwahati also, the applicant is always in touch with attending physician which would be evident from the medical documents and certificates issued by the medical authority.

(Copy of the certificate dated 10.05.2004 and other medical documents are enclosed as Annexure- 1 series).

4.5 That the applicant thereafter submitted representation on 07.07.2004 addressed to the Principal AG (Audit), Meghalaya, Shillong requesting him to consider his transfer and posting at Guwahati under the AG (Audit), Assam. In the said representation the applicant inter alia stated that he fell sick in the month of January 2004 since he has suffered from heart attack and thereafter it is reveled that he was suffering from

18 4

Coronary Artery Disease (CAD): Triple Vessel Disease and accordingly advised him to undergo operation of Coronary Artery by pass graft Surgery (CABG). It is also pointed out by the applicant in his representation that Kohima is a place where modern facilities for treatment of such heart disease are not available. Moreover needs of daily life compels him to work frequently on uneven roads and climb up the hill stairs/slopes there at Kohima which is badly affecting his ailing health, and requested for his posting at Guwahati on medical ground. The said representation was duly forwarded by the Office of the AG (audit), Nagaland, Kohima vide D.O letter dated 22.07.2004 certifying the genuineness of the problem of the applicant and requested the Principal AG (Audit) Assam, Meghalaya etc., Shillong to consider the case of the applicant as a special case.

(Copy of the representation dated 07.07.2004 and forwarding letter dated 22.07.2004 is enclosed as Annexure- 2 series).

4.6 That the applicant finding no favorable response from the authority submitted representation dated 17.11.2004 and 13.01.2005 for consideration of his posting at Guwahati on medical ground. In the said representation also the applicant repeatedly pointed out that he is facing severe problem at Kohima on health ground and requested for consideration of his posting at Guwahati on compassionate ground vide his representation dated 17.11.2004 and 13.01.2005.

(Copy of the representations dated 17.11.2004 and 13.01.2005 are enclosed as Annexure- 3 Series).

4.7 That the office of the Principal AG (Audit) Meghalaya, Shillong vide office order hearing letter No. Fstt. I/Audit/155 dated 19.01.2005 transferred and posted the applicant at Guwahati as AAO under the office of the Principal AG (Audit), Assam and pursuant to the office order dated

19.01.2005, the applicant has joined in the present establishment at Guwahati on 18.04.2005, which would be evident from the office order no. Estt-I/Audit/34 dated 26.04.2005 and since then the applicant is working at Guwahati.

(Copy of the office order dated 19.01.2005 and letter dated 26.04.2005 are enclosed as Annexure-4 Series).

4.8 That it is stated that Comptroller and Auditor General of India, New Delhi has issued cadre separation policy vide letter No. 144 NGE (APP)/17-2004 dated 24.03.2006 and circular on cadre separation issued by the AG (A&E) Assam, Guwahati vide circular no. AG/SEP/Gr. 'B'/2006/141 dated 30.03.206, whereby it has been decided that the existing Gr. 'B' staff would 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 which are situated in North Eastern Region, irrespective of their base offices. It is further decided in the said policy that if the number of optees for a particular office is more than the required strength of that office, the excess persons in each cadre SAO/AO/AAO/SO who cannot be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office 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.

Be it stated that applicant is a Gr. B officer working in the cadre of AAO, and presently posted under the AG (Audit) Assam, Guwahati.

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(Copy of the policy dated 24.03.2006 and circular dated 30.03.2006 are enclosed as Annexure- 5 and 6 respectively).

4.9. That it is further stated that so far the applicant came to learn that in terms of cadre separation policy, the applicant is allotted under AG (Audit) Assam, Guwahati in view of his position in the seniority list in the cadre of AAO. As such he is entitled to be retained at Guwahati office on permanent basis. In terms of the cadre separation policy, the applicant is also otherwise entitled to be retained at Guwahati office under AG (Audit) Assam, in view of the fact that he was transferred and posted at Guwahati only in the month of January 2005 on medical ground from the office of the AG (Audit) Nagaland, Kohima. It is pertinent to mention here that the applicant has rendered 30 years of service at Kohima, in the state of Nagaland under the AG (Audit) Nagaland, Kohima, but thereafter he had undergone a major surgical operation i.e. By-pass Heart Surgery at Apollo, Chennai in the month of April/May 2005 and thereafter the Senior Consultant Cardiologist suggested the applicant to stay in a plane city in other words to avoid high altitude place like Kohima and accordingly the applicant submitted representation for posting at Guwahati on medical ground and ultimately the authority was pleased to accommodate the applicant at Guwahati by way of transfer. It is hardly after 1 year and 7 months the applicant is again sought to be transferred at Shillong in another high altitude place, by the impugned order dated 08.08.2006 without providing any opportunity for submission of representation. As such the impugned order of transfer is not sustainable in the eye of law.

4.10. That it is stated that the office of the Principal Accountant General (Audit) Assam, Guwahati, by the impugned order bearing letter no. Esti-1/Audit/133 dated 08.08.2006, whereby the applicant along with 26 others sought to be transferred and posted in different establishment of AG.

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(Audit) in the N. E. Region, the applicant whose name figured at Sl. No. 16 is now sought to be transferred from the office of the AG (Audit) Assam, Guwahati to the office of the AG (Audit) Assam, Arunachal Pradesh. However, it is further stated that the personal deputed to the office of the AG (Audit), Arunachal Pradesh, Itanagar, they are to initially report to the office of the Principal AG (Audit) Meghalaya, Shillong. In this connection it may be stated that the transfer and posting issued in respect of the applicant and others are on deputation basis and they will be placed at the disposal of the offices where they have been allocated permanently after finalization of the pending court case. Against the name of the applicant there is a "star mark" which is the indication of his allocation to Guwahati office as stated in the impugned order. It is ought to be mention here that neither at Shillong, nor at Itanagar sufficient medical facilities are available for a patient like applicant who is suffering from cardio logical problem and undergone a major surgical operation, and as a result the applicant is required to maintain much restriction in his day to day activities, in the food habit as well as in the matter of movement. Moreover, the applicant is required to go for constant medical check up and such facilities are available at Guwahati only. Therefore, it will be difficult on the part of the applicant to stay at any other place in N.E. Region due to his serious ailment. It is pertinent to mention here that the applicant was transferred and posted at Guwahati due to his genuine medical problem and on that ground alone the impugned transfer and posting order dated 08.08.2006 is liable to be set aside and quashed, so far the applicant is concerned.

(Copy of the impugned transfer and posting order dated 08.08.2006 is enclosed as Annexure- 7).

4.11 That it is stated that the impugned order of transfer and posting has been issued on 08.08.2006 afternoon and the authority in a most arbitrary and

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unfair manner stated in the said impugned order that the applicant is stand relieved w.e.f 08.08.2006 and as a result the authority did not provide him any scope to submit any representation before the competent authority to consider his prayer for retention at Guwahati at least on medical ground. It is needless to mention here that in the impugned order dated 08.08.2006 itself, it has been stated by the respondent that the applicant is allocated to Guwahati office but presently his service is placed under the AG (Audit), Arunachal Pradesh, on deputation basis and he will be repatriated back after finalization of the pending court cases. Therefore action of the respondent in transferring the applicant from Guwahati to Shillong by the impugned order dated 08.08.2006 is penal in nature and the impugned order of transfer and posting is punitive in nature. More so when the applicant is suffering from serious ailment, therefore on that score alone the impugned transfer and posting order dated 08.08.2006 is liable to be set aside and quashed, so far applicant is concerned.

4.12 That your applicant being highly aggrieved with the impugned order dated 08.08.2006 approached this Hon'ble Tribunal challenging the validity and legality of the impugned order dated 08.08.2006 through O.A. No. 206/2006. However, the said Original Application came before this Hon'ble Tribunal on 17.08.06 for admission and the learned Tribunal after perusal of the materials on record and after hearing the parties was pleased to dispose of the Original Application with the following direction:

"..... In the interest of justice this Court directs the applicant to file representation before the respondent No. 2 within 15 days from to-day and on receipt of such representation, if filed by the applicant, the respondent No. 2 or any other competent authority shall consider the representation within 1 month thereafter. The respondents shall pass speaking order and

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communicate to the applicant. The transfer orders dated 08.08.2006 (Annexure- 7) shall be kept in abeyance in so far the applicant is concerned and he may be allowed to continue in Guwahati till representation is disposed off."

In terms of the Hon'ble Tribunal's order the applicant submitted a detailed representation on 31.08.2006 addressed to the Principal AG (Audit) Assam, Guwahati through proper channel, wherein the applicant stated that he was transferred and posted at Guwahati from Kohima on medical ground, more particularly in order to facilitate his post operation medical care as advised by the Doctor and on consideration of the genuineness of his case the Principal AG (Audit) Shillong was pleased to consider his posting at Guwahati vide order dated 19.01.2005 and pursuant to the said order the applicant joined at Guwahati only on 18.04.2005 and accordingly he was just settled at Guwahati and has arranged his medical supervision and care etc. But surprisingly to his utter surprise and shock the impugned order dated 08.08.2006 has been issued with direction to the applicant to join initially at Shillong under the administrative control of the A.C (Audit) Arunachal Pradesh, Itanagar. However, the applicant in the said representation requested the authority to reconsider his case and allow him to continue in the present place of posting at Guwahati in the light of the order dated 17.08.2006 of this Hon'ble Tribunal. In the impugned order dated 18.09.2006 it is specifically admitted by the respondents Union of India that only because the stay order passed by the learned Tribunal in an Original Application where 20 Assistant Audit Officers junior to the present applicant approached the learned Tribunal against the cadre separation order where the learned Tribunal granted an interim order to the effect not to disturb those 20 applicants junior to the applicant as such the impugned transfer order have been passed transferring the applicant from Guwahati to Shillong on deputation basis although he is senior to all those 20 Assistant Audit

Officers, when the applicant who is already allotted to Assam Circle, in view of his seniority position in strict compliance of the cadre separation policy but without obtaining his consent for such transfer on deputation basis vide impugned order dated 08.08.2006. Therefore such decision of the respondents transferring the applicant from Guwahati to Shillong in violation of cadre separation policy issued by the Government itself is highly arbitrary, illegal, unfair and contrary to the policy laid down by the Comptroller and Auditor General of India, New Delhi vide letter dated 24.03.2006 and on that score alone the impugned order dated 08.08.2006 and the impugned order dated 18.09.2006 communicated through letter bearing No. Estt.I/Audit/1-9/2006-07/2186 dated 25.09.2006 are liable to be set aside and quashed. Be it categorically stated that the applicant is still working in the present office at Guwahati till filing of this Original Application.

Copy of the Hon'ble Tribunal's order dated 17.08.06, representation dated 31.08.06, impugned order dated 18.09.06 and letter dated 25.09.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8,9,10 and 11 respectively.

4.13 That it is stated that in the impugned order dated 18.09.06, the respondent No. 2 has made a mention of the decision of the Govt. of India referred in Rule 4 of the Central Civil Services (medical examination rules 1957), wherein it is stated that no employee should be retained in active employment when he is physically or mentally unfit for the proper discharge of his duties. But the said provision of CCS medical examination rules, 1957 has no relevancy with the instant case of the applicant as because the applicant after his surgical operation in the year 2004 declared fit by the competent medical authority and accordingly he had joined in his duties and he is discharging his duties properly. Therefore such provision is not applicable to the case of the present

Bijay Bhattacharjee

applicant. It is categorically submitted that the applicant sought his transfer and posting from Kohima to Guwahati on the advice of the attending medical authority, firstly on the ground to avail best medical facilities at Guwahati and secondly transfer and posting is sought to avoid in hilly areas in order to maintain good health since the applicant is a heart patient, as such the ground assigned by the respondents rejecting the prayer of the applicant is not at all a good ground even otherwise when the applicant is legally entitled to posting at Guwahati in terms of the cadre separation policy, as such the respondents cannot pick up the applicant for posting at Shillong merely on the ground that some junior persons obtained stay order in different cases from this learned Tribunal when the applicant being a senior employee allotted to posting at the office of A.G., Assam at Guwahati by virtue of his seniority position, similarly situated persons were transferred and posted by some impugned order has already approached the learned Tribunal by filing an O.A. No. 224/ 2006 and the Hon'ble Tribunal in the said O.A was pleased to pass an interim order directing the respondents not to disturb the applicants of the said O.A. and the aforesaid case is still pending before the learned Tribunal. The applicant being similarly situated as such he is also entitled to similar protection and interim order.

4.14 That it is stated that the applicant is transferred and posted on deputation basis without obtaining his consent, which is not permissible under the law of the land and on that score alone the impugned transfer and posting order dated 08.09.2006 as well as the impugned order dated 18.09.2006 are liable to be set aside and quashed.

4.15 That it is stated that the applicant is an employee working under the respondents and as such the respondents are duty bound to look into the welfare of the applicant. More so, when the applicant is a heart patient and he has been transferred and accommodated at Guwahati on

consideration of his health ground in order to facilitate better medical facilities. Therefore the impugned order of transfer and posting on deputation basis at Shillong are liable to be set aside and quashed.

4.16 That it is stated that applicant has already approached the authorities and he has exhausted all remedies available to him and as such he has no other alternative but to approach this Hon'ble Tribunal for protection of his valuable legal right and as such praying for an appropriate order upon the respondents to allow the applicant to continue in the present place of posting in Guwahati. More so in view of the fact that the applicant has already allotted to the office of A.G Assam at Guwahati in terms of the cadre separation policy.

4.17 That this application is made bonafide and for the cause of justice.

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

5.1 For that, the applicant is a heart patient and has undergone major surgical operation i.e. By- Pass heart surgery at Appollo Hospital, Chennai and also suffered heart attack earlier, under such compelling circumstances applicant prayed for transfer and posting from hard stations like Kohima, Nagaland to Guwahati, Assam on medical ground and accordingly after consideration of his representations and genuine medical problem the competent authority was pleased to accommodate the applicant at Guwahati by way of transfer that too after rendering 30 years of service at the hard station at Kohima as such further transfer and posting within a span of 1 year 7 months in a high altitude place like Shillong will cause irreparable loss and injury to the applicant and his health, if the impugned order of transfer and posting order dated 08.08.2006 is implemented so far the applicant is concerned.

5.2 For that, the applicant has already rendered near about 30 years service at Kohima and thereafter transferred and posted at Guwahati on medical

ground and accordingly joined only in the month of June' 2005. Therefore his further posting at Shillong and his placement at AG (Audit), Arunachal Pradesh following the impugned order dated 08.08.2006 is not sustainable in the eye of law.

- 5.3 For that, in view of the seniority position of the applicant's service is allocated under AG (Audit), Assam as indicated in the impugned order dated 08.08.2006, as such his further transfer and posting at Shillong by the impugned order dated 08.08.2006 is contrary to the policy of cadre separation issued by the Comptroller and Auditor General (New Delhi) vide letter dated 24.03.2006 and also contrary to the circular issued by the AG (Audit), Assam.
- 5.4 For that, applicant needs constant medical check up, which is available at Guwahati but his posting at high altitude place at Shillong will cause irreparable loss and injury to the health condition of the applicant, when the Sr. Consultant Cardiologist advised the applicant to stay in a plane area for the sake of his health condition as such impugned order of transfer and posting order dated 08.08.2006 is liable to be set aside and quashed so far the applicant is concerned.
- 5.5 For that, the impugned order has been issued on 08.08.2006 with an ulterior motive and on the same day the applicant and others has been shown as stand released w.e.f. 08.08.2006 (A/N) with the deliberate intention to restrain the applicant to make any representations for retention at Guwahati on medical ground.
- 5.6 For that, in terms of cadre separation policy dated 24.03.2006 as well as circular dated 30.03.2006, applicant is entitled to be posted at Guwahati office on permanent basis and on that score alone the impugned order of posting dated 08.08.2006 is liable to be set aside and quashed.

5.7 For that in the impugned order dated 18.09.2006, the respondents have fairly admitted that the applicant is allotted to the office of A.G. Assam at Guwahati, in terms of cadre separation policy as such transfer and posting of the applicant from Guwahati to Shillong on deputation basis without the consent of the applicant is not sustainable in the eye of law and on that score alone the impugned order dated 18.09.2006 is liable to be set aside and quashed.

5.8 For that the reference of Rule 4 of the CCS (Medical examination) Rule 1957 made by the Respondents while rejecting the representation of the applicant has no relevancy with the instant case of the applicant since the applicant is declared fit by the competent medical authority and discharging his duties properly.

5.9 For that juniors of the applicants are still serving at Guwahati, as such posting of the applicant from Guwahati to Shillong by the impugned order dated 08.08.2006, merely on the ground that the learned Tribunal was pleased to pass an interim order where juniors of the applicant have approached this learned Tribunal cannot be a ground for transfer and posting of the applicant on deputation basis and on that score alone the impugned order dated 18.09.06 as well as the impugned order dated 08.08.2006 are liable to be set aside and quashed.

5.10 For that the respondents are duty bound to grant privileges to its employees to provide better medical facilities when an employee is in need of such facilities. Therefore his case is liable to be considered for retention at Cuwahati by the respondents being a model employers and on that score alone the impugned order dated 08.08.2006 as well as impugned order dated 18.09.06 are liable to be set aside and quashed so far the applicant is concerned.

5.11 For that respondents are duty bound to grant privileges to its employees to provide better medical facilities when an employee is in need of such facilities. Therefore his case is liable to be considered for retention at Guwahati by the respondents being a model employer and on that score alone the impugned order dated 08.08.2006 is liable to be set aside and quashed so far the applicant is concerned.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that saves and except filing of the O.A No. he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order issued under letter No. Estt-1/Audit/133 dated 08.08.2006 (Annexure- 7) so far the applicant is concerned as well as the

impugned order dated 18.09.2006 communicated through letter bearing No. Estt.I/Audit/1-9/2006-07/2186 dated 25.09.2006 (Annexure-11).

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in his present place of posting at Guwahati office i.e. in the establishment of AG (Audit) Assam, Beltola, Guwahati in terms of cadre separation policy dated 24.03.2006 as well as circular dated 30.03.2006 and also on consideration of medical problems of the applicant.

8.3 Costs of the application.

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

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following interim relief:-

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned transfer and posting order dated 08.08.2006 (Annexure- 7) only in respect of the applicant and the impugned order dated 18.09.2006 communicated through letter bearing No. Estt.I/Audit/1-9/2006-07/2186 dated 25.09.2006 so far the applicant is concerned till final disposal of the case.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	28 G 932338
ii)	Date of Issue	:	12. 10. 2006
iii)	Issued from	:	G. P. O , Ghy
iv)	Payable at	:	G. P. O Ghy

12. List of enclosures.

As given in the index.

30/

VERIFICATION

I, Shri Bijoy Bhushan Deb, S/o Late Binoy Bhushan Deb, aged about 52 years, working as Assit. Audit Officer in the office of Principal AG (Audit) Assam, Beltola, Guwahati- 29, applicant in the original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of October 2006.

Bijoy Bhushan Deb



Apollo
Hospitals
Chennai

DR. C.S. VIJAY SHANKAR

Cardio Thoracic Surgeon

Senior Consultant :

Dept. of Cardio Vascular & Thoracic Surgery
Apollo Hospital, Chennai

10.5.2004

Mrs. BISWALY BHUSANI DEB

Has undergone bypass
surgery. It would be
better for him to stay in
the plains & in a city with
good Cardiology facilities than
in hilly areas.

as per your request

Dr. C.S. VIJAY SHANKAR, M.B.B.S.
CONSULTANT CARDIAC SURGEON
APOLLO HOSPITAL CHENNAI - 600 008
CIVIL SURGEON - Reg. No. 2209
INR. NRI. MEDICAL SERVICE

Attended
(Copy 9/8)
Office of the Senior Audit Officer
Principal Accountant General (Audit)
Assam, Heliola, Guwahati-29

Apollo Hospital : 21, Greams Lane (Off Greams Road), Chennai - 600 008, India.
Phone: 91-44-28293278, 28296443 Grams : "APOLLOHOSP"
E-Mail: vijshanker2000@eth.net

Home Phone: 91-44-2827 5898, Cellular Phone: 98400-42624, Fax: 91-44-28332296

Attest
Mr. Biju
General

11/10/04

DISCHARGE SUMMARY

GENERAL INFORMATION

Hospital No. 1049413

Name: Mr Bijoy Bhushan Deb

Address: Bishnupally
Hojai
Nagoan - 782435
Assam

Age: 49 yrs

Sex: Male

Blood Group: AB +ve

Date Of Admission: 27/04/04

Date Of Discharge: 06/05/04

Name of Cardiologist : Dr Ashok Kumar J

Name of Surgeon : Dr C S Vijayashankar

Catheterising Cardiologist : Dr A K Boro

Hospital : GNRC Heart Institute, Guwahati

Date of Catheterisation : 02/03/04

Date of Surgery : 28/04/04

DIAGNOSIS : CORONARY ARTERY DISEASE

SYMPTOMS AND HISTORY

This 49 year old gentleman, hypertensive since 4 years, diabetic since 2 years, ex-smoker was admitted with history of Inferior Wall MI in January 2004 and class II angina since 3 years for further cardiac evaluation. He was evaluated elsewhere by cardiac cath and coronary angiography which revealed triple vessel disease with normal LV function. He was advised CABG surgery.

CLINICAL EXAMINATION:

On admission, he was haemodynamically stable with a pulse rate of 80/min and a BP of 120/80 mm Hg. Examinations of the cardiovascular and respiratory system were normal.

*After stent
Biju Deb
Personal*

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ANGIOS:

LAD	70% after D2
D2	70% ostial
LCX	100% after OM3
RCA	70-80% proximal

LV ANGIO:

Akinesia of Postero basal wall.

In view of his symptoms and angiographic findings, he was taken up for CABG
surgery on 28/04/04.

AND

SURGERY INFORMATION

DATE OF SURGERY

28/04/04

Through a limited median sternotomy on a beating heart without conventional cardiopulmonary bypass aorto coronary saphenous vein grafting to.

Second diagonal artery

The left radial artery was grafted to the
Right coronary artery

The left internal mammary artery was grafted to
Left anterior descending artery

POST OP PERIOD: Uneventful

ADVICE ON DISCHARGE:

Diet: 1500 K cal, low fat, low cholesterol, low salt diet.

MEDICATION:

A. Ranitidine 150mg twice daily 15 mins before food for 2 weeks

C. Beccosules once daily after lunch for 1 month.

~~Monitored
Dulie
Advocate~~

AAO (SS) = 124 / = 113
So (v) 1.9

1. Candesartan 80mg daily after dinner till review

2. Cardiac vinyl twice daily till review

3. Glindur 30mg once daily till review

4. Aztor 20mg once daily after dinner till review

5. Angizent GL 90mg once daily for 6 months
(In view of left radial artery graft being used)

Periodic monitoring of blood pressure and blood sugar and anti-hypertensives and anti-diabetics to be adjusted if necessary as advised by the Diabetologist/Physician.

To come for review after 3 months with prior appointment.

Dr C S Vijayashankar
Consultant Cardio Thoracic Surgery
Dept. of Cardio Vascular & Thoracic Surgery

Dr G Sridevi
Resident

Attested

Debjit
Senior Audit Officer
Principal Accountant General (Audit)
Assam Legislative Assembly
Assam, India, Guwahati-29
Attested
Debjit

H.A.D (S.S) = 124 - 1 = 113

To

The Pr. Accountant General (Audit)
Meghalaya etc., Shillong
Shillong - 793 001

(Through proper channel)

Subject:- Prayer for transfer to the Office of the Accountant General (Audit), Assam, Guwahati

Respected Sir,

Most respectfully I beg to lay before you the following few lines for favour of your kind consideration and sympathetic action.

That Sir, I had joined in the Office of the Accountant General, Nagaland, Kohima on 10.9.1976 as Auditor. Consequent on passing the Section Officer's Grade Examination (Audit-Civil branch), I have been promoted to officiate as Section Officer with effect from 17 July 1998 and as Assistant Audit Officer with effect from 1 January 2002 in the Office of the Accountant General (Audit), Nagaland, Kohima. Since the date of joining, I have been rendering my services to the best of my abilities and satisfaction of my superior authority.

That Sir, in the month of January 2004, I fell ill after heart attack and revealed Coronary Artery Disease (CAD): Triple vessel Disease and advised me to undergo operation of Coronary Artery By Pass Graft Surgery (CABG). Accordingly, as per recommendation and approval of Medical Boards and Director of Medical Services, Kohima, I moved to Apollo Hospitals, Chennai in the month of April 2004. In view of my symptoms and angiographic findings I was taken up by the Apollo Hospital, Chennai for CABG surgery on 28 April 2004 and released on 6 May 2004 (copy enclosed for reference) with an advice time to time, I have to move to Chennai for review of my health. Moreover, it is also advised periodic monitoring of blood pressure, sugar and anti hypertensive/diabetics to be checked by the Diabetologist/physician.

You may be aware that Kohima is a place where modern facilities for treatment of such type of heart's disease are not available. Moreover, needs of daily life also compels me to walk frequently on uneven roads and climb up the hill stairs/slopes here at Kohima which is badly affecting my ailing health.

In consideration of above, doctors have advised me to be in a plain area and in a city with good cardiology facilities than in hilly places and where movement is easier and modern facilities of medical treatment are easily and frequently available (Copy enclosed).

Incidentally, it has been reliably learnt that the case of my transfer to the Office of the Accountant General (Audit), Assam, Guwahati during 2004 is already under your active consideration and hope that action towards the above will be taken accordingly at the earliest in consideration of my health condition.

Attested
Ranita
Palitakar

I would, therefore, request your goodself to consider my case sympathetically and get me transferred to the Office of the Accountant General (Audit), Assam, Guwahati at the earliest so that I can tide over the crisis.

For such act of kindness, I and my family shall remain profoundly grateful to you.

Enclosed: As stated

Dated: Kohima 6th July 2004

Yours faithfully,

BIJOY BHUSAN DEB

(BIJOY BHUSAN DEB)

Asstt. Audit Officer,
O/o the AG (Audit), Nagaland, Kohima

Attested
Dilma
Advocate

महालेखाकार (लेखापरीक्षा), नागालैण्ड

कोहिमा - 796 001

OFFICE OF THE ACCOUNTANT GENERAL (AUDIT), NAGALAND

KOHIMA - 797 001

Phone : (0370) 2225309, 10, 11, 12 & 13, Fax : 2244788

A.P. Chophy, I.A&AS
Sr. Dy. Accountant General (Audit)

D.O.No. Admin/Audit/2-19/20032-2003/489
Date: 22nd July 2004

Dear Sir,

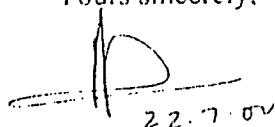
I am to forward herewith the representation of Shri Bijoy Bhuisan Deb, Assistant Audit Officer, the representation itself is a explanatory.

While forwarding the representation I would like to invite reference to your letter No. Estt.I/Audit/12-3/02-03/2682 dated 2-12-2002 whereby it was informed that his case would be considered during 2004, moreover, I am fully convinced of the genuineness of the case and thus request you to kindly ^{consider} his request as a special case considering the merit of the case.

Enclo :- Representation alongwith
medical certificates.

With regards

Yours sincerely,


22.7.04

Attested
Smtt.
Advocate
Shri Rajib Sharma,
Principal Accountant General (Audit),
Assam, Meghalaya etc.
Shillong.

To

The Principal Accountant General (Audit)
Meghalaya, Arunachal Pradesh, Mizoram, Shillong.

(Through proper channel)

Subject :- Prayer for transfer to the Office of the Accountant General
(Audit) Assam, Guwahati.

Respected Sir,

With due respect and humble submission, I beg the honour to lay before you the following few lines for favour of your kind and sympathetic consideration please.

That Sir, I had joined in the Office of the Accountant General (Audit) Nagaland, Kohima as an Auditor on 10-09-1976 and have been promoted to officiate as Asstt. Audit Officer with effect from 01 January 2002 in the Office of the Accountant General (Audit) Nagaland, Kohima. Since the date of joining, I have been rendering my services to the best of my abilities and satisfaction of my superior authorities.

That Sir, in the month of January 2004, I fell ill after heart attack and compelled to undergo operation of **Coronary Artery By-Pass Graft Surgery (CABG)** at Apollo Hospital, Chennai on 28-04-2004. The doctors have advised me to be in a plain area and in a city with good Cardiology facilities than in hilly places and movement is easier and modern facilities of medical treatment are easily and frequently available.

You may be aware that Kohima is a hilly place and climb up the hill stairs/slopes which is badly affecting my ailing health and modern facilities for treatment of such type of heart's disease is also not available at Kohima.

That Sir, considering necessity of presence at Guwahati due to major heart surgery which had already been explained in my earlier representation dated 07 July 2004 (**copy enclosed for ready reference**). But unfortunately my representation dated 7 July 2004 was neither acknowledged nor any action was taken by the CCA considering the genuineness/gravity of the case.

In this connection, it is also mentioned that it has been reliably learnt that the case of my transfer to the Office of the Accountant General (Audit) Assam, Guwahati during 2004 is already under your active consideration and hope that action towards the above will be taken accordingly at the earliest in consideration of my present health condition.

In view of the facts stated above, I would fervently implore your benign authority to review my case considering gravity of my problems and expedite my early transfer to the Office of the Accountant General (Audit) Assam, Guwahati on priority basis/ humanitarian ground as a special case so that I can tide over the crisis and for such act of your kind and sympathetic consideration, I and my family shall remain profoundly grateful to you.

Attested
Ranu
Advocate

Surgical report and doctor's certificate had already been submitted alongwith the representation dated 07 July 2004 for information and sympathetic consideration.

Enclo :- As stated.

Dated, Kohima
the.1.11. November 2004.

Yours faithfully,

Bijoy Bhushan Deb

(BIJOY BHUSAN DEB)

Asstt. Audit Officer

Office of the Accountant General (Au)
Nagaland, Kohima.

VO

*Attested
Pluta
Advocate*

To

The Accountant General (Audit)
Nagaland, Kohima

Subject:- Request for taking up the transfer case to the Principal Accountant General (Audit), Shillong for office of the Accountant General (Audit), Assam, Guwahati

Sir,

With due respect and humble submission, I beg to state that my representation dated 7 July and 17 November 2004 on medical ground (patient of By pass surgery) regarding consideration of my transfer to office of the Accountant General (Audit), Assam, Guwahati was forwarded by this office to office of the Principal Accountant General (Audit), Shillong being Cadre Controlling Authority (CCA) considering the depthness, genuineness and merit of the case. But unfortunately representation dated 7th July and 17th November 2004 were neither acknowledged nor any action were taken by the CCA considering the genuineness and merit of the case.

You may be aware that Kohima is a place where modern facilities for treatment of such type of heart's disease are not available. Moreover, needs of daily life also compels me to walk frequently on uneven roads and climb up the hill stairs/slopes here at Kohima which is badly effecting my ailing health.

In consideration of above, doctors have also advised me to be in a plain area and in a city with good cardiology facilities than in hilly places and where movement is easier and modern facilities of medical treatment are easily and frequently available which is not at all fully possible at Kohima. Now because of compelling reasons due to my deteriorating health condition arising out of heart problems. Therefore, once again I would like to request personal intervention of our Honourable Accountant General (Audit) so that my transfer case may be taken up with the Pr. Accountant General (Audit), Shillong in consideration of my health condition so that my case may be considered/settled at the earliest. You may also admit that had I been transferred at plain area like Guwahati I can avail better medical services.

For which act of kindness I and my family shall remain profoundly grateful to you.

Yours faithfully,

Bijoy Bhusan Deb
13/11/05

(Bijoy Bhusan Deb)
Asstt. Audit Officer
O/o the AG (Audit), Nagaland
Kohima -797 001

13/11/05
Bijoy Bhusan Deb
Asstt. Audit Officer

OFFICE OF THE PRACOUNTANT GENERAL (AUDIT)
MEGHALAYA ETC., SHILLONG - 793 001.

Order No. Estt. I/Audit/155

Dated : 19.01.2005.

The following Senior Auditors/ Auditors are promoted to officiate as Section Officer (Audit) in the scale of pay of Rs.6,500-2(X)-10,500/- P.M. until further orders with effect from the date of their taking over charge as such in the office as noted against each, subject to the following conditions:-

(i) On their promotion as Section Officer (Audit) they are liable to be transferred to the office of the Pr. Accountant General (Audit), Meghalaya etc., Shillong, or the Pr. A.G. (Audit) Assam, Nagaland, Kohima, Agartala, Manipur, Imphal as well as Branch/Zonal offices of their offices already in existence or that will be created in future and anywhere within the States of Assam, Meghalaya, Manipur, Nagaland, Arunachal Pradesh and Mizoram.

(ii) In terms of FR 22.3 (a)(1), read with GOI orders thereunder, they are required to exercise option, if any, within one month from the date of their joining as Section Officer (Audit).

(iii) On their promotion as Section Officer (Audit), they are placed on probation for a period of two years, i.e. 3/2 of their taking over charge as such in their respective new place of posting.

Name	Present place of posting	Place of posting on promotion.
Shri Sankar Chatterjee	O/o the Pr. A.G. (Audit), Assam, Guwahati	O/o the Pr. A.G. (Audit), Assam, Guwahati against existing vacancy
Shri Kandah	O/o the A.G. (Audit), Nagaland, Kohima	O/o the A.G. (Audit), Nagaland, Kohima vice Shri Sebabrata Mazumdar, SO repatriated to the O/o the Pr. A.G. (Audit), Assam, Guwahati
Shri Sanjoy Sen Gupta	O/o the Pr. A.G. (Audit), Tripura, Agartala	O/o the Pr. A.G. (Audit), Tripura, Agartala vice Shri Bhupen Bhattacharya SO transferred to O/o the Pr. A.G. (Audit), Meghalaya etc., Shillong.
Shri Partha Sarathi Chatterjee	O/o the Pr. A.G. (Audit), Tripura, Agartala	O/o the Pr. A.G. (Audit), Tripura, Agartala vice Shri Biswajit Choudhury, SO repatriated to the O/o the Pr. A.G. (Audit), Assam, Guwahati
Shri Bishnu Charan Santra	O/o the A.G. (Audit), Nagaland, Kohima	O/o the A.G. (Audit), Nagaland, Kohima vice Shri Jishu Bhattacharjee, SO repatriated to the O/o the Pr. A.G. (Audit), Assam, Guwahati
Shri R. H. Changmingi	O/o the Pr. A.G. (Audit), Assam, Guwahati	O/o the Pr. A.G. (Audit), Assam, Guwahati Against the existing vacancy
Shri Babul Ch. Das	O/o the Pr. A.G. (Audit), Assam, Guwahati	O/o the Pr. A.G. (Audit), Assam, Guwahati Against the existing vacancy.
Chhobmo Shituri	O/o the A.G. (Audit), Nagaland, Kohima	O/o the A.G. (Audit), Nagaland, Kohima Vice Shri Bijoy Bhattacharjee, AAO transferred to the O/o the Pr. A.G. (Audit), Assam, Guwahati
Shri Ganesh	O/o the Pr. A.G. (Audit), Meghalaya etc., Shillong	O/o the Pr. A.G. (Audit), Meghalaya etc., Shillong against existing vacancy
Shri Deb Bhowmick	O/o the Pr. A.G. (Audit), Assam, Guwahati	O/o the Pr. A.G. (Audit), Meghalaya etc., Shillong vice Shri Babul Ch. Das. SO repatriated to the O/o the Pr. A.G. (Audit), Assam, Guwahati.

This order is in the interest of public service.

Concl... n?

Attested
R. H. Changmingi
Advocate

Authority? Pr. Accountant General (Audit)'s Orders dated 19-01-2005 at page 3 of file No.DAC (A)/Con-C/DPC/S.Os/2005.]

43
Sd/-

Deputy Accountant General (Admin)

No. EST-I/AUD/19-43/2004-05/3406-3437

Dated: 10/1/2005

Copy forwarded for information and necessary action:-

The Deputy Director, O/o the Director General of Audit, P&T, S.W.A.C. Branch Audit Office, 33 B.B.D. Bagh, South Kolkata - 700 001.

The A.G. (Aud) Tripura, Agartala. The enclosed PCs may be handed over to the officials concerned and the date of joining of Shri S. Sen Gupta and Shri P.S. Chakraborty as well as date of release of Shri B. Saha and Shri B. Choudhury. SCs may please be intimated to this office for record.

Enccl. 4 PCs

The A.G. (Aud) Nagaland, Kohima. The enclosed PCs may be handed over to the officials concerned. The date of joining of S/ Shri M. Kandan C. S. Bhattacharjee and C. Shinde as well as date of release of Shri S. B. Deb, AAO, S. Mazumdar and J. Bhattacharjee. SCs may please be intimated to this office for record.

Enccl. 6 PCs

The A.G. (Audit) Manipur, Imphal. The enclosed PCs may be handed over to the officials concerned. The date of joining of S/ Shri Joydev Bhawmick and the date of release of Shri B.C. Das. SCs may please be intimated to this office for record.

Enccl. 7 PCs

The Sr. Deputy Accountant General (Admin), O/o. The Pr.A.G. (Audit), Assam, Belpota, Mardamgaon, Guwahati-29. Enclosed PCs may be handed over to the officials concerned. The date of joining of S/ Shri N.C. Sarker, R. Chakraborti, B.L. Das, S. Mazumdar, B. Choudhury, J. Bhattacharjee, P. P. Deb and B.C. Das as well as the date of release of Shri Joydev Bhawmick may please be intimated to this office for record.

Enccl. 4 PCs

The Secretary to Pr. A.G (Audit), Assam, Belpota, Mardamgaon, Guwahati-29.

The Secretary to the Pr. A.G (Audit), Meghalaya, etc., Shillong.

The Sr. Audit Officer/Record & Claim

The Sr. Audit Officer/SWA

The P.A.O. (Local)

The Ass'tt. Audit Officers/Constituted/Recd.

Group/S. B.P.C. Group/Pay fixation group.

Officials concerned.

Other Group

Office Order Book.

Established
10/1/2005
Established Officer
28/1

Attested
Bhattacharjee
Advocate

ANNEXURE -

4
i (Series)

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

Dated: 26/04/2005

O.O. No: Estt-I/Audit/34

Pursuant to office order No. Estt-I/Audit/155 dated 19-01-2005 of the office of the Principal Accountant General (Audit), Meghalaya, etc., Shillong, Shri Bijoy Bhusan Deb, P.A.O. has joined this office on 18-04-2005 (F/N) on his transfer from the office of the Accountant General (Audit), Nagaland, Kohima.

Authority: Deputy Accountant General (Admn)'s order dated 25-04-2005 at P/6^N in the file No. Estt-I/Audit/9-11/2005-06.

Sd/-
Sr. Audit Officer (Admn)

Dated: 26/04/2005

Memo. No. Estt-I/Audit/9-11/2005-06/327-340

Copy to:

1. The Principal Director of Audit, N.F. Railway, Maligaon, Guwahati-11.
2. The Principal Accountant General (Audit), Meghalaya, etc., Shillong-1.
3. The Accountant General (Audit), Nagaland, Kohima.
4. The P.A.O., O/o the A.G. (A&E), Assam, Guwahati-29.
5. The Secretary to Principal Accountant General (Audit), Assam.
6. The P.A. to Deputy Accountant General (A), Local.
7. The AAO/Estt-2 Section.
8. The AAO/Record Section.
9. The Budget Group.
10. The office order file.
11. The person concerned.
12. SB/PC group.
13. Hindi Cell.

Subh
Subh
Advocate

Subh
Subh
Sr. Audit Officer (Admn)

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

No. 184-NGE(App)/17-2006

Dated: 24.03.2006

To

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

Sub:-

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

Sir,

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

The junior officers in each cadre who are not likely to be accommodated in the concerned offices as per options exercised by them may be posted on deputation basis to the deficit offices as per instructions contained in para 4 of the policy.

The action taken report should be sent to us by 15-05-2006. We intend to have the separated cadres in place as on 01-06-2006.

4. Caveat in the appropriate courts of judicature may be filed in consultation with your standing counsels.

Yours faithfully,

Enclo: As above.

Left to the
Advocate

33/4
(Manish Kumar)
Assistant Comptroller and
Auditor General (I)

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

46

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

Sanctioned Strength of S.R.A. Os/A.Os and AAOs/Sos in N.E. Region.
(other than Commercial Officers)

Name of the Office	Sanctioned Strength		Sanctioned Strength	M.P	Chairman
	SR.AO/AO	AAOs/Sos			
Shillong	20+8		37+13	11+1	16 9
Guwahati	42+9		113+17	86+13	27 4
Agartala	12+4		30+8	26+2	4 6
Imphal	13+3		15+4	10+3	5 1
Kohima	6+3		18+5	14+10	11 05
Total	93+27		213+47	156+32	57 15

Officed
Mnts
Advocate

S/S onwers Vacancy
= Required Strength

(Photostat Copy)

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

Circular on Cadre Separation

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

Dated 30/3/2006

- 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 optees for a particular office is more than the required strength of that office, the excess persons in each cadre (SAO/AO/AAO/SO), who can not be accommodated in the office of their preference against the required strength of that office as per their seniority, shall be posted on deputation basis to the office 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 reintegration 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 those 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/Admin. 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.

Sr. Dy. Accountant General (Admin.)

*Attested
With
Affidavit*

1. A. K. H. S. 06

प्रायोगिक प्रधन महालेखाकार (लेखापरीक्षा), असम, बेलतला, गुवाहाटी-29

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

No. Estt-1/Audit/133

Dated: 08/08/2006

In pursuance of Order No. Estt-1/Order No. 58 dated 8th August 2006 of Principal Accountant General (Audit) Meghalaya etc. Shillong regarding policy on cadre separation, the following group 'B' officers are hereby transferred and posted on deputation basis to the offices as noted against their names shown below:

Sl. No.	Name	Designation	Present place of posting	Place of posting on deputation
1	Sivashankar Pal	Sr. A.O.	O/o the P.A.G. (Audit) Arunachal Pradesh Itanagar	O/o the A.G. (Audit) Arunachal Pradesh Itanagar
2	Uttam Ch. Dutta	Sr. A.O.	DO	O/o the A.G. (Audit) Nagaland Kohima
3	Kamalешwar Borah	Sr. A.O.	DO	O/o the A.G. (Audit) Nagaland Kohima
4	Ashutosh Deka	Sr. A.O.	DO	O/o the A.G. (Audit) Nagaland Kohima
5	Asish Kumar Acharyee	Sr. A.O.	DO	O/o the A.G. (Audit) Mizoram, Aizawl
6	Dwijesh Ranjan Saha	Sr. A.O.	DO	O/o the A.G. (Audit) Mizoram, Aizawl
7	Tapan Kr. Halder	Sr. A.O.	DO	O/o the A.G. (Audit) Mizoram, Aizawl
8	Dipan Kr. Das	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
9	Ranadhir Sinha	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
10	Sahadeb Ghosh	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
11	Bikash Roy	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
12	Kalyan Kr. Das(II)	Sr. A.O.	DO	O/o the A.G. (Audit) Mizoram, Aizawl
13	Subhendu Chakraborty	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
14	Sujit Kr. Deb	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
15	Bimal Kanti Bhowmick	Sr. A.O.	DO	O/o the A.G. (Audit) Manipur, Imphal
16	Bijoy Bh. Deb	Sr. A.O.	DO	O/o the A.G. (Audit) Arunachal Pradesh Itanagar

Attested
Chitta
Advocate

*17	Isabai Kr. Chanda	A.A.O.	-DO-	O/o the A.G. (Audit) Arunachal Pradesh Itanagar
*18	Rupen Kr. Kakoti	A.A.O.	-DO-	O/o the A.G. (Audit) Arunachal Pradesh Itanagar
*19	Hitesh Kakoti	A.A.O.	-DO-	O/o the A.G. (Audit) Nagaland Kohima
*20	Sibotosh Bhattacharjee	A.A.O.	-DO-	O/o the A.G. (Audit) Nagaland Kohima
*21	Lakitsmi Borgchairi	A.A.O.	-DO-	O/o the A.G. (Audit) Nagaland Kohima
*22	Pradip Kr. Maitra	A.A.O.	-DO-	O/o the A.G. (Audit) Nagaland Kohima
*23	Subhash Ch. Bhattacharjee	A.A.O.	-DO-	O/o the A.G. (Audit) Mizoram, Aizwal
*24	Biprajit Patkayastha	A.A.O.	-DO-	O/o the A.G. (Audit) Mizoram, Aizwal
*25	Partha Sarathi Gupta	A.A.O.	-DO-	O/o the A.G. (Audit) Mizoram, Aizwal
*26	Fayzur. Rahimhan Choudhury	A.A.O.	-DO-	O/o the A.G. (Audit) Mizoram, Aizwal
*27	Biswadeep Chakraborty	A.A.O.	-DO-	O/o the A.G. (Audit) Mizoram, Aizwal

On their transfer they stand released w.e.f. 08.08.2006 (A/N) to enable them to join in their new place of posting on deputation basis.

In respect of personnel deputed to the O/o the A.G. (Audit) Arunachal Pradesh, Itanagar and O/o the A.G. (Audit) Mizoram, Aizwal, they are to initially report to the O/o the Pt. A.G. (Audit) Meghalaya etc. Shillong.

* Allocated to Guwahati office but placed at the disposal of the offices shown against them till finalization of the court case.

Authority: - *Pr. Accountant General's orders dated 08.08.2006 at P/2^N of file No. Estt-I/Audit/1-51/Vol-II/2006-07/*

Sd/-

Deputy Accountant General's (A&W)

No. No. Estt-I/Audit/1-51/Vol-II/2006-07/1522

Dated 08.08.2006

Copy forwarded for information and necessary action to:

*The Comptroller and Auditor General of India,
10, Bahadurshah Zafar Marg,
Indraprastha Head Post Office,
New Delhi - 110002*

Sd/-

Deputy Accountant General's (A&W)

Ref. Memo No. EST-1/ Audit/1-81/Vol-II/2000-07/1323-36

Dated 08.08.2006

Copy forwarded for information and necessary action.

1. The Pr. Director of Audit, N. E. Railway, Maitigaon, Guwahati.

2. The Pr. A.G. (Audit), Meghalaya etc., Shillong.

3. The A.G. (Audit), Nagaland, Kohima.

4. The A.G. (Audit), Manipur, Imphal.

5. The A.G. (Audit), Tripura, Agartala.

6. The Secretary to the Pr. A.G. (Audit), Assam, Guwahati.

7. The P.A.O. / O/o the Accountant General (A&E), Assam, Guwahati.

8. The Private Secretary to the Pr. A.G. (Audit), Assam.

9. The A.A.O. / Record.

10. The A.A.O. / Est. / II Secur.

11. All Branch Officers.

12. All concerned Officers.

13. The Hindi Cell.

14. O.O. File.

15. Notice Board.

Sr. Audit Officer (Adm)

110
111
112

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Annexure - 8

Original Application No. 206 of 2006.

Date of Order: This the 17th Day of August, 2006.

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

Shri Bijoy Bhushan Deb.
Assistant Audit Officer, Office of the
Principal AG(Audit) Beltola
Guwahati-29, Assam

Applicant

By Advocate Mr.M.Chanda, Mr.S.Nath, Mr.G.N.Chakraborty,
Smt.U.Dutta

Versus

1. The Union of India,
Represented by the Comptroller & Auditor General,

Government of India,
10, Bahadukshah Zafar Marg
New Delhi-110002.

2. The Accountant General(Audit)
Beltola, Guwahati-29,
Assam.

3. The Accountant General
Nagaland, P.O. Kohima.

Respondents

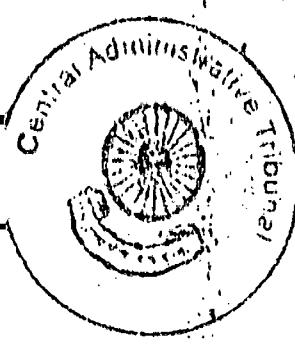
By Advocate Mr.M.U.Ahmed, Adil.C.G.S.C.

ORDER (ORAL)

SACHIDANANDAN, V.C:

The applicant was initially appointed as Auditor and posted at Kohima under the Administrative control of AG, Nagaland, Kohima. He was promoted to the post of Sr. Auditor in 1984 and further promoted to the cadre of Section Officer on 17.07.98. The applicant has undergone a by pass heart surgery at Apollo hospital, Chennai (Annexure 1 series) The applicant submitted a representation to the Principal AG(Audit) Meghalaya, Shillong requesting him to consider his transfer and posting at Guwahati under the AG (Audit) Assam.

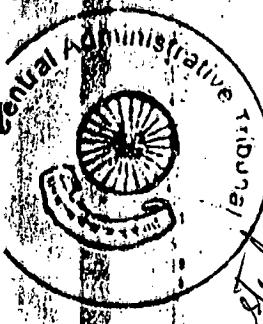
affected
Affected
Advocate



The applicant, finding no response to his representation dated 07.07.04 he has again filed representations dated 17.11.04 and 13.01.05. The Principal AG(Audit) Meghalaya, Shillong transferred the applicant and posted the applicant at Guwahati as AAO. The Comptroller and Auditor General of India, New Delhi has issued cadre separation policy. In terms of separation policy (Annexure 5) the applicant is allotted under AG (Audit), Assam, Guwahati and he is entitled to be retained at Guwahati. The Principal Accountant General (Audit) Assam, Guwahati issued the impugned order dated 08.08.2006 whereby the applicant alongwith 26 others are sought to be transferred and posted in different establishment of AG(Audit) in the N.E. Region, the applicant whose name figured at Sl.No.16 is now sought to be transferred from the office of the AG(Audit) Assam, Guwahati to the office of the AG(Audit) Assam, Arunachal Pradesh. It is mentioned here that the applicant was transferred and posted from Kohima to Guwahati due to his medical ground and therefore he seeking the following reliefs:-

- 8.1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order under letter No. Batt.1/Audit /133 dated 08.08.2006(Annexure 7) so far the applicant is concerned.
- 8.2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in his present place of posting at Guwahati office i.e. in the establishment of AG (Audit) Assam, Heltola, Guwahati in terms of cadre separation policy dated 24.03.2006 as well as circular dated 30.03.2006 and also on consideration of medical problems of the applicant.
- 8.3. Costs of application.
- 8.4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

2. I have heard Mr.M.Chanda learned counsel for the applicant and Mr.M.U.Ahmed learned Addl.C.G.S.C. for the Respondents.



*After the
Matters
Reconcile*

When the matter came up for hearing, the learned counsel for the applicant has submitted that the applicant is posted at Guwahati under AG (Audit) Assam on consideration of medical grounds and praying for a direction upon the respondents to allow the applicant to continue in the present place of posting at Guwahati in view of his seniority position "as" per separation policy dated 24.08.2006. The applicant has made several representations before the respondents against the impugned order dated 08.08.2006 but to no response. In the interest of justice this Court directs the applicant to file representation before the respondent No.2 within 15 days from to-day and on receipt of such representation, if filed by the applicant, the respondent No.2 or any other competent authority shall consider the representation within 1 month thereafter. The respondents shall, pass speaking order and communicate to the applicant. The transfer orders dated 08.08.2006 (Annexure 7) shall be kept in abeyance in so far as the applicant is concerned and he may be allowed to continue in Guwahati. ~~till Apprehension is disposed of.~~

The application is accordingly disposed of. There will be no order as to costs.

sd/ VICE CHAIRMAN



Officed
Almora
of
Chocade

Date of Application : 18.8.06
Date on which copy is ready : 18.8.06
Date on which copy is delivered : 18.8.06
Verified to be true copy

Section Officer (D.A.)
C. A. T. Guwahati Bench
Guwahati-5

18/8/06

To,

Annexure-9

The Principal Accountant General (Audit)
Assam,
Maidamgaon, Beltola,
Cuwahati- 781029.

(Through proper channel)

Sub: - Continuation of present posting at Guwahati; prayer for:

Ref: - (1) Judgment and order dated 17.08.2006 in O.A No. 206/2006 passed by the Hon'ble Central Administrative Tribunal, Guwahati.
(2) My application dated 23.08.2006.

Respected Sir,

Most humbly and respectfully I beg to refer to the above references and beg to lay the following few lines before you for your kind and sympathetic considerations.

That Sir, I was initially appointed as Auditor on 10.09.1976 and posted at Kohima under the administrative control of AG, Nagaland, Kohima. Thereafter, I was promoted as Sr. Auditor in 1984 and then further promoted to the cadre of Section Officer on 17.07.1998 and as Assistant Audit Officer w.e.f. 01.01.2002 by the cadre controlling Authority AG (Audit) Meghalaya, Mizoram, Arunachal Pradesh etc., Shillong and posted in the same office at Kohima.

That Sir, following a heart attack in 2004, I had to be shifted to Apollo Hospital, Chennai in serious condition where I had undergone a CABG surgery on 28.04.2004. I was advised by the Doctor not to walk up and down on slopes and uneven roads and to remain under constant medical care and supervision. In view of this, in order to avoid movements in the hilly uneven terrains at Kohima and also in order to facilitate my post-operation medical care as advised by the Doctor, I submitted representations to the Principal Accountant General (Audit), Assam, Meghalaya etc; Shillong, praying for my transfer to your office at Guwahati which was strongly recommended by the Sr. Dy. Accountant General (Audit), Nagaland, Kohima vide his D.O letter dated 22.07.2004.

Attested
Dulal
Advocate

That Sir, being shifted on the genuineness of my case, the Principal Accountant General (Audit), Shillong was kind to consider the matter and I was transferred and posted from the office of the A.G (Audit), Nagaland, Kohima to the office of the Principal A.G. (Audit), Assam, Guwahati vide order dated 19.01.2005, where I joined on 18.04.2005.

That Sir, subsequently the Comptroller and Auditor General of India, New Delhi framed cadre separation policy vide his letter dated 24.03.2006 and in terms of that policy also I have been allocated to Guwahati on permanent basis and as such I am entitled to continue at my present post in the office of the Principal AG (Audit), Assam, Guwahati.

That Sir, when I have just settled at Guwahati and have arranged for my medical supervision and care etc., I have, to my utter surprise and shock, one order No. Fatt I/Audit/133 dated 08.08.2006 issued from your office whereby I have been sought to be transferred from Guwahati to the office of the AG (Audit) Arunachal Pradesh, Itanagar, with the direction to join initially at Shillong and even stood released w.e.f. 08.08.06.

That Sir, situated thus, and being aggrieved with the said transfer order dated 08.08.06, I approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati against the said transfer and posting order by filing an O.A. No. 206/2006. The Hon'ble CAT vide it's order dated 17.08.2006 in O.A. No. 206/2006 was kind to stay my transfer aforesaid and directed me to file my representation before you within 15 days time with further direction upon your honour to consider my representation within 1 month thereafter and to pass a speaking order. In compliance with the direction of the Hon'ble Tribunal, I had submitted to you my application dated 23.08.06, forwarding therewith a copy of the order dated 17.08.06 of the Tribunal and further to that, I am now submitting this detailed representation before you for your kind and sympathetic consideration.

*Subteet
Maitta
Advocate*

That Sir, as stated above, I was transferred and posted to Guwahati on my health ground only and I am constrained to move out of Guwahati at this stage. As per the allocation made under cadre separation policy also, I have been allocated to Guwahati Office on permanent basis and as such I am entitled to continue with my present posting at Guwahati. But it is evident from the order dated 08.08.06 that it is due to the problem caused by the filing of Court cases by several officers against their transfers, that I have been transferred to Itanagar/Shillong till finalisation of those cases, which is an injustice meted to me for no fault of mine, more so in view of my present health condition. I therefore pray to your honour for natural justice as well as sympathetic consideration on humanitarian ground.

That Sir, I have served for long 30 years in the hard station at Kohima, Nagaland and I have joined in a plain station (Guwahati) only about 1 year and 4 months back and that too on my health ground since I am a heart patient and have undergone a by-pass heart surgery only two years back. In such a situation my transfer again to a hilly place like Shillong is distressing for me which may even turn out to be fatal for me.

Under the circumstances stated above, I would earnestly pray your honour kindly to consider my case with your utmost compassion and allow me to continue in my present post at Guwahati in the light of the order dated 17.08.2006 of the Hon'ble CAT and for this act of your kindness I shall remain ever grateful to you.

Enclo:- Copy of the order dated 17.08.06

Copy of representation dated 23.08.06

Yours faithfully

Date:- 31st August- 2006

(BIJOY BHUSAN DEB)

Asstt. Audit Officer,
O/o Principal AC (Audit)
Beltola, Guwahati.



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

No. DAG(A)/Con-C/2006-2006/718

Dated : 18th September, 2006

ORDER

I have gone through the representation submitted by Shri Bijoy Bhusan Deb. AAO of the office of the Pr. Accountant General (Audit), Assam, Guwahati against the orders passed bearing No. Estt-I/Audit/133 dated 08/08/2006.

I have gone through the points raised by Shri Deb in his aforesaid representation.

It is a fact that Shri Deb, being a Nagaland cadre officer was transferred to the office of the Pr. Accountant General (Audit), Assam, Guwahati on the basis of his representation on health ground. It is also a fact that Shri Deb was transferred on deputation to the office of the Accountant General (Audit), Arunachal Pradesh, Itanagar with its Headquarter in Shillong. The transfer of Shri Deb was necessitated as the Hon'ble CAT, Guwahati has ordered that the most 20 AAOs of that office should not be disturbed. Had Hon'ble Tribunal not stayed their orders of transfer Shri Deb would not have been disturbed. Further, I have gone through the Government of India decision No. (2) below Rule 4 of the Central Civil Services (Medical Examination) Rules, 1957 as amended from time to time which interalia provides that "under orders of the Government of India, no employee is, under any circumstances whatever, has to be retained in active employment when he is physically or mentally unfit for the proper discharge of his duty".

*Attegety
Muth
Advocate*

Shri Deb was transferred to Guwahati from Nagaland when the situation was such as to accommodate his request. Now if Shri Deb and some other AAOs are not transferred to the office of the Accountant General (Audit), Arunachal Pradesh, Itanagar in that case that office will not start functioning. In a similar case, a reference was also made to the office of the Comptroller and Auditor General of India which has stated that no person will be exempted from transfer as per the policy of separation of Group 'B' officers in the offices of N.E. Region on the ground of self illness.

I therefore reject the representation submitted by Shri Deb.

Pr. Accountant General (Audit)

Accepted
Rutta
Advocate

Malhotra

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

No. Estt.I/Audit/1-9/2006-07/2186

Dated 25.09.2006

To

Shri Bijoy Bhusan Deb,
Asstt. Audit Officer,
O/o the Pr. Accountant General (Audit), Assam,
Beltola, Guwahati - 29

Subject: *Order of Pr. A.G. (Audit) Meghalaya etc. Shillong against his
Representation dated 31st August 2006.*

Sir,

I am to forward herewith the order No. DAG(A)/Con-C/206-2006/718
dated 18.09.2006 of Pr. Accountant General (Audit) Meghalaya, etc. Shillong
against your representation dated 31.08.2006 for your information.

You are requested to furnish the acknowledgement of the said order for
onward transmission to the Pr. Accountant General (Audit) Meghalaya, etc. Shillong.

Enclo: Order No. DAG(A)/Con-C/206-2006/718

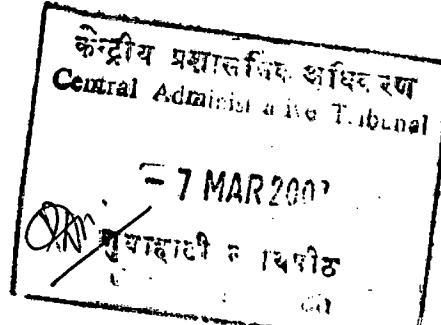
dated 18.09.2006

*Mr. Bijoy
Bhusan
Deb
Advocate*

Received on 26/9/2006

Yours faithfully,

Sr. Audit Officer (Admn.)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI

30
F. filed
no respondent
through Gouram Prusty
S. C. S.
7.03.07

D.A. No. 255 of 2006

Sri Bijoy Bhushan Deb

.....Applicant.

-VS-

Union of India & Ors.

.....Respondents.

The written statement on behalf of the
Respondents abovenamed :-

WRITTEN STATEMENT OF THE RESPPECTFULLY

MOST RESPECTFULLY SNEWETH

1. That with regard to the statement made in paragraph 1, of the instant application the answering respondents have no comment.
2. That with regard to the statements made in paragraph 2 of the instant application the answering respondents beg to state that in term of section 20 of the Administrative Tribunal Act, 1985 amended from time to time, a Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to under the relevant rules as to redressal of grievances. In the

instant case, the applicant could have submitted an application/appeal to the appropriate higher authorities for redressal of his grievances.

Thus the Hon'ble Tribunal may reject the application on this ground alone.

3. That with regard to the statement made in paragraph 3 of the instant application the answering respondents have no comment.

4. That with regard to the statements made in paragraph 4.1 and 4.2 of the instant application the answering respondents have no comment.

5. That with regard to the statement made in paragraph 4.3 of the instant application the answering respondents beg to state ~~that the respondents~~ that the statement made in paragraph is not based on facts. On promotion of the applicant on 01/01/2002 as Asstt. Audit Officer, the applicant becomes a member of the joint cadre of Asstt. Audit Officer's controlled by the Pr. Accountant General (Audit), Meghalaya etc. Shillong.

6. That with regard to the statement made in paragraph 4.4 of the instant application the answering respondents beg to state that ~~as per~~ as per provision of the Medical Exam Rules, 1957 as amended from time to time, under orders of the Govt. of India, no employee, is under any circumstances whatsoever, has to be retained in active employment when he is physically & mentally unfit for the

proper discharge of duty. The applicant was transferred from Nagaland when the situation was such as to accommodate his request. Now if the applicant & some other officers are not transferred to the O/o the Accountant General (Audit), Arunachal Pradesh, Itanagar, in that case that office will not start functioning. It is, therefore, humbly submitted that the Hon'ble Tribunal may not interfere in the transfer of the applicant in the interest of public services.

7. That with regard to the statements made in paragraphs 4.5 and 4.6 of the instant application the answering respondents have no comment.

8. That with regard to the statements made in paragraph 4.7 of the instant application the answering respondents have no comment.

9. That with regard to the statements made in paragraph 4.8 of the instant application the answering respondents have no comment.

10. That with regards to the statement made in paragraph 4.9 of the instant application the answering respondents beg to state that had this Tribunal not granted stay to the 20 junior Asstt. Audit Officers of Guwahati office against the orders of transfer on deputation the applicant would not have been transferred on deputation to the deficit office.

11. That with regards to the statement made in paragraph 4.10 of the instant application the answering respondents beg to state that all Govt. servants are

expected to keep themselves fit for discharging duties. It is also not admitted that Shillong or Itanagar do not have adequate medical facilities. As already stated, the applicant was transferred from Nagaland to Assam when the situation was such as to accommodate his request. Now if the applicant and some other Ass'tt. Audit Officer are not transferred to the deficit offices, the deficit offices would not start functioning. It is therefore, urged upon the Hon'ble Tribunal to squash such applications.

12. That with regards to the statement made in paragraph 4.11 of the instant application the answering respondents beg to state that it is not understood why the applicant is stressing that he should be in Guwahati on Medical ground. It is submitted that there is no category of Govt. servants belonging to medically unfit category. Thus the applicant will have to comply with the order issued for his transfer on deputation.

13. The respondents beg to state that the reasons for transfer of the applicant to a deficit office has already been detailed in Para-4.9 above. Thus the respondent have no further submission to make.

14. That with regards to the statement made in paragraph 4.13 of the instant application the answering respondents beg to request the Hon'ble Tribunal not to stay the orders of the transfer in respect of the applicant. If the orders of transfer in respect of the applicant and others on deputation to the O/o the A.G. (Audit), Arunachal Pradesh, Itanagar is stayed, the

[53]

O/o the A.G.(Audit), Arunachal Pradesh, Itanagar will not be able to start functioning.

15. That with regards to the statement made in paragraph 4.14 of the instant application the answering respondents beg to state that the applicant could have been transferred straight way to the O/o the A.G.(Audit), Arunachal Pradesh, Itanagar. However, the department has taken a humanitarian view and tried to give an incentive by way of giving the official the status of deputationist and thereby entitling him to get deputation duty allowance.

16. That with regards to the statement made in paragraph 4.15 of the instant application the answering respondents beg to state that in view of what has been stated in the foregoing paragraphs, the respondents have no further submission to make. The respondents further submit that there is no reason to set aside or quash of his transfer on deputation.

17. The respondents beg to state that it is not correct to state that the applicant has exhausted all remedies available to him. The applicant could have moved the Comptroller and Auditor general of India for redressal of his grievances.

18. The respondent beg to state that in view of what has been stated in the foregoing paragraphs there is no merit in the application filed by the applicant.

19. The respondent beg to state that in view of what has been stated in the foregoing paragraph, no further submission is made.

20. That with regards to the statement made in paragraph 5.2 of the instant application the answering respondents beg to state that by transferring the applicant to the O/o the Accountant General (Audit), Arunachal Pradesh, Itanagar no provision of any rule broken.

21. The respondents beg to state that the reasons for his transfer to deficit office has already been outlined in paragraph 4.9 above and as such there is no further submission to make.

22. That with regards to the statement made in paragraph 5.4 of the instant application the answering respondents beg to state that there is no special category of physically unfit officers serving under the Govt. If the applicant is not fit to serve in Shillong or Itanagar he may opt for voluntary retirement/valid pension.

23. That with regards to the statement made in paragraph 5.5 of the instant application the answering respondents beg to state that there is no malafide intention on their part to issue the orders on 09/08/2006. Their only intention was to expedite the entire process of separation.

24. That with regards to the statement made in paragraph 5.6 of the instant application the answering respondents beg to state that the circumstances under which the applicant was transferred to the /o Accountant

General (Audit). Arunachal Pradesh, Itanagar has already been outlined in the foregoing paragraphs.

25. The respondent beg to state that in view of what has been stated in the foregoing paragraph, no further submission is made.

26. That with regards to the statement made in paragraph 5.8 of the instant application the answering respondents beg to state that since the competent medical authority has found the applicant fit for Govt. service he may comply with the orders of his superiors.

27. The respondents beg to state that the ground for the posting of the applicants has already been outlined in the foregoing paragraphs and as such no further submission has been made.

28. That with regards to the statement made in paragraph 5.10 of the instant application the respondents beg to state that by transferring the applicant to the O/o the A.G. (Audit). Arunachal Pradesh, Itanagar the respondents have not done any injustice to the applicant. Since competent medical authority has found him fit for discharging duties, the applicant is duty bound to comply with the orders of his superiors.

29. That with regards to the statement made in paragraph 5.11 of the instant application the respondents beg to state that by posting the applicant to the O/o the A.G. (Audit). Arunachal Pradesh, Itanagar the applicant has not been denied medical facilities. The respondents therefore request the Hon'ble Tribunal to

direct the applicant to join his new assignment. This is more so as the applicant has been found fit by the competent medical authority. The respondents further begs to state that the grounds setforth in this application by the applicant are not good grounds and also not tenable in the eye of law and therefore the instant application is liable for dismissed.

30. That with regards to the statement made in paragraph 6 of the instant application the respondents beg to state that it is not correct to state that the applicant has exhausted all remedies available to him. The applicant could have submitted an application to the Comptroller and Auditor General of India.

31. That with regard to the statements made in paragraph 7 of the instant application the answering respondents have no comment.

32. That with regards to the statement made in paragraph 8.1 of the instant application the respondents beg to state that in view of what has been stated in the foregoing paragraphs, the applicant is not entitled to any relief sought for by him. Instead the application may be dismissed with cost.

33. That with regards to the statement made in paragraph 8.2 of the instant application the respondents beg to state that as the competent medical authority had found him fit for discharging official duties, the Hon'ble Tribunal may direct the applicant to obey the orders of his superiors and join the new office presently functioning from Shillong.

34. That with regards to the statement made in paragraph 8.3 of the instant application the respondent beg to submit that the applicant may be asked to bear the cost of the case to arrest the tendencies of the Govt. servants to move the courts on flimsy grounds.

35. That with regards to the statement made in paragraph 8.4 of the instant application the respondent beg to state that in view of what has been stated in the foregoing paragraphs, the applicant is not entitled to any relief what so ever, and is also liable to be dismissed.

36. That with regards to the statement made in paragraph 9 of the instant application the answering respondents beg to state that the claim of the applicant is illegal and ill founded and the applicant is not entitled to get any interim relief.

37. That the respondents submit that the application has no merit and as such the same are liable to be dismissed.

VERIFICATION

I ..Shri.....Manoj.....Sahay....., aged
about 40..... years at present working as
.....Senior.....Secretary.....General.....(Adm.).....
....., who is one of the respondents and taking steps in this case, being
duly authorized and competent to sign this verification for all respondents,
do hereby solemnly affirm and state that the statement made in paragraph

1 to 36

are true

to my knowledge and belief, those made in paragraph

being matter of records, are

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

And I sign this verification this 28th day of February '07, at Guwahati

Manoj
DEPONENT