

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO.....2015
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

1. Order Sheets. O.A. pg.....1.....to...9.....
MP 56/2008 under Shri 74-1-70x 010 11.4.07
2. Judgment/ order dtd. 11-4-2008 pg.....1.....to...15 8/10.....
3. Judgment & Order dtd.....received from H.C. /Supreme Court.
4. O.A. 112/07 112, 134, 143, 144 page.....1.....to...1548.....
159, 182/2007
5. E.P/M.P. 56/20081 page.....1.....to...6.....(1-6-3)
6. R.A./C.P.....page.....to.....
7. W.S. Files 112/07 Page.....1.....to...2232 (lot 6)
210-1122
8. Rejoinder..... 112/2007page.....1.....to...13.....
9. Replypage.....to.....
10. Any other papers 2214 6AR-6 page.....1.....to.....
NO. Cell 1249/94-95/656-664 1 to 3
NO PA 172/15/99 1
SR. 749 — 9 to 31

SECTION OFFICER (JUDL.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI DISTRICT

ORDER SHEET

1. Original Application No. 112/07

2. Miscellaneous Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) Pradip Kr. Paul vs Union of India & Ors

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

Mr. L. Datta

Mr. M. Ahmed

L. Tenzin, St. Counsel

Mr. C. S. L.

A. P. Gint.

Advocate for the Respondent(s)

Notes of the Registry Date Order of the Tribunal

8.5.2007

The Applicant is working as Divisional Accountant under the Respondent No.2 and presently posted in the office of the Executive Engineer, Resource Division, Agartala. He had earlier approached this Tribunal in O.A. No.238/2005 for consideration of his case for permanent absorption as Divisional Accountant and not to repatriate him till a decision is taken. The said O.A. was disposed of along with other O.A.s on 21.03.2007, paragraphs 2, 3 & 4 of which order is quoted as under:

"2. Respondents have filed their written statements. Applicants also submitted additional affidavits in the cases. We have heard Mr.M.Chanda, learned counsel for the Applicants and Mr. Buzarbaruah, learned counsel for the Government of Arunachal Pradesh. Paragraph 5 of the written statement filed by the Respondent No.11, which is relevant for this cases, is reproduced herein below:-

Contd..P/

This application is in form
is filed/C.F. for Rs. 50/-
deposited vide IPC/BD
No. 346/652678
Dated 29.3.07

Dy. Registrar

Petitioner's brief
for issue notice
not received.

Pa.
3/5/07

Contd.
8.5.2007

"5. the State of Arunachal Pradesh through its Principal Secretary (Finance) Government of Arunachal Pradesh has formulated a scheme for taking over the Administrative control of the cadres of Senior DAO/DAO Grade-I/DAO Grade II and DA of PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of Arunachal Pradesh, etc. Shillong. The said scheme has been sent to the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc., Shillong for taking over of the administrative control of the cadre of Divisional Accountant from the later vide office letter dated 30.7.2005. This has been done in consonance to cabinet decision taken on 28.11.2001."

3. When the matter came up for hearing, learned counsel for the Applicants Mr. M. Chanda submits that there are developments in these cases and the Government of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc., Shillong and the proposal is under active consideration, but final approval is awaited. He further submitted considering the development took place in all these matters Applicants will be satisfied if they are permitted to submit comprehensive representation with a direction to the concerned Respondents to consider and dispose of the same and take a decision within a time frame. Counsel for the Respondents has no objection in adopting such course of action.

4. Accordingly, we direct the Applicants to make individual comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the said Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter."

h

CA 112/2007

2.7.2007

Mr. M. U. Ahmed, learned Addl. C.G.S.C. has not received instruction as yet. He requested for further time. Two weeks further time is allowed.

Post the case on 17.7.2007. Status quo order shall continue till such time.

Vice-Chairman

/bb/

17.7.2007

Considering the issue involved I am of the view that the O.A. has to be admitted. Admit. Issue notice to the Respondents. Learned counsel for the Applicant will pay process for issuance of notice to Respondents 6 to 10.

Post on 20.8.2007. Interim order shall continue till then.

Vice-Chairman

/bb/

20.8.2007

Post the case on 20.9.2007 granting four weeks time to file reply statement. Interim order will continue till such time.

Vice-Chairman

/bb/

20.9.07

Reply not filed. Further 3 weeks time is granted to file reply.

Post on 12.11.07 for order. Interim order will continue.

Vice-Chairman

order dt. 2/7/07
issuing to learned
advocate's for both
the parties.

3/7/07

19.7.07.

Pl. comply

Received
Notice
30/07/07

No steps taken to issue
notice
WB not filed.

20
17.8.07.

20.8.07.

Pl. comply.

31/8/07.
31/8/07

Notice & order sent to
D/Section for issuing to
R- 1 to 10 by regd. A/D
post.

Applicant paid process
notice to

OA. 112/07

- 3 -

3

Contd.
8.5.2007

Consequently, Applicant made representation (Annexure-9) dated 3.5.2007. Applicant apprehending that he may be repatriated to his parent cadre has filed this O.A.

Heard Mr.M.Chanda, learned counsel for the Applicant. Mr.M.U.Ahmed, learned Addl. C.G.S.C. submits that the Applicant has approached this Tribunal only on apprehension and there is no cause of action and hence the O.A. is prematured.

However, considering the issue involved Respondents' counsel is directed to take instruction as to whether there is any proposal to repatriate the Applicant to his parent cadre or not within four weeks.

Post the case on 01.06.2007. In the meantime status quo as on today shall be maintained.

Vice-Chairman

/bb/

1.6.2007

Mr. M. U. Ahmed, learned Addl. C.G.S.C. has not received any instruction. Four weeks' time is allowed.

Post the case on 02.07.2007. In the meantime status quo order shall continue.

Vice-Chairman

/bb/

Order Dt. 6/6/07
issuing to learned
advocates for both
the parties.

ceas
6/6/07

Notes of the Registry,

Page

Order of the Tribunal

Service report awaited
Wks not filed.

M
8.11.07

12.11.2007

Mr.S.Nath, learned counsel for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India undertakes to file his appearance memo in this case for the Respondents and seeks some time to file written statement. Prayer is allowed.


Mr.L.Tenzin, who has filed appearance memo for Govt. of Arunachal Pradesh is absent. The authorities of Govt. of Arunachal Pradesh are also free to file their written statement by 12.12.2007.

None has also entered appearance for the Govt. of Tripura.

Call this matter on 12.12.2007 awaiting written statement from the Respondents.

Interim order which was granted earlier shall continue to remain in force until the next date.

Send copies of this order to the Respondents in the addresses given in the Original Application.


(M.R.Mohanty)
Vice-Chairman

Dt. 12.11.07.

/bb/

Pl. send order copies to the respondents and interim order.

order dt. 12/11/07 sent to D/Section for issuing to resp. nos. - 1 to 10 by post.
D/No - 1549 to 1558
Dt. 26/11/07.

PTO

6 - OA-112/07

Notes of the Registry

Order of the Tribunal

Notice duly served
on R-6.

6/12/07.

Wks not filed.

11.12.07

31.12.12.07.

Pl. comply.

li

order dt-12/12/07
issuing to learned
advocate for both the
parties.

13/12/07.

Wks not filed.

18.12.07.

31.12.19.07.

Pl. comply.

20/12/07.

order dt. 19/12/07
issuing to learned
advocate's for both
the parties.

26/12/07. D/No-1921,1922
dt. 27/12/07.

4-1-08

Wks not filed.

12.12.2007

No written statement has yet been
filed in this case.

Call this matter on 19.12.2007
awaiting written statement from the
Respondents.

Interim order shall continue to
remain in force till the next date.

(Gautam Ray)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

19.12.2007

No written statement has been filed
in this case by the Respondents.
Mr.M.U.Ahmed, learned Addl. Standing
counsel for the Union of India seeks time till
07.01.2008 for filing of written statement.
Prayer is allowed.

Call this matter on 07.01.2008
awaiting written statement from the
Respondents.

Interim order shall remain in force till
the next date.

(M.R.Mohanty)
Vice-Chairman

/bb/

PTO

O.A. 112/2007

07.01.2008

Written statement is undertaken to be filed in course of the day. Mr.S.Nath, learned counsel appearing for the Applicant seeks four weeks time to file rejoinder. Prayer is allowed.

Call this matter on 07.02.2008 awaiting rejoinder from the Applicant.

Interim order shall continue to remain in force till the next date.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

order dt. 7/01/08
issuing to learned
advocates for both
the parties.

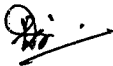
cas 7/11/08. D/No-98,99
Dt= 10/11/08.

~~07.02.2008~~

~~Call this matter on 19.3.2008.~~

15.1.08

W/s submitted by
Respondent Nos. 1 and 2.
Copy served.



Rejoinder not
filed.

2a
6.2.08.

07.02.2008.

Call this matter on 19.3.2008
for hearing.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

PTO

CA 112/07

-8-

19.03.2008

Heard Mr M. Chanda, learned Counsel appearing for the Applicant; Mrs M.U. Ahmed, learned Addl. Standing Counsel appearing for the Union of India and Mr I. Tenzin, learned Government Advocate, Arunachal Pradesh, in part.

Call this matter on 02.04.2008, when the Accountant General (A&E), Arunachal Pradesh, Meghalaya, Mizoram etc. at Shillong, should appear in person, alongwith his officers, to assist the Court for effective adjudication of the matter. He should come with all details relating to the genesis and continuance of the posts of Divisional Accountants in various Engineering Divisions of State Governments. He should also come with up-to-date instructions in the matter relating to finalisation of the Scheme for handing over the posts/staff of Divisional Accountants to the State Government/ Arunachal Pradesh.

Mr G. Baishya and Mr M.U. Ahmed should ensure the personal appearance of the Accountant General (A&E), Arunachal Pradesh, Meghalaya, Mizoram etc. at Shillong on the date fixed/02.04.2008.

Call this matter on 02.04.2008 for further hearing.

Send copies of this order to the Respondents and free copies of this order be handed over to the learned Counsel for the parties.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkmm

Dt. 19.3.08.

Pl. Send copies of this order to the Respondents and three copies of this order be handed over to the learned counsels for the parties.

[Signature]
31/3/08

1.4.08

Response submitted by the Applicant. When taking given for service.

[Signature]

~~Notice~~
Order dt. 19/3/08 send to D/Section for issuing to respondents and learned advocates for both the parties.

the case is ready for hearing.

21/04/08


1/4/08

O.A. 112/07

02.04.2008

Heard Mr.M.Chanda, learned counsel appearing for the Applicants; Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Union of India and Mr.L.Tenzin, learned Govt. Advocate for the Arunachal Pradesh.

Hearing concluded. Judgment is reserved.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

11.04.2008

Judgment pronounced in open Court, recorded in separate sheets.

The O.A. is disposed of in terms of the order.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

7.5.08

Copy of the
budget issued
vide D/Nos
2097 to 2120
to the parties
along with the
for the parties.
HP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 112, 130, 134, 143, 144, 159 & 182 of
2007.

DATE OF DECISION : 11-04-08

Shri Pradip Kumar Paul & Others

.....Applicant/s

By Advocate Shri M.Chanda, S.Sarma and U.K. Nair

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr G.Baishya, Sr.C.G.S.C., Mr M.U. Ahmed & Mrs M.Das;
Addl.C.G.S.C. & Mr L. Tenzin, Govt. Advocate, Arunachal Pradesh

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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

Vice-Chairman/Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Original Application Nos. 112, 130, 134, 143,
144, 159 & 182 of 2007

Date of Order: This, the 11th day of April, 2008

HON'BLE MR. MANORNAJAN MOHANTY, VICE-CHAIRMAN
HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER.

O.A. 112/2007

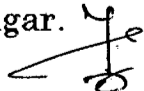
1. Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o The Executive Engineer
Resource Division
Panchamukh, P.O. Agartala
West Tripura - 799 003.

Applicant in O.A. 112/2007

By Advocates Mr. M. Chanda, Mr. S. Nath & Mrs. U. Dutta

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Commissioner, PWD
Govt. of Tripura
Agartala - 799 001.
6. The Chief Engineer, I & FCD
Government of Arunachal Pradesh
Itanagar.



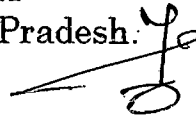
7. The Chief Engineer
PWD (Water Resource)
Government of Tripura
Agartala – 799 001.
8. The Chief Engineer
PWD (R&B)
Agartala, Tripura-799 001.
9. The Executive Engineer
Resource Division
Panchamukh, P.O: Agartala
West Tripura – 799 003.
10. The Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun-791110.

Respondents in O.A. 122/2007

Mr.M.U.Ahmed, Addl. C.G.S.C. for the Union of India & Mr.L.Tenzin,
Govt. Advocate for the Arunachal Pradesh.

O.A.130/2007

1. Sri Tashi Namgey
Divisional Accountant
O/o the Executive Engineer
PWD, Seppa, Arunachal Pradesh.
2. Shri R.K.Deb
Divisional Accountant
O/o the Executive Engineer
I&FCD, Tezu, Arunachal Pradesh
3. Sri S.K.Dam
Divisional Accountant
O/o the Executive Engineer
Seppa Electrical Division
Arunachal Pradesh.
4. Tushar Kanti Baruah
Divisional Accountant
O/o the Executive Engineer
R.W.D., Khonsa, Arunachal Pradesh.
5. Sri Dilip Kumar Dey
Divisional Accountant
O/o the Executive Engineer
PWD, Boleng, Arunachal Pradesh.



6. Sri Bimal Biswas
Divisional Accountant
O/o the Executive Engineer
R.W.D., Tezu, Arunachal Pradesh.
7. Sri Debabrata Roy
Divisional Accountant
O/o the Executive Engineer
I&FC Division, Roing, Arunachal Pradesh.
8. Sri Pradip Paul
Divisional Accountant
O/o the Executive Engineer
Resource Division, Agartala
West Tripura – 799 003.

Applicants in O.A.130/2007

(All the Applicants are working on deputation basis under the administrative control of A.G (A&E), Meghalaya, Arunachal Pradesh, Tripura, Manipur etc. (Respondent No.2).

By Advocates S/Shri M.Chanda, S.Nath & U.Dutta.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong – 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer, Public Works Department
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer, Rural Works Department
Government of Arunachal Pradesh



Itanagar.

7. The Chief Engineer, I&FCD
Government of Arunachal Pradesh.
Itanagar.
8. The Chief Engineer
PWD (Water Resource)
Government of Tripura
Agartala – 799 001.
9. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun – 791 110.

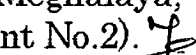
Respondents in O.A. 130/2007.

Mr.G.Baishya, Sr. C.G.S.C. for the Union of India and Mr.L.Tenzin,
Govt. Advocate for the Arunachal Pradesh.

O.A.134/2007

1. Sri Takong Taboh
Son of Late Tapong Taboh
Divisional Accountant
O/o of the Executive Engineer
Public Health Engineering Division
Yingkiong, Dist: Upper Siang
Arunachal Pradesh.
2. Shri Radhesyam Das
Son of Late Ramesh Ch. Das
Divisional Accountant
O/o of the Executive Engineer
R.W.Division, Pasighat
Dist: East Siang
Arunachal Pradesh.
3. Sri Vijaya Kumaran Nair
Son of Sri Govindan Nair
Divisional Accountant
O/o of the Electrical Division under
The Executive Engineer
Department of Power, Bomdila,
Dist. West Kameng,
Arunachal Pradesh.

Applicants in O.A.134/2007

(All the Applicants are working on deputation basis under the administrative control of A.G.(A&E), Meghalaya, Arunachal Pradesh, Tripura, Manipur etc. (Respondent No.2). 

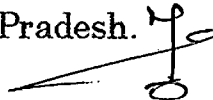
By Advocates S/Shri S.Sarma, U.K.Goswami, H.K.Das & B.Devi.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong- 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer, Public Health Engineering Department
Government of Arunachal Pradesh, Itanagar.
6. The Chief Engineer
Rural Works Department
Government of Arunachal Pradesh
Itanagar.
7. The Chief Engineer
Power Department
Govt. of Arunachal Pradesh
Itanagar.
8. The Director of Accounts & Treasuries
Govt. of Arunachal Pradesh.
Naharlagun - 791 110.
9. The Union of India
represented by the Secretary to the Govt. of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
New Delhi.

Respondents in O.A.134/2007

Mr.G.Baishya, Sr.C.G.S.C. for the Union of India & Mr.L.Tenzin, Govt.
Advocate for the State of Arunachal Pradesh.



O.A.143/2007

1. Sri M.V.Krtithikeyan Nair
Divisional Accountant
O/o the Executive Engineer
PWD Division, Kalaktang
Arunachal Pradesh.

Applicant in O.A.143/2007

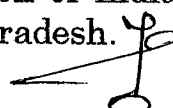
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong- 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer
Public Works Department
Government of Arunachal Pradesh
Itanagar.
6. The Executive Engineer
PWD Division, Kalaktang
Arunachal Pradesh.
7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A.143/2007

Mr.M.U.Ahmed, Addl.C.G.S.C. for the Union of India & Mr.L.Tenzin,
Govt. Advocate for the State of Arunachal Pradesh.



O.A.144/2007

1. Sri R. Pratapan
Divisional Accountant
O/o the Executive Engineer (Civil)
Ziro, Civil Division, Department of Hydro Power
Arunachal Pradesh.

Applicant in O.A.144/2007

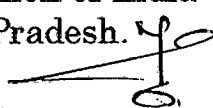
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer
Public Works Department
Government of Arunachal Pradesh
Itanagar.
6. The Executive Engineer, Ziro
Civil Division, Department of Hydro Power
Arunachal Pradesh.
7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A.144/2007

Mr.G.Baishya, Sr.C.G.S.C. for the Union of India & Mr.L.Tenzin, Govt.
Advocate for the State of Arunachal Pradesh.



O.A.159/2007

1. Sri Santanu Ghosh
Son of I Ghosh
Divisional Accountant
O/o of the Executive Engineer
R.W.Division, Yingkiong
Yingkiong, Dist: Upper Siang
Arunachal Pradesh.

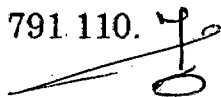
Applicant in O.A.159/2007

(Applicant is working on deputation basis under the administrative control of A.G.(A&E), Meghalaya, Arunachal Pradesh, Tripura, Manipur etc. (Respondent No.2)

By Advocates S/Shri S.Sarma, U.K.Goswami, H.K.Das & Mrs.D.Devi.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong- 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer, Rural Works Department
Government of Arunachal Pradesh
Itanagar.
6. The Executive Engineer
R.W.Division, Yingkiong
Yingkiong, Dist: Upper Siang
Arunachal Pradesh.
7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.



8. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Personnel, Public Grievance & Pensions
Department of Personnel and Training
New Delhi.

Respondents in O.A. 159/2007

Mrs.M.Das, Addl. C.G.S.C. for the Union of India and Mr.L.Tenzin,
learned Govt. Advocate for the State of Arunachal Pradesh.

O.A.182/2007

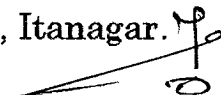
1. Sri Malay Bhusan Dey
Divisional Accountant
O/o the Executive Engineer
I&FC Department, Tawang
Tawang, Arunachal Pradesh.
2. Shri Nikhil Ranjan Nath
Divisional Accountant
O/o the Executive Engineer
P.H.E., Tawang
Tawang, Arunachal Pradesh.
3. Sri Upendra Chandra Debnath
Divisional Accountant
O/o the Executive Engineer
R.W.D. Tawang
Tawang, Arunachal Pradesh.

Applicants in O.A.182/2007

By Advocates S/Shri M.Chanda, S.Nath & U.Dutta.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong – 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.



4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer
Public Health Engineering Department
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer
Rural Works Department
Government of Arunachal Pradesh
Itanagar.
7. The Chief Engineer, I&FCD
Government of Arunachal Pradesh
Itanagar.
8. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Mr.G.Baishya, Sr.C.G.S.C. for the Union of India & Mr.L.Tenzin, Govt.
Advocate for the State of Arunachal Pradesh.

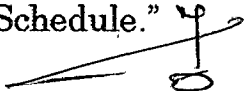
ORDER

MANORANJAN MOHANTY, (V.C)

Heard the learned counsels appearing for the parties of the
above cases one after the other and all the cases are being disposed of
by this common order.

2. Rule 3 of the Rules framed under Article 148 of the
Constitution of India (relating to recruitment of Divisional
Accountants) called "The Indian Audit and Accounts Department
[Divisional Accountants] Recruitment Rules, 1988 reads as under :-

"3. Method of recruitment, age limit, qualifications, etc. The
method of recruitment, age limit, qualifications and other
matters relating to the said post shall be as specified in columns
5 to 14 of the said Schedule."



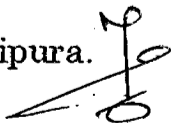
Note:1 The direct recruits will be selected on the basis of an entrance examination conducted by an authority specified by the Comptroller and Auditor General of India. During the period of probation, they should qualify in the prescribed Departmental Examination.

Note:2: Vacancies caused by the incumbent being away on transfer on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled on transfer on deputation from-

- [i] Accountants [Rs.1200-2040] and Senior Accountants [Rs.1400-2600] [belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen] who have passed the Departmental Examination for Accountants and have 5 years regular service as Accountant/Senior Accountant including 2 years experience in Works Section
or
- [ii] State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.

Note:3. The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/Department of the Central Government shall ordinarily not exceed 3 years.

3. In exercise of the powers to recruit Divisional Accountants on transfer/deputation basis, the Applicants of these cases (who are permanent employee of the State Government of Arunachal Pradesh) were appointed as "Divisional Accountants" and posted in different Engineering Divisions of the State Government of Arunachal Pradesh, being posted as such by the Accountant General. One of them (Applicant of O.A.No. 112/2007), of course, was posted in the State of Tripura.




4. While the Applicants are continuing as Divisional Accountants, on deputation basis, the State Government of Arunachal Pradesh resolved to take over the entire Divisional Accountant etc. posts from the control of the Government of India (Accountant General/CAG) and, accordingly, proposals were placed before the Central Government Organization.

5. In the said proposal it has been proposed that, upon taking over the posts of Divisional Accountant etc., the incumbents of those Divisional Accountant posts (who are continuing on deputation basis) would face a test (to be conducted by the State Government of Arunachal Pradesh) to be finally absorbed and such of them, who would not qualify despite three chances, would not be absorbed/retained in the posts of Divisional Accountants and would be repatriated back to their parent post/cadre.

6. The entire proposal, having been examined by the Central Government Organisation, counter proposals were given by them (the Central Government Organisation) and, as it appears, the proposal and counter proposal are still at a not final stage. It appears, further, before giving a final touch in the matter, the Government of India Organisation has sought options from the members of regular Divisional Accountants Cadre.

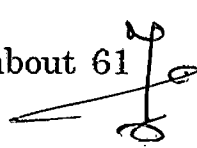
7. Since the posts of Divisional Accountants are born in the establishment of the State Government (although recruitment, appointment, posting and control are with the Accountant



General/CAG/Govt. of India), at one point of time, the State Government of Arunachal Pradesh raised objection relating recruitment (of Divisional Accountants) by the Central Government Organisation and, as it appears, in the said premises, there has not been any recruitment (direct or deputation) of Divisional Accountants for the posts (about 61 in number) lying vacant in the State of Arunachal Pradesh.

8. At the above juncture, the Applicants, who are continuing as Divisional Accountants beyond the 3 years of their deputation, were asked not to get their deputation allowances/higher pay meant for Divisional Accountants. Hence, these Original Applications have been filed under Section 19 of the Administrative Tribunals Act, 1985. Before hand, attempt to repatriate the Applicants from their deputation had to be abandoned awaiting the views and counter views of both Central Government & State Government pertaining to taking over of Divisional Accountants etc. posts by the State Government of Arunachal Pradesh.

9. Under the Recruitment Rules of 1988, the deputationist Divisional Accountants are available to continue even beyond 3 years of their deputation period, of course, in extra ordinary circumstances. As it appears, the Central Government Organisation, while awaiting the question of finality of the point of taking over of Divisional Accountant Cadre by the State Government, did not recruit/abandoned the recruitment of Divisional Accountants; as a result of which about 61



posts of Divisional Accountant etc. are lying vacant in the State of Arunachal Pradesh and, if the present Applicants are repatriated, then there shall be total disruption of Accounting in various Engineering Divisions of that State. We are informed in the Bar that several Engineering Divisions of State of Arunachal Pradesh are being managed by one Divisional Accountant. Apparently that is the compelling reason for which the Accountant General did not give effect to the repatriation of the Applicants (those who are occupying the posts of Divisional Accountants) as yet; though they have covered more than 3 years of deputation.

10. Since the Applicants are continuing on deputation (beyond 3 years of their deputation period) on the above said compelling/ extraordinary circumstances and since they are, by implication, are available to continue on deputation beyond 3 years; deputation allowances/higher pay in the post of Divisional Accountant should be continued to be paid to them, they should not be compelled to get salary in their previous post and nothing should be recovered from them; until they are actually repatriated.

11. In the peculiar facts and circumstances, the Accountant General/CAG/Central Government should promptly proceed to recruit Divisional Accountants for the posts (61) lying vacant in the State of Arunachal Pradesh and while doing so, in all fairness of things, they should associate the State Government; as the posts are funded by them/State Government. Recruitment, as aforesaid, can be done safely;



as there are no prohibition to that effect in the recruitment Rules of 1988. That should be done pending finalization of the issue relating to handing over & taking over of the Divisional Accountant etc. Cadre from Central Government Organisation to State Government.

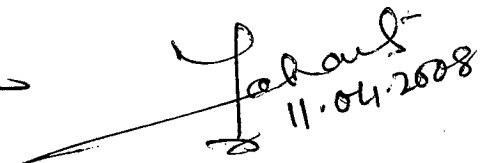
12. Once the recruitment (direct or by deputation) is done (jointly by the Central and State Govt.), there shall be no problem to repatriate the Applicants from their deputation. In the event the State Government takes over the Cadre of Divisional Accountants, then the Applicants (even if repatriated) need be given a chance to face the test (proposed to be held by the State Government) for being absorbed in the Cadre taken over by the State Government. The Applicants, on repatriation, after the waiting/cooling period, can also be recruited on deputation basis as Divisional Accountants.

13. The Applicant in O.A.112/2007 has been repatriated by the authorities of Tripura State, apparently, without leave from the Accountant General/Central Government Organisation. But in the peculiar circumstances, the Accountant General need post him as against a vacant post of Divisional Accountant in Arunachal Pradesh; until he is repatriated from his deputation.

All these cases, subject to above directions, are disposed of.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE CHAIRMAN

7 MAY 2007

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 112 /2007

Shri Pradip Kumar Paul.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 16.07.1999- Applicant was selected and appointed for the 3rd time as Divisional Accountant on deputation basis under the Respondent No. 2, and presently working in the office of the Executive Engineer, Resource Division, Panchmukh, Agartala, Tripura. Be it stated that the applicant is now altogether working for about 15 years with break in the post of Divisional Accountant on deputation basis.
(Annexure-1)
- 12.01.2000- The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh had informed the Respondent No. 2 that the Govt. of Arunachal Pradesh is under active consideration to take over the cadre of Divisional Accounts/ Divisional Accounts Officer. (Annexure-2)
- 28.03.2005- Respondent No. 2 has issued a letter to the Respondent No. 4, in response to his letter dated 24.03.05, wherein it has been intimated the confirmation of the Headquarters i.e. Respondent No. 1 on the matter of extension of deputation period of 31 Divisional Accountants (including the present applicant). (Annexure-3)
- 15.07.2005- Respondent No. 10 vides his letter dated 15.07.05, addressed to the Respondent No. 2, requested to reconsider its decision on repatriation of the deputationists. It is also informed by the Respondent No. 10 that the scheme for taking over the administrative control of the cadre of DAs/DAOs by the Government of Arunachal Pradesh is being submitted to the office of the Respondent No. 2 within a fortnight for perusal and necessary approval. (Annexure-4)
- July 2005- Govt. of Arunachal Pradesh submitted a scheme to the Respondent No. 2, for taking over the administrative control of cadre of Divisional Accountants comprising Sr. DAOs/DAOs Grade I & II and Divisional Accountants. (Annexure-5)

- 31.07.2005- Govt. of Arunachal Pradesh submitted the scheme for taking over of the administrative control of Accounts set up from the control of Respondent No. 2.
(Annexure- 6)
- 25.11.2005- Respondent No. 2 informed that office of the C&AC has framed a draft scheme regarding proposed transfer of D.As cadre and the same is forwarded for acceptance in terms and conditions of the scheme of Govt. of A.P.
(Annexure- 7)
- 21.03.2007- Applicant approached this Hon'ble Tribunal through OA No. 238/05, which was disposed of with the direction to the applicant to submit a comprehensive representation to the concerned authority.
(Annexure- 8)
- 03.05.2007- Applicant submitted representation addressed to the respondent No. 2 and 10 for his regular absorption as Divisional Accountant and also prayed for not to repatriate him till process of taking over of the entire Accounts set up by the Govt. of A.P. is completed.
(Annexure- 10)
- Chief Engineer, P.W.D (R&B), Tripura following earlier instruction of Respondent No. 2 has arbitrarily started process of repatriation of the applicant without considering his representation pending before the authority. Therefore, the applicant reasonably apprehends that he may be repatriated to his parent cadre without waiting the completion of taking over of the Accounts set up by the Govt. of Arunachal Pradesh.

Hence this Original Application.

P R A Y E R S

- 1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Accountant in the light of the direction contained in the judgment and order dated 21.03.2007 passed in OA No. 238/2005 and also in terms with the direction decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005 of the Respondent No. 2 and 3.
2. That the Hon'ble Tribunal be pleased to allow the applicant to continue in his present place of posting till process of absorption of cadre of Divisional Accountants by the Govt. of Arunachal Pradesh is completed and further

be pleased to restrain the respondents from passing any order of repatriation till the process of absorption is completed.

3. Cost of the application.
4. Any other relief(s) to which the applicant is entitled as deemed fit and proper by the Hon'ble Tribunal.

Interim order prayed for.

During pendency of this application, the applicant prays for following interim relief (s):

1. That the Hon'ble Tribunal be pleased to direct the respondents not to repatriate the applicant till disposal of the Original Application.
-

27

**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. 112/2007

Shri Pradip Kumar Paul. : Applicant.

-Versus -

Union of India & Others. : Respondents.

INDEX

SL. No.	Annexure	Particulars	Page No.
01.	----	Application	1-20
02.	----	Verification	-21-
03.	1	Copy of appointment letter dated 16.07.99.	22-24
04.	2	Copy of letter dated 12.01.2000.	-25-
05.	3	Copy of letter dated 28.03.05	-26-
06.	4	Copy of letter dated 15.07.2005.	27-28
07.	5	Copy of letter dated nil July' 2005	29-30
08.	6	Copy written statement submitted in OA No. 115/05 and letter dated 31.07.05.	31-37
09.	7	Copy of letter dated 25.11.05	-38-
10.	8	Copy of judgment and order dated 21.03.07.	39-44
11.	9	Copy of representation dated 03.05.07	45-48

Filed by

Date

Advocate.

Pradip Kumar Paul.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A No. 112 /2007

BETWEEN:

Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul,
Divisional Accountant,
O/o The Executive Engineer,
Resource Division
Panchamukh, P.O- Agartala,
West Tripura- 799003.

.... Applicant.

-AND-

1. Union of India,
Through the Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong- 793003.
3. The State of Arunachal Pradesh,
Represented by the Secretary to the
Government of Arunachal Pradesh,
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh, Itanagar.
5. The Commissioner, PWD,
Govt. of Tripura, Agartala- 799001.
6. The Chief Engineer, I & FCD
Government of Arunachal Pradesh,
Itanagar.
7. The Chief Engineer,
PWD (Water Resource).
Government of Tripura,
Agartala- 799001.

Pradip Kumar Paul

38
1
Filed by the applicant
through M. Sultana, advocate
on 7.05.07

8. The Chief Engineer,
PWD (R&B),
Agartala, Tripura- 799001.
9. The Executive Engineer,
Resource Division
Panchamukh, P.O- Agartala,
West Tripura- 799003.
10. The Director of Accounts & Treasuries,
Government of Arunachal Pradesh,
Naharlagun-791110.

... Respondents.

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents, more particularly on the respondents No. 1, 2 & 3 not to repatriate the applicant and to allow him to continue at his present place of posting till completion of the process of taking over the administrative control of the cadres of Sr. DAO/DAO Gr. I/DAO Gr. II and DAO of working division belonging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of the A.G (A & F) Meghalaya, A.P etc. Shillong.

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 limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.

Pandip Kumar Paul

4. Facts of the case.

- 4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges granted by the constitution of India. The applicant is presently working as Divisional Accountant under the administrative control of the respondent No. 2 on deputation basis and he is now posted in Office of the Executive Engineer in the resource Division, Agartala, P.O.-Agartala, Tripura.
- 4.2 That the applicant was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, the Rural Works Department was bifurcated by the Government of Arunachal Pradesh following a policy decision and created two separate independent departments, that is, Public Health Engineering Department (in short PHED) and Irrigation and Flood Control Department (in short IFCD) after bifurcation. The applicant is placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh. Therefore, IFCD is the parent department of the present applicant.
- 4.3 That the applicant is presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. In this connection it may be stated that the applicant in pursuant to a requisition sent by the office of the Accountant General (A&F), Meghalaya, Arunachal Pradesh and Mizoram, applied for the post of Divisional Accountant under the administrative control of Respondent No. 2. Be it stated that the respondent No. 2 vide circular bearing No. D/Cell/2-49/97-98/Vol. II/245 dated 20.01.98, invited application from the candidates who are willing to serve as Divisional Accountant available in the administrative control of respondent No. 2. The applicant who was then serving in the office of the IFCD, Itanagar and applied for the said post and thereafter was selected

Rodip Kumar Paul

for the third term for the said post on deputation basis. Consequent to his selection for the post of Divisional Accountant he was appointed as Divisional Accountant vide appointment letter bearing No. E.O. No. DA Cell/68 dated 16.07.1999. In the said appointment letter it is stated that the appointment will be for duration of 1 year and the applicant is liable to be posted under the administrative control of Respondent No. 2 in any vacant post of Divisional Accountant. However, the said period of deputation is normally extended from time to time with the consent of the parent organization of the applicant i.e. the State of Arunachal Pradesh.

It is relevant to mention here that the applicant was earlier also in two occasions selected and appointed to the post of Divisional Accountant under the administrative control of Respondent No. 2 during the year 1989 to 1995 again in the year 1996 to 1999 and this is the third occasion when the applicant is found suitable for appointment for the post of Divisional Accountant. It will be pertinent to mention here that the applicant while working as UDC, in his parent department came on deputation to a higher post carrying higher scale of pay of Rs. 5,000-8,000/- under the Respondent No. 2, i.e. A.G (A&E), Shillong. Such expectation of the applicant as Divisional Accountant has been well recognized by the authorities. As such the applicant is now altogether working for about 15 years with break in the post of Divisional Accountant on deputation basis

Copy of the appointment letter dated 16.07.99 is annexed herewith as Annexure-1.

- 4.4 That the applicant in the present Original Application is seeking his permanent absorption as Divisional Accountant in the organization and administrative control of Director of Accountants & Treasuries, Government of Arunachal Pradesh. Though this applicant has worked for nearly 15 years in three different occasions as Divisional Accountant in the

Indip Kumar Paul

organization and administrative control of Accountant General (A&E), Meghalaya, Shillong, but he is not being permanently absorbed in the aforesaid capacity. Now the efforts are on to repatriate the applicant to his parent department of IFCD, Govt. of Arunachal Pradesh, what makes the likely repatriation of the applicant to his parent department of IFCD, Govt. of Arunachal Pradesh, but his place is to be taken by the deputationist only. Hence present case is the case where one deputationist is replaced by another deputationist. Instead of permanently absorbing the applicant to the post of presently being held by him, wherein he has worked for nearly 15 years by repatriating him to his parent department, the respondents are only bringing a person on deputation to work in the place of applicant. It is also noteworthy that the applicant is competent to be permanently absorbed in the deputation post of Divisional Accountant. Moreover, though he worked on deputation but his appointment was against the permanent post in a suitable capacity and his such appointment was pursuant to a selection. Hence the present original application.

- 4.4 That it is stated that initially, there was a move on the part of the Respondent No. 3 to take over the entire accounts set up from the administrative control of the respondent No. 2 in the manner as the Government of Assam had taken it over, which is evident from letter bearing No. DA/TRY/15/99 dated 12th January 2000. In the said letter, the respondent No. 10, while addressing the aforesaid letter to the respondent No. 2 - had contended that as it was under active consideration of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountants/ Divisional Accounts Officers totaling 91 (Ninety One) posts from the existing combined cadre being controlled by the respondent No. 2 and now the respondent No. 3 had decided to take over the said cadre and place thus under the direct control of the respondent No. 10 with immediate effect.

Pandip Kumar Paul

It was further contended in the said letter that henceforth no fresh Divisional Accountants on deputation would be entertained however, cases of those who were presently on deputation and serving in the State would be examined for their future continuation even after completion of the term of deputation. Accordingly, the respondent No. 2 was requested to take necessary action so that the process of transfer of cadre along with the willing personnel could be completed immediately.

The respondent No. 10 also contended that that the formal notification in that regard was under issue and would be communicated in due course.

A copy of the letter-dated 12.01.2000 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure -2.

- 4.5 That it is stated that in view of the categorical stand of the respondent No. 3 that the entire account set up would be taken over by them with an opportunity to the incumbent/applicant to opt for absorption in the new cadre, the applicant anticipated his regular absorption in the higher pay-scale, cadre, rank and status. But unfortunately, the respondent No. 2 have now decided to issue order repatriating the applicant even though the resultant vacancies were going to be filled up by bringing other persons on deputation. Applicant came to learn from reliable source that the Respondent No. 2 have already issued necessary instruction for repatriation of the applicant to his parent organization.
- 4.6 That in the aforesaid circumstances, the action of the respondents amounted to replacing a person on deputation by another person on deputation and this was done notwithstanding the fact that the process of taking over the Accounts Cadre by the respondent No. 3 was under way.
- 4.7 That when the matter rested at that stage, the applicant submitted representation dated 03.05.2007 to the respondents seeking consideration of his absorption in the light of the decisions of the respondent No. 3 as

Pradip Kumar Paul

mentioned herein above and therefore, sought continuation as Divisional Accountant till the process of taking over is completed.

4.8 That the applicant while serving as such, the office of the respondent No. 2 issued the impugned order of repatriation bearing letter No. DA Cell/2-46/92-93/2000-01/Vol. I/1216 dated 25.02.2002. However, the applicant against the said order of repatriation approached the Hon'ble Gauhati High Court through W.P. (C) No. 172 (AP)/2003, praying for setting aside and quashing the proposed action of the respondents to repatriate the applicant by the impugned order dated 25.02.02 to his parent department and also prayed for a direction upon the respondents to permanently absorb the applicant as Divisional Accountant in the organization and administrative control of Director of Accountants and Treasuries, Government of Arunachal Pradesh.

4.9 That the W.P. (C) No. 172 (AP)/2003 filed by the applicant along with other similar cases were taken up by the Hon'ble High Court together for hearing and after having heard the matters at length, the Hon'ble High Court came to the findings that (a) the order of putting an employee on deputation does not confer upon him any right for permanent absorption, (b) the question of absorption of a person on deputation is dependant on the decisions of the lending and the borrowing departments, (c) the orders of repatriation passed against the applicant after expiry of the term did not disclose any illegality or infirmity nor did those violate any statutory rule or regulation and therefore, (d) no fundamental right of the petitioners (applicant herein) was violated.

4.10 That In the aforesaid circumstance, the Hon'ble High Court did not find any merit in the prayers of the applicant and accordingly, dismissed the writ petitions vide Judgment & Order dated 01.02.2005.

Pradip Kumar Paul

4.11 That consequent to passing of the aforesaid Judgment and Order dated 01.02.2005 by the Gauhati High Court; the Respondent No. 2 has now issued a letter-dated 28.03.2005 to the Respondent No. 4 in response to his D.O. letter No. DA CELL/1-8/Court Case/2000-2001/1909 dated 24.03.2005 and thereby has intimated confirmation of the Headquarters i.e. Respondent No. 1 on the matter of extension of deputation period. It has been communicated therein that for the present and in view of the developments, the judgment of the High Court in respect of the 12 Divisional Accountants (including applicant herein) is not being implemented and the 19 Divisional Accountants might be requested to withdraw their respective cases from the Court consequent to which their continuity on deputation will be considered. It has, thus, demonstrated the willingness of Respondent No. 2 extend the period of deputation of all the 19 Divisional Accountants subject to withdrawal of their cases from Courts. It has also been communicated through the letter dated 28.03.2005 that on the question of absorption of all these 31 Divisional Accountants, the Headquarters has informed that modalities would be worked out and the persons on deputation may be communicated accordingly.

A copy of aforesaid letter dated 28.03.2005 is annexed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 3.

4.12 That the applicant states that notwithstanding the aforesaid stand of the Respondent No. 2, steps are being taken to repatriate them to their parent cadre. Although the aforesaid letter of the Respondent No. 2 demonstrates a situation where the persons similarly situated like the present applicant would be considered for their continuation/permanent absorption as Divisional Accountants subject to withdrawal of Court cases, the cases of the present applicant are going to be ignored in an arbitrary and unfair manner. The applicant, therefore, reasonably apprehend that he may be

Pandip Kumar Paul

ousted at any point of time without being considered for absorption in the light of the decision communicated through the letter dated 28.03.2005.

It is ought to be mention that the applicant presently working in the State of Tripura, against a regular post of Divisional Accountant, under the administrative control of Respondent No. 2. As such, there is no difficulty to consider the case of the applicant for absorption against any regular vacancy including the vacancy now holding by the applicant either in the state of Tripura or in the State of Arunachal Pradesh where a large numbers of posts of Divisional Accountants are lying vacant. Be it stated that the applicant is already holding a regular post of Divisional Accountant on deputation basis.

- 4.13 That the Respondent No. 10 (Director of Accounts & Treasuries, Government of Arunachal Pradesh, Naharlagun) vides his letter bearing No. DA/TRY/15/99/Part dated 15.07.2005 addressed to the Respondent No. 2, requested the office of the Respondent No. 2 to reconsider its decision on repatriation of the deputationists. In the said letter the Respondent No. 10, also informed the Respondent No. 2 that the scheme for taking over the administrative control of the cadre of DAs/DAOs by the Government of Arunachal Pradesh is being submitted to the office of the Respondent No. 2 within a fortnight for perusal and necessary approval. It is stated that from the letter dated 15.07.2005, it is quite clear that the Govt. of Arunachal Pradesh has shown it's willingness to take over the cadre of DAs/DAOs, therefore, from the letter dated 28.03.05 as well as from the letter 15.07.05 it is made clear that both the borrowing department and lending department has shown their willingness for permanent absorption of the Divisional Accountants/Divisional Accounts Officers. Be it stated that the Comptroller and Auditor General also sought an option from the State of Tripura regarding taking over the entire Accounts set up under the administrative control of the Govt. of Tripura as such there is no difficulty to absorb the applicant to the post of

Randip Kumar Paul

Divisional Accountant either in the State of Tripura or in the State of Arunachal Pradesh. In this connection it may be stated that the State of Arunachal Pradesh i.e. the parent department of the applicant have already decided to take over the entire Accounts set up and to that effect scheme have already been submitted by the Govt. of Arunachal Pradesh to the Accountant General (A&E), Meghalaya, Shillong vide letter/memo bearing No. D.A/TRY-27/2000 dated nil July' 2005. It is ought to be mentioned here that in the similar process the State of Assam has taken over the entire Accounts set up from the administrative control of the Accountant General (A&E), Assam and the cadre of Divisional Accountant are now exclusively under the administrative control of State of Assam.

In view of the categorical decision of the Govt. of Arunachal Pradesh communicated to the Accountant General (A&E), Meghalaya, Shillong vide letter dated 15.07.2005 and memo dated nil July' 2005, the applicant should be allowed to continue in his present capacity till the process of handing over and taking over of the Accounts set up by the Govt. of Arunachal Pradesh and or by the other State Government is completed. In this connection it may further be stated herein that the office of the Accountant General (A&E), Meghalaya, Shillong vide letter bearing No. DA. Cell/MVKN/DEPT./HIGH COURT/213 dated 24.05.2005, whereby the applicant is sought to be repatriated to his parent department i.e. under the Govt. of Arunachal Pradesh, in the office of the Chief Engineer, I&FC department pursuant to the decision of the Hon'ble High Court passed in W.P (C) No. 172 (AP)/2003, wherein there was a direction to repatriate the applicant with immediate effect, however, the applicant has not yet been released till filing of this application.

The applicant is now approaching this Hon'ble Court in view of the changed circumstances, the Writ Petition of the applicant was dismissed mainly on the ground that neither the borrowing department nor the landing department was agreed for absorption of the present

Randip Kumar Paul

applicant/writ petitioner, but now after the dismissal of the writ petition, the circumstance has been totally changed, more so in view of the fact the parent department of the present applicant i.e. the Govt. of Arunachal Pradesh has already submitted a scheme for handing over the entire Accounts set up to the Govt. of Arunachal Pradesh from the administrative control of the A.G (A&E), Meghalaya etc. Besides the Govt. of Arunachal Pradesh in their letter dated 15.07.2005 categorically expressed their willingness to allow to continue the deputationists working in the cadre of Divisional Accountant, the applicant being similarly circumstanced Divisional Accountant like the applicants of O.A. No. 114/2005 and O.A. No. 115/2005, approaching this Hon'ble Court, praying for an appropriate direction upon the A.G (A&E), Meghalaya etc. to allow the applicant to continue till the process of handing over and taking over of the Accounts set up is completed so that the State Govt. of Arunachal Pradesh and other State Govt. are enable to start the process of absorption of the deputationist like the present applicant and other similarly situated employees.

Copy of the letter dated 15.07.2005, and letter dated nil July' 2005 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4 and 5 respectively.

- 4.14 That the applicant states that in view of the decision of the High Court as mentioned hereinabove, although they may have no absolute right of permanent absorption, still, they have a right to have their cases considered when the borrowing department decides to absorb the persons on deputation and the lending department agrees to such decision. In the present case, a consensus among the borrowing and lending department on the issue of absorption of Divisional Accountants being explicit in the letter dated 28.03.2005, 24.05.2005 as well as letter dated nil' July, 2005 a right of due consideration has accrued to the applicant to have their cases

Pandip Kumar Paul

considered vis-à-vis other similarly situated persons for permanent absorptions.

4.15 That in view of the facts and circumstances narrated above, the respondents are duty bound also to consider the cases of the present applicant in the changed circumstances. In the circumstances, the Hon'ble Tribunal may be pleased to issue appropriate directions to the respondents to consider the cases of the applicant in the light of the decisions contained in the letter dated 28.03.2005, dated 24.05.2005 as well as letter dated nil July' 2005.

4.16 That it is stated that the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh, vide his letter bearing No. TRY-27/2000/060-68 dated 31.07.2005 submitted a Scheme for taking over the administrative control of the cadre of Sr. DAO/DAO Grade-I/DAO Grade-II and Divisional Accountant to the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc. Shillong i.e. Respondent No. 2. In the said letter dated 31.07.05 it is also appraised to the Respondent No. 2 by the Director of Treasuries that the State Cabinet had since approved the proposal to take over the cadre and the Department of Law & Judicial, Personnel and Administrative Reforms of the State have duly vetted the Scheme after thorough examination. In view of the progress the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh requested to convey approval of Respondent No. 2 for smooth taking over of the cadre of DAs/DAOs/DAOs Grade-I and II from his kind control. Be it stated that from the letter dated 31.07.2005 it is quite clear that the Govt. of Arunachal Pradesh i.e. the parent department of the applicant has submitted the Scheme for taking over of the entire cadre of DAs/DAOs/DAOs Grade-I and II from his control of Respondent No. 2 and the process of taking over is under active consideration of the Respondent No. 2 and the applicant legitimately expecting for being absorbed as Divisional Accountant in the

Rodip Kumar Paul

Covt. of Arunachal Pradesh in the event of taking over control of the Accounts set up by the Govt. of Arunachal Pradesh.

Copy of the written statement filed in O. A No. 115/2005 submitted by the state of A.P along with the letter dated 31.07.2005 and the scheme are enclosed herewith and marked as Annexure - 6.

- 4.17 That your applicant further beg to say that the office of the A.G (A & F), Meghalaya etc. Shillong vide letter bearing No. DA Cell/ I-1/2000-2001/1509 dated 25.11.2005, wherein it is stated that the office of the C & AG has framed a draft scheme regarding proposed transfer of D.As cadre and the same is forwarded for acceptance of the terms and conditions embodied in the scheme by the Arunachal Pradesh Government. It is further stated in the said letter dated 25.11.2005, that comments suggestion if any of the Govt. may be communicated to the office of the C & AG, therefore, it appears that C & AG has agreed to hand over the D.A cadre to the state of A.P with certain modification in the scheme initially proposed by the Govt. of A.P and it is expected that the process of handing over the cadre of D.As to the state of A.P is likely to be completed shortly.

Copy of the letter dated 25.11.2005 is enclosed as Annexure- 7.

- 4.18 That situated thus applicant approached this Hon'ble Tribunal by filing OA No. 238/2005 praying for a direction upon the respondents to consider the case of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law. However, the OA No. 238/2005 along with other similar cases came before the Hon'ble Tribunal on 21.03.2007 for hearing and the Hon'ble Tribunal after hearing the Counsels of the parties was pleased to dispose of the OA No. 238/2005 along with other

Pandip Kumar Paul

cases with a direction to the applicant to submit comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter.

Copy of the judgment and order dated 21.03.07 is enclosed herewith and marked as Annexure- 8.

- 4.19 That your applicant begs to state that in compliance with the direction passed by this Hon'ble Tribunal he submitted a detailed representation addressed to the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh, Itanagar on 03.05.2007 praying for regular absorption as Divisional Accountant and also prayed not to repatriate him till process of final absorption of the entire Accounts set up by the Govt. of Arunachal Pradesh is completed.

Copy of the representation dated 03.05.07 is enclosed herewith and marked as Annexure- 9.

- 4.20 That it is stated that the Chief Engineer, P.W.D (R&B), Tripura, Agartala following the earlier instruction of the Respondent No. 2 has started process for repatriation of the applicant to his parent department i.e. Govt. of Arunachal Pradesh without considering his case for regular absorption and also without waiting for taking over of the entire Accounts set up by the Govt. of Arunachal Pradesh, more so when the representation of the applicant in compliance with the direction passed by this Hon'ble Tribunal is pending before the respondents. It is stated that applicant is a permanent employee of Govt. of Arunachal Pradesh and he is serving on deputation at present and since the process of taking over is not completed till dated therefore, in such a stage if the applicant is now repatriated to his parent department at present in that event he will loss the facility of absorption like other similarly situated Divisional

Poojip Kumar Paul

Accountants. In this connection it is relevant to mention here that the applicant has completed almost 15 years in different spells as Divisional Accountant and he has gathered a lot of experience and legitimately expecting to be absorbed as Divisional Accountant under the Govt. of Arunachal Pradesh, therefore he is apprehending that he may be repatriated to his parent department at any point of time without waiting for completion of process of taking over of the entire Accounts set up and in such a compelling circumstance applicant is approaching before the Hon'ble Tribunal for a direction upon the respondents as an interim measure not to repatriate the applicant till the process of taking over of the entire Accounts set up by the Govt. of Arunachal Pradesh is completed.

- 4.21 That your applicant further begs to say that he is an employee of the Govt. of Arunachal Pradesh and in anticipation he will be able to work in the higher post of Divisional Accountant in the State of Arunachal Pradesh he has applied for appointment to the post of Divisional Accountant on deputation basis but if he is repatriated at this stage when the other deputationists belongs to the Govt. of Arunachal Pradesh are allowed to continue in the State of Arunachal Pradesh in that event applicant will suffer irreparable loss and injury and such action of the respondents will be highly arbitrary, unfair and illegal and will also attract Article 14 of the Constitution of the India and on that ground alone the impugned action of the respondents for repatriating the applicant to his parent department at this stage is liable to be interfered by the Hon'ble Court for protection of right and interest of the applicant. It is categorically submitted that the impugned order of repatriation is going to be issued shortly by the respondents, as such, the Hon'ble Tribunal be pleased to pass appropriate order restraining the respondents to repatriate the applicant till consideration of his case for absorption, in compliance with the direction passed by the learned Tribunal in OA No. 238/2005 is completed.

Pandip Kumar Paul

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

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

- 5.1 For that the action of the respondents in initiation process of repatriation when the process of absorption of the applicant as regular Divisional Accountant is under active consideration in terms of the policy scheme framed and submitted by the Govt. of Arunachal Pradesh before the respondent No. 2 and the respondent No. 2 on principle also agreed with the scheme with certain modification indicated in his letter dated 25.11.05 at this critical juncture repatriation of the applicant, who is regular employee of the State of Arunachal Pradesh working on deputation in the State of Tripura will suffer irreparable loss and injury if the applicant repatriated at this stage.
- 5.2 For that applicant has opted to work on deputation basis since large number of posts of Divisional Accountants are available within the State of Arunachal Pradesh and accordingly applicant submitted his application for appointment on deputation basis to the post of Divisional Accountant to enable to serve him within the state of Arunachal Pradesh in a higher post on deputation as such if any order of repatriation is passed at the moment when handing over of the Accountants set up from the administrative control of respondents No. 2 to the administrative control of State of Arunachal Pradesh as well as process of absorption is likely to take place, therefore, it is in violation of doctrine of legitimate expectation, as such repatriation order, if any, is liable to be set aside and quashed.
- 5.3 For that applicant has submitted a detailed representation on 03.05.2007 before the concerned authority for regular absorption and not to repatriate him till process of taking over the entire Accounts cadre by the Govt. of Arunachal Pradesh and the same is pending before the respondents and any decision for repatriation of the applicant to his parent department at

Pondip Kumar Paul

this stage by the Chief Engineer PWD (R&B), Agartala is arbitrary, illegal and same is liable to be set aside and quashed.

- 5.4 For that the applicant, being similarly situated like the other 19 Divisional Accountants, have a right of having his case also duly considered by the respondents for permanent absorption as Divisional Accountants.
- 5.5 For that the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005, demonstrates the willingness of Respondents to extend the period of deputation of all the Divisional Accountants including 19 Divisional Accountants and also for their permanent absorption subject to withdrawal of their cases from Courts and as such, such a decision creates a right in favour of the present applicant for due consideration of his case.
- 5.6 For that in view of the judgment of the High Court, the right of permanent absorption being dependent on the desire of the borrowing and lending departments and, in view of the consensus among the borrowing and lending department on the issue of absorption of Divisional Accountants which is explicit in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005, a right of due consideration has accrued to the applicant to have his case for permanent absorptions considered vis-à-vis other similarly situated persons.
- 5.4 For that the applicant being similarly situated to the other Divisional Accountants is entitled for a fair consideration of his case by the respondents and a decision to consider the cases of others ignoring the cases of the present applicant is violative of Article 14 and 16 of the Constitution of India.
- 5.5 For that the action of the respondents in attempting repatriation of the applicant by going against the spirit of the decision as contained in the letter-dated 28.03.2005, 28.03.2005, dated 15.07.2005 as well as letter dated

Indip Kumar Paul

nil July/ 2005 is ex-facie bad in law, arbitrary and liable to be interfered with.

- 5.6 For that the judgment of the High Court is a declaration with regard to the rights of the parties and does not any way debar the respondents from considering the cases of the applicant for continuation/permanent absorption when the borrowing and lending departments so agreed.
- 5.7 For that in view of the matter, the action of the respondents in keeping the applicant outside the zone of consideration and repatriating him to his parent cadre is arbitrary, discriminatory and liable to be declared illegal.
- 5.8 For that the applicant submitted detailed representation to the respondents in compliance with the direction passed by the Hon'ble Tribunal in OA No. 238/05 and the same is pending before the respondents as such repatriation of the applicant in this stage will be against the spirit of the direction passed by this Hon'ble Tribunal.
6. Details of remedies exhausted.
That the applicant states that they have exhausted all the remedies available to them and there is no other alternative and efficacious remedy than to file this application.
7. Matters not previously filed or pending with any other Court.
The applicant further declares that he had previously filed application/Writ Petition before this Hon'ble Tribunal/High Court. However, those cases were disposed of by this learned Tribunal as well as by the Hon'ble High Court and no other application/Writ petition is pending in any Court or Tribunal.
8. Relief(s) sought for:

Randip Kumar Paul

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

- 8.1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Accountant in the light of the direction contained in the judgment and order dated 21.03.2007 passed in OA No. 238/2005 and also in terms with the direction decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July 2005 of the Respondent No. 2 and 3.
- 8.2 That the Hon'ble Tribunal be pleased to allow the applicant to continue in his present place of posting till process of absorption of cadre of Divisional Accountants by the Govt. of Arunachal Pradesh is completed and further be pleased to restrain the respondents from passing any order of repatriation till the process of absorption is completed.
- 8.3 Cost of the application.
- 8.4 Any other relief(s) to which the applicant is entitled as deemed fit and proper by the Hon'ble Tribunal.

9. Interim order prayed for.

During pendency of this application, the applicant prays for following interim relief (s):

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to repatriate the applicant till disposal of the Original Application.

Indip Kumar Paul

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- | | | | |
|------|---------------|---|--------------------|
| i) | I. P. O. No. | : | 34G 65 2678, |
| ii) | Date of Issue | : | 29. 3. 2007. |
| iii) | Issued from | : | G. P. O. Guwahati. |
| iv) | Payable at | : | G. P. O. Guwahati. |

12. List of enclosures.

As given in the index.

Indip Kumar Paul

VERIFICATION

I, Shri Pradip Kumar Paul, S/o Late Paresh Chandra Paul, aged about 50 years, presently working as Divisional Accountant, O/o The Executive Engineer, Resource Division, Panchamukh, P.O- Agartala, West Tripura-799003, applicant in the instant 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 6th day of May 2007.

Pradip Kumar Paul

59

-22

Annexure- 1

OFFICE OF THE ACCOUNTANT GENERAL (AGE), MEGHALAYA, ARUNACHAL
PRADESH AND MIZORAM : SHILLONG
-000000000000-

(49)

EO.No.DA.Cell/68

DATED 16.7.99

Consequent on his selection for the post Divisional
Accountant (on deputation basis) in the pay scale of Rs.1400-400-
1600-50-2300-60-2600/- in the combined cadre of Divisional
Accountants under the Administrative control of the office of
the Accountant General (AGE), Meghalaya, etc., Shillong, Shri

Pradip Kumar Paul, YDC at present working
in the office of the Chief Engineer, STFCO Dharagan
is posted on deputation as Divisional Accountant
in the office of the Executive Engineer, Resource
Division, Agartala Tripura

2. Shri Pradip Kumar Paul should
join the aforesaid post of Divisional Accountant on deputation
within 15 days from the date of issue of this order, failing
which his posting on deputation is liable to be cancelled
without any further communication and the post may be
offered to some other eligible and selected candidate. No
representation for a change of the place of posting will be
entertained under any circumstances whatsoever.

3. The period of deputation of Shri Pradip Kumar Paul
will be for a duration
of 1(one) year only from the date of joining in the office of the
Executive Engineer Resource Division, Agartala Tripura

4. The pay and deputation(Duty) allowances in respect of
Shri Pradip Kumar Paul
will be governed by the Government of India, Ministry of
Finance, Public Grievances and Pension (Department of Personnel
and Training) letter No.2/12/87-Estt(Pay.II) dtd. 29.4-1988

Attested
by
Advocate

Contd.....2/.....

(42)

as amended and modified from time to time. Shri Pradyumn Kumar Paul may elect to draw either the pay in the scale of pay of the deputation post or his basic pay in the parent cadre plus personal pay, if any, plus deputation (duty) allowance. Shri Pradyumn Kumar Paul on deputation, should exercise option in this regard within a period of (one) month from the date of joining the assignment (i.e. the aforesaid date of deputation). The option once exercised by Shri Pradyumn Kumar Paul shall be treated as final and cannot be altered/changed later under any circumstances whatsoever.

5. The Dearness Allowance, CCA, Children Education Allowance, F.A., L.P.C., Leave, Pension, etc. will be governed by the Govt of India, Ministry of Finance O.P. 10.11(6) 1-17(A)/62 dated 12-12-1962 (incorporated as Annexure to Govt of India decision No. 11 in Appendix 11 of Choudhury's C.S.R. Volume 14 (11th Edition) and as amended and modified from time to time.)

6. Shri Pradyumn Kumar Paul on deputation will be liable to be transferred to any place within the State of Arunachal Pradesh, Manipur and Tripura, in the combined cadre of Divisional Accountants under the Administrative control of the Accountant General (A.G.) Diphalaya, etc., Diphalaya.

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

56/-
 न. र. महाप्रबन्धक (प्र.)
 Sr. Dy. Accountant General (Admin)
 महाप्रबन्धक (प्र. र.) का कार्यालय
 Office of the A.G. (A&I)
 Senior Dy. Accountant
 मेधाप्रबन्धक, अर्थशास्त्र एवं प्रशासन
 Diphalaya
 Date: 28/06/2001

(H)

No. 19799

Memo No. D. Coll/3-49/24-07/610-004

Copy forwarded for information and necessary action to :-

1. The Accountant General (AG) Tripura Agartala.
2. The Chief Engineer, I & P.C. Deptt. Itanagar, Arunachal Pradesh. He is requested to release Shri Prady Kumar Paul immediately with the direction to report to his place of posting on deputation under intimation to this office.
3. The Chief Engineer, (WA) Kunjaban Agartala Tripura for information.
4. The Executive Engineer, Resources Division Agartala Tripura. He is requested to intimate the date of joining of Shri Paul in his Division as WA on Deputation.
5. Shri Prady Kumar Paul, WC Office of the Chief Engineer, I & P.C. Itanagar.
6. H.O. File.
7. S.C. File.
8. P.C. File of Shri P.K. Paul.
9. Deputation file.

RPG

P50037

Deputy Assistant Officer,
I/c D. Coll.

Attested
Advocate

Gram : ARUNACCOUNTS

Phone : 214201 (O)

222637 (R)

Annexure-2

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries
Naharlagun-791110

No. DA/TRY/15/99

Dated, the 12th Jan 2000

To,

The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, etc.,
Shillong - 793 001.

Sub : Transfer of the Cadre of Divisional Accounts
Officer / Divisional Accountants to the State of
Arunachal Pradesh - regarding.

Sir,

It was under active consideration of the Government of Arunachal Pradesh for sometime to take over the Cadre of the Divisional Accounts Officers / Divisional Accountants of the Works Department totaling 91 (Ninety one) posts from the existing combined cadre being controlled by you. Now, the Government of Arunachal Pradesh has decided to take over the above said Cadre under the direct control of the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, with immediate effect.

Persons those who are borne on regular basis in the cadre and opt to come over to Arunachal Pradesh state Cadre, will be taken over on status quo subject to acceptance of the state Government. It is also decided that henceforth no fresh Divisional Accountant(s) on deputation will be entertained. Cases of those who are presently on deputation and serving in this state shall be examined at this end for their future continuation even after completion of the existing term of deputation.

* It is, therefore, requested to take necessary action at your level so that the process of the transfer of the Cadre along with the willing personnel can be completed immediately.

Formal notification is under issue and shall be communicated in due course.

Yours faithfully,

(Y. Megu)

Director of Accounts & Treasuries
& Ex-Officio Dy. Secy. (Finance),
Govt. of Arunachal Pradesh,
NAHARLAGUN.

Attended
with
Advocate

(Typed true copy)

Annexure- 3

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

Phone: 0364-2223191 (O) Fax: 0364-2223103

E.R. Solomon
Accountant General

D.O. No. DA Cell/1-8/Court Case/2000-2001/1909

Dated: March 24, 2005

28 MAR 2005

Dear

Otem,

Please recall our telecon a little while ago regarding the Divisional Accountants on deputation to my office and presently posted in the State of Arunachal Pradesh. With reference to your D.O. letter No. DA/TRY/27/2002 dated 10.3.2005, I am to inform you that my Headquarters has confirmed that we could consider extension of the deputation of the present 31 Divisional Accountants presently on deputation to our department. As you are aware the Division Bench of the Gauhati High Court, Itanagar Bench had issued an order dated 10.2.2005 regarding the 12 Divisional Accountants on deputation who are to be reverted back to their parent departments in the Government of Arunachal Pradesh. This order is not being implemented presently and the remaining 19 Divisional Accountants who have cases pending in the Court/CAT may be immediately requested to withdraw all their court cases and once this is done, their continuity on deputation will be considered.

On the question of absorption of these 31 deputationists, my HQrs. has informed that the modalities will be worked out and this may be conveyed to these deputationists.

I request for your urgent action to ensure that the pending court cases of the 19 Divisional Accountants on deputation are withdrawn to facilitate their continued deputation/absorption.

Regards

Yours sincerely

Sd/-

Illegible

24.03.05.

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

Handwritten signature: Shri Otem Dai

Annexure 4

-27-

**GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS & TREASURIES
NAHARLAGUN.**

NO. DA/TRY/15/99/ Part

Dated Naharlagun, the 15th July'2005.

To,

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

Sub : Divisional Accountants on deputation - regarding.

Ref : Your letter No. DA/Cell/1-8/Court Cases/2000-01/147, dated 24.5.2005.

Sir,

I am directed to request you to refer the D.O. No. DA/Cell/1-B/Court Cases/ 2000-01/1909, dated 28.3.03 from Shri E.R. Solomon, Accountant General (A&E) to Shri Otem Dal, Finance Commissioner to the Govt. of Arunachal Pradesh.

2. The Accountant General (A&E) had in his above D.O. letter mentioned that the order of Divisional Bench of Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun dated 10.2.2005 regarding repatriation of 12 Divisional Accountants to their parent departments in the Govt. of Arunachal Pradesh is not being implemented and had urged this department to immediately request the remaining 19 Divisional Accountants whose cases are pending in the Court/ CAT to withdraw their court case. This department had pursued the matter with representatives from both the group of 19 and 12 Divisional Accountants but nothing specific result is forth-coming.

3. This directorate also acknowledges receipt of Sr. Deputy Accountant General (Admin.) letter No. DA/Cell/1-8/Court Cases/2000 01/147 dated 24.5.2005 stating that in the light of order passed by Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun, repatriation orders in respect of 12 nos. Divisional Accountants to their parent department are being issued.

4. From the endorsements received from your office, repatriation orders in respect of 12 Divisional Accountants as stated above have been issued by your good office in the month of May'2005.

5. It is to bring to your kind notice that the 12 nos. of Divisional Accountants whose repatriation orders were issued by your good office had made fresh appeal to the Hon'ble CAT for issuing a stay order against the order dated 10.2.2005 issued by Hon'ble High Court, Itanagar Permanent Bench, Naharlagun.

*Attended
Advocate*

6. Under this circumstance the office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc, Shillong is requested to reconsider its decision on repatriation of the deputationists. The scheme for taking over the administrative control of the cadre of DAs / DAOs by the Government of Arunachal Pradesh is being submitted to your good office within a fortnight for perusal & necessary approval please.

Yours faithfully

(C.M. Mongmaw)
Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

Memo. NO. DA/TRY/15/99/ Part

Dated Naharlagun, the ____th July 2005.

Copy to :

1. The Chief Engineer, PWD (E/Z, W/Z) / PHED / IFCD / RWD / Power & DHP Department of Arunachal Pradesh for information with request to convey the matter to all the Executive Engineer concerned.
2. Office copy.

(C.M. Mongmaw)
Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

(Typed true copy)

Annexure- 5

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

No. DA/TRY-27/2000

Dated __ July' 2005

To,

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

Subj: - Submission of scheme for taking over the administrative control of the cadres of Sr. DAO/DAO Grade-I DAO, Grade-II and Divisional Accountant- thereof.

Sir,

I am directed to submit herewith the proposed scheme for taking over the administrative control of cadre of Divisional Accountants comprising Sr. DAOs/DAOs Grade I & II and Divisional Accountants by the Government of Arunachal Pradesh presently vested under your kind control.

I am further directed to state that the State cabinet had since approved the proposal to take over the cadre and the Departments of Law, Judicial & Administrative Reforms of the State have duly vetted the scheme after thorough examination.

In view of the progress as stated above, I am directed to request you to convey your approval facilitating smooth taking over of the cadre of DAs/DAOs/DAOs Grade- I & II from your kind control.

Kindly acknowledge the receipt of the scheme enclosed in quadruplicate.

Encl:- As stated above

Yours faithfully

Sd/-

(C.M. Mongmaw)

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

Memo. No. DA/TRY-27/2000

Dated ____ July' 2005.

*Attended
with
Advocate*

Copy to: -

1. P.S to Principal Secretary (Finance) to the Govt. of Arunachal Pradesh, Itanagar for information.
2. The Secretary, Law & Judicial to the Govt. of Arunachal Pradesh for information please.
3. The Secretary, Personnel & Administrative Reforms, to the Govt. of Arunachal Pradesh, Itanagar for information please.

Sd/- Illegible

(C.M. Mongmaw)

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

8/C - 31- Annexure - 6B
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO. 115 OF 2005

Shri L. Appal Swami & Ors

-Versus-

Union of India & Ors

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT NO. 11

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

1. That a copy of the original application being No. 115 of 2005 has been served upon me wherein I have been arrayed as Party Respondent No. 11, I have read the averments made in the application along with its annexures and understood the contents thereof.

2. That save and except what is specifically admitted in this Written Statement and the statements made in the application which are contrary to and inconsistent with the records shall be deemed to have been denied.

3. That the applicants filed the instant application seeking the relief viz :

- i) That the applicants who are on deputation entitled to consideration as Divisional Accountant working under different Division offices of the Executive Engineers in the State of Arunachal Pradesh.

*Accepted
With
Advocate*

- ii) That before dealing with the said relief as prayed for, the deponent deals with different paragraphs made in the instant application for conveniences of the case in hand.

4. That with regard to the statements made in paragraphs 4.1 and 4.3 of the instant application the deponent states that these are matters of record and any statement made therein which are contrary to records shall be deemed to have been denied.

5. That with regard to the statements made in paragraphs 4.4 of the application the deponent states that the State of Arunachal Pradesh through its Principal Secretary (Finance) Government of Arunachal Pradesh has formulated a scheme for taking over the Administrative control of the cadres of Senior DAO/DAO Grade-I/DAO Grade-II and DA of working divisions alleging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of Accountant General (A&E) Meghalaya, Arunachal Pradesh, etc. Shillong. The said scheme has been sent to the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc Shillong for taking over of the administrative control of the cadre of Divisional Accountant from the later vide office letter dated 30.7.2005. This has been done in consonance to cabinet decision taken on 28.11.2001.

6. That with regard to the statement made in paragraph 4.5 of the application the deponent states that the question has been dealt with in the scheme which is quoted hereunder :

"2.2. The Divisional Accountants (on deputation) those who have completed the existing terms of deputation will be continued as Emergency Divisional Accountant for the time being as working arrangement. But for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional test examination within two years from the date of taking over the cadre from the

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

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

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

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

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

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

- 34 -

71

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

Sub :- Submission of scheme for taking over the administrative control of the cadres of Sr. DAO/DAO Grade - I DAO, Grade - II and Divisional Accountant - thereof.

Sir,

I am directed to submit herewith the proposed scheme for taking over the administrative control of cadre of Divisional Accountants comprising Sr. DAOs / DAOs Grade - I & II and Divisional Accountants by the Government of Arunachal Pradesh presently vested under your kind control.

I am further directed to state that the State cabinet had since approved the proposal to take over the cadre and the Departments of Law & Judicial, Personnel & Administrative Reforms of the state have duly vetted the scheme after thorough examination.

In view of the progress as stated above, I am directed to request you to convey your approval facilitating smooth taking over of the cadre of DAs / DAOs / DAOs Grade - I & II from your kind control.

Kindly acknowledge the receipt of the scheme enclosed in quadruplicate.

Encl : As stated above.

Yours faithfully

Self

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

Dated July 2005.

Memo. NO. DA/TRY-27/2000

Copy to :-

1. P.S. to Principal Secretary (Finance) to the Govt. of Arunachal Pradesh, Itanagar for information.
2. The Secretary, Law & Judicial to the Govt. of Arunachal Pradesh for information please.
3. The Secretary, Personnel & Administrative Reforms, to the Govt. of Arunachal Pradesh, Itanagar for information please.

Attested
by
Advocate

o/c

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

nc

72

- 35 -

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

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

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

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

*Attended
Advocate*

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

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

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

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

Divisional Accountants on Deputation

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

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

Administrative Control

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

Recruitment

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

rev. Commission
in divisions.

Method of Recruitment:

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

5.2

Age Limit for "Direct Recruitment":

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

5.3

Education Qualification:

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

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

5.4

Appointing Authority:-

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

5.5

Probation and Training:-

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

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

6.

Transfer & Posting:-

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

7.

Transfer of record:-

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

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

38-
Registered Post

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

Dated:- 25.11.2005

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

To

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

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

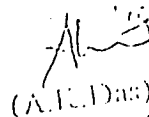
Sir,

In inviting a reference to this office letter No. DA Cell/1-8/Court case/Vol.11/1045
dated 23.8.2005 on the subject cited above, I am to state that the draft scheme framed by
the C&AG's office regarding proposed transfer of DAAs cadre has been received by
this office. A Copy of the draft scheme is forwarded herewith for acceptance of the terms
and conditions embodied in the scheme by Arunachal Pradesh Government.

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

Encls:- As stated above.

Yours faithfully,


(A.K. Das)

Dy. Accountant General (Admin)

Advocate
Advocate

- 39 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure - 8

Original Application Nos. 114/2005, 115/2005 & 238/2005

Date of Order: This, the 21st day of March 2007

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE-CHAIRMAN

THE HON'BLE SHRI TARSEM LAL, ADMINISTRATIVE MEMBER

1. Lendi Chatung
S/o Late Lendi Sala
O/o the Executive Engineer, Along Electrical Division
Department of Power, Along.
2. Tonkeswar Borah
S/o Late Golap Chandra Borah
O/o the Executive Engineer
Tezu Public Works Division.
3. Sanchayan Kumar Dam
S/o Late Subodh Kumar Dam
O/o the Executive Engineer
Seppa Electrical Division.
4. Love Rao
S/o Luxmi Rao
O/o the Executive Engineer
Hydro Power Development Department.
5. Jammi Kamum
S/o Sri T. Kamum
Irrigation & Flood Control Department
Daporijo Division, Upper Subansiri
Daporijo.

Dilip Kumar Dey
O/o the Executive Engineer
Public Works Department, Boleng
East Siang District.
7. Tashi Namgye
O/o the Executive Engineer
P.W.D. Division Sepa
East Kameng District, Seppa.
8. Lani Bhutan Karmakar
S/o Late K.M. Karmakar
P.W.D. Division, Damporijo
Upper Subansiri District.

Shri L. Appal Swami
S/o Late L.A. Naidu
Presently working as Divisional Accountant
O/o the Executive Engineer



*Attested
Advocate*

Applicants in O.A. No. 114/2005

PHE & Water Supply Division, Khunsa
Dist:- Tirap, Arunachal Pradesh.

2. M.V.Kartikeyan Nair
S/o K.P.V.Nair
Working as Divisional Accountant
O/o the Executive Engineer
Kalaktang P.W.Division
Dist: West Kameng, Arunachal Pradesh.

3. Shri Santanu Ghosh
S/o Late S.R.Ghosh
Working as Divisional Accountant
O/o the Executive Engineer
RWD, Yingkiong, Upper Siang
Arunachal Pradesh.

Applicants in O.A.115/2005

1. Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o the Executive Engineer
Irrigation and Flood Control, Resource Division
Panchamukh, P.O: Agartala
West Tripura - 799 003.

Applicant in O.A. No.238/2005

By Advocates S/Shri M.Chanda, S.Nath & G.N.Chakraborty.

- Versus -

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

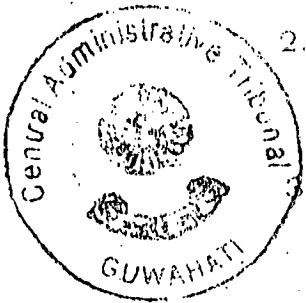
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.

The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.

4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar - 791 111.

5. The Chief Engineer (T&D)
Department of Power
Government of Arunachal Pradesh
Itanagar.

6. The Chief Engineer, Public Works Department
Government of Arunachal Pradesh
Itanagar.



7. The Chief Engineer
Public Health Engineering Department
Government of Arunachal Pradesh
Itanagar.
8. The Chief Engineer, Rural Works Department
Government of Arunachal Pradesh
Itanagar.
9. The Chief Engineer, IFCD
Government of Arunachal Pradesh
Itanagar.
10. The Chief Engineer
Hydro Power Development Department
Itanagar.
11. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A. Nos. 114/2005 & 115/2005

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar - 791 111.

5. The Chief Engineer, I&FCD
Government of Arunachal Pradesh
Itanagar.

- ✓ 6. The Chief Engineer, I&FCD
Government of Tripura
Agartala.

- ✓ 7. The Chief Engineer
PWD (R&B), Agartala
Tripura.

8. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A. No. 238/2005

By Mr. G. Baishya, Sr. C.G.S.C. & Mr. A. Buzarbaruah, Govt. Advocate,
State of Arunachal Pradesh.



-42-

79

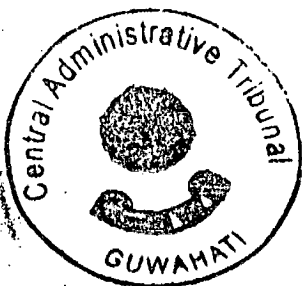
ORDER (ORAL)

SACHIDANANDAN, K.V.(V.C.):

There are 8 Applicants in O.A.114/2005, 3 in O.A.115/2006 and one in O.A.238/2006. All the cases are taken up together since reliefs sought for are common. All the Applicants are regular employee of the PWD of Arunachal Pradesh and are presently working as Divisional Accountant under the different units of PWD on deputation basis under the administrative control of Respondent No.2. It was further contended that as it was under active consideration of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountants/Divisional Accounts Officers totaling 91 (Ninety One) posts from the existing combined cadre being controlled by the Respondent No.2 and now the Respondent No.3 had decided to take over the said cadre and place thus under the direct control of the Respondent No.11 with immediate effect. However, orders of repatriation have been passed when they were anticipating their regular absorption in the higher pay scale, cadre, rank and status even though the resultant vacancies were going to be filled up by bringing other persons on deputation. Hence these Original Applications (O.A.114 & 115 of 2005) seeking the following similar main reliefs:-

"8.1 The applicants are entitled to consideration of their cases for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005.

8.2 The respondents are liable to consider the cases of the applicants for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005 and



any action to repatriate the applicants prior to such consideration is arbitrary, unfair and bad in law.

In O.A. No.238/2005 the sole Applicant has sought the following main reliefs:-

"8.1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Account in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005.

8.2 The respondents are liable to consider the case of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated July' 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law."



2. Respondents have filed their written statements. Applicants also submitted additional affidavits in the cases. We have heard Mr.M.Chanda, learned counsel for the Applicants and Mr. Buzarbaruah, learned counsel for the Government of Arunachal Pradesh. Paragraph 5 of the written statement filed by the Respondent No.11, which is relevant for this cases, is reproduced herein below:-

"5. the State of Arunachal Pradesh through its Principal Secretary (Finance) Government of Arunachal Pradesh has formulated a scheme for taking over the Administrative control of the cadres of Senior DAO/DAO Grade-I/DAO Grade-II and DA of working divisions alleging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of Accountant General (A&E) Meghalaya, Arunachal Pradesh, etc. Shillong. The said scheme has been sent to the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc Shillong for taking over of the



administrative control of the cadre of Divisional Accountant from the later vide office letter dated 30.7.2005. This has been done in consonance to cabinet decision taken on 28.11.2001."

3. When the matter came up for hearing, learned counsel for the Applicants Mr.M.Chanda submits that there are developments in these cases and the Government of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc. Shillong and the proposal is under active consideration, but final approval is awaited. He further submitted that considering the development took place in all these matters Applicants will be satisfied if they are permitted to submit comprehensive representation with a direction to the concerned Respondents to consider and dispose of the same and take a decision within a time frame. Counsel for the Respondents has no objection in adopting such course of action.

4. Accordingly, we direct the Applicants to make individual comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the said Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter.

5. All the O.A.s are disposed of accordingly. No order as to costs.

TRUE COPY

प्रतिरूपि

N. S. Chanda
29.3.07

अनुभाग अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

सुप्रीम कोर्ट

गुवाहाटी

Sd/VICE CHAIRMAN
Sd/MEMBER (A)

To,

Divisional Accountant and District Engineer
The Director of Accounts & Treasuries,
Government of Arunachal Pradesh,
Naharlagun-791110.

(Through proper channel)

Sub: - Submission of representation in terms of the Judgment and order dated 21.03.2007 passed in OA No. 238/2005 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

With due respect and humble submission I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by filing O.A. No. 238/2005 praying for permanent absorption/continuation as Divisional Accountant in the light of the decision in the letter dated 28.03.2005, dated 15.07.2005 and also in terms of letter bearing No.NB/TRY-27/2000 dated Nil July 2005. However, the aforementioned Original application has been disposed of with a direction to the undersigned to submit a comprehensive representation. Hence the undersigned submitting this representation and begs to state as follows:

- 1) That Sir, I was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, after bifurcation of the Rural Works Department by the Government of Arunachal Pradesh I was placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh, therefore, IFCD is my parent department.
- 2) That Sir, when I was serving in the office to the IFCD, Itanagar I was selected for the post of Divisional Accountant and appointed as

Attested
By
Advocate

Divisional Accountant and presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. It is relevant to mention here that earlier also in two occasions I was selected and appointed to the post of Divisional Accountant under the administrative control of Accountant General (A&E) Meghalaya etc. during the year 1989 to 1995 again in the year 1996 to 1999 and this is the third occasion when I am found suitable for appointment for the post of Divisional Accountant. As such I have served altogether about 15 years as Divisional Accountant on deputation basis and acquired a valuable right to be absorbed as regular Divisional Accountant in the event of taking over the entire Accounts set up by the Govt. of Arunachal Pradesh.

- 3) That Sir, your good office vide order bearing No. DA/TRY/15/99 dated 12.01.2000 informed the Accountant General (A&E), Arunachal Pradesh, Meghalaya etc. that there are total 91 (ninety one) posts of Divisional Accountant/Divisional Accounts Officer and the Govt. of Arunachal Pradesh has decided to take over the said cadre under the direct control of the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh. It is relevant to mention here that at present 38 Divisional Accountant/Divisional Accounts Officer are working against the total 91 posts, therefore there will be no difficulty to absorb the undersigned in the event of taking over the control of Accounts set up by the Govt. of Arunachal Pradesh.
- 4) That Sir, the Govt. of Arunachal Pradesh i.e. my parent department has already submitted a scheme for handing over the entire Accounts set up to the Govt. of Arunachal Pradesh from the administrative

control of the A.G (A&E), Meghalaya etc. shown it's willingness to take over the cadre of DAs/DAOs. therefore, there is no difficulty to absorb the undersigned to the post of Divisional Accountant in the event of taking over the administrative control of Accounts set up by the Govt. of Arunachal Pradesh otherwise the undersigned shall suffer irreparable loss and injury. In this connection I also beg to state that in terms of the Scheme submitted by the Govt. of Arunachal Pradesh to the Accountant General a specific provision is made regarding absorption of the Divisional Accountants on deputation and it is also provided that the Divisional Accountant on deputation who have completed the existing term of deputation will be continued as emergency Divisional Accountant for the time being as working arrangement but for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional Tests examination within 2 years from the date of taking over the cadre from the administrative control of the AG (A&E) Meghalaya, Shillong etc. Therefore in terms of the Scheme I am entitled to be continued as Divisional Accountant and further request you to provide the benefit of the aforesaid Scheme to the undersigned and further request you to provide the scope to appear in the necessary Divisional Tests examination to the undersigned in the event of taking over the entire Accounts set up.

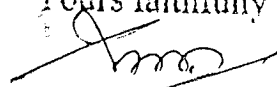
Under the facts and circumstances as stated above I request you for permanent absorptions/continuation as Divisional Accountant in the light of the decision taken by the Govt. of Arunachal Pradesh to take over the entire Accounts set up of the Divisional Accountant/Divisional Accounts Officer and further request you not to repatriate the undersigned till the process of regular absorption as Divisional Accountant is completed in the State of A.P.

It is pertinent to mention here that though my service is presently being utilized by the A.G. (A&E) Meghalaya etc. in the Resource Division, Panchmukh, Agartala, as such the undersigned is legally entitled to the benefit of absorption in the existing vacant post of Divisional Accountant in the event of taking over the administrative control of DAO/DA set up by the Govt. of A.P.

I am enclosing herewith a copy of the judgment and order dated 21.03.07 passed in OA No. 238/2005 (Pradip Kumar Paul Vs- U.O.I & Ors.) for your perusal and necessary action for compliance thereof.

Encl: - Copy of the judgment and order dated 21.03.07.

Yours faithfully

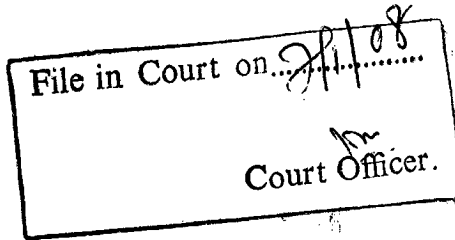
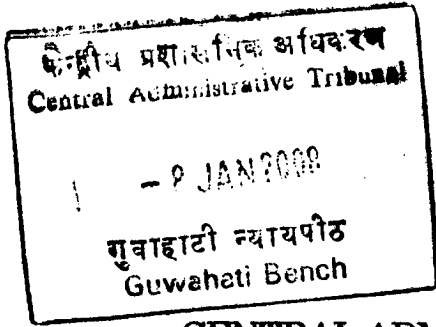


(PRADIP KUMAR PAUL)
Divisional Accountant,
O/o The Executive Engineer,
Resource Division
Panchamukh, P.O- Agartala,
West Tripura- 799003.

Date: 03.05.07.

Copy to: - The Accountant General (A&E), Arunachal Pradesh, Meghalaya,
Mizoram etc., Shillong.

Attested
Advocate



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 112 of 2007

Shri Pradip Kumar Paul

Applicant

-Vs-

Union of India & Others

Respondents

INDEX

Sl. No.	Particulars	Annexure	Page No.
1.	Recruitment Rules 1988	I	2 -
2.	Appointment letter dtd. 16.7.99	II	2 -
3.	Hon'ble CAT's order dtd. 21.3.2007	III	3 -
4.	P.O. letter No.NGE(APP)/10-2005 dtd. 6.7.05	IV	4 -
5.	Forwarding of Scheme to the Govt. of Arunachal Pradesh vide office letter No.DA Cell/1-1/2000-2001/1509 dated 25.11.05.	V	5 -
6.	The Govt. of A.P. informed vide letter No.DA/TRY/15/99 dated 12.1.2000, regarding taking over the cadre.	VI	6 -
7.	Letter No. DA/TRY/15/99 dt. 11.3.2002, request to continue as Emergency Divisional Accountant for time being.	VII	6 -

M. V. Anand
21/1/08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

IN O.A NO. 112/2007

SHRI PRADIP KUMAR PAUL - APPLICANT

-Vs-

THE UNION OF INDIA & OTHERS - RESPONDENTS

AND

IN THE MATTER OF :

WRITTEN STATEMENT SUBMITTED BY THE
RESPONDENTS NUMBERS 1 AND 2.

WRITTEN STATEMENTS

The humble Respondents submit their written statement as follows :-

1. That with regard to statements made in paragraphs 1 to 3 of the Original Application, the Respondents humbly submit that they have no comments to offer.
2. That with regard to the statement made in paragraphs 4.1, 4.2 and 4.3 of the Original Application, the Respondents humbly submit that the Applicant is a regular employee of the Government of Arunachal Pradesh. Since there were vacancies in the cadre of Divisional Accountants administered by Respondent No. 2 and since direct recruitment (as provided in the Recruitment Rules 1988 for Divisional Accountants) through the Staff Selection Commission to fill up vacancies would take time, Respondent No. 2 from time to time called for applications from the experienced staff of Public Works, PHE, RWD, I&FC, Electricity Departments serving under the State Governments of Tripura, Arunachal Pradesh and Manipur who were willing to serve as Divisional Accountants on deputation basis in the States of Tripura, Arunachal Pradesh and Manipur. Accordingly, the Applicant had been selected as Divisional Accountant on deputation basis and posted in Tripura under the administrative control of

ng. Roth

Deputy Accountant General (Adm)
Office of the Accountant General (Adm)
Guwahati, Assam

19/02/07

M. N. Ahmed, C.A.S.
19/12/07

Received
19/02/07

- 8 JAN 2000

गुवाहाटी न्यायपीठ

Guwahati Bench

Respondent No. 2. The letter of Respondent No. 2 while appointing the

Applicant as Divisional Accountant on deputation, categorically stated that the period of deputation was initially for one year and that the Applicant was liable to work as a Divisional Accountant on deputation basis in any of the three States of Tripura, Arunachal Pradesh and Manipur. As per Recruitment Rules the period of deputation could be extended for a maximum period upto three years and in no case beyond three years. However, the Applicant is continuing in the deputation post in the Office of the Executive Engineer, Resource Division, Agatala, Tripura till date.

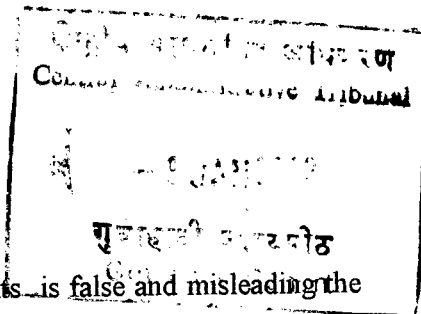
Recruitment Rules 1988 (Appendix I)

Appointment letter dated 16/7/99 (Appendix II)

3. That with regard to the statements made in paragraphs 4.4 and 4.5 of the application, the Respondent No. 2 humbly submits that in January 2000 the Government of Arunachal Pradesh submitted a proposal to transfer the cadre of Divisional Accountants to the control of the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh. It was also stated that the formal notification in this regard would be communicated by the State Govt. in due course. However, no such notification was issued by the Govt. of Arunachal Pradesh. It may be pointed out here that State Govt. cannot unilaterally take over the cadre of the Divisional Accountants which is under the control of any Accountant General without the prior consent and approval of the Comptroller & Auditor General of India. Only after the State Govt. accepts all the terms and conditions laid down by the Comptroller and Auditor General of India for such transfer and with the approval of the Comptroller and Auditor General of India, the administrative control of the cadre of Divisional Accountant can be taken over by a State Government.
4. That with regard to the statement made in paragraph 4.6 of the application, the Respondent No. 2 humbly submits that they have no comments.
5. That with regard to the statement made in paragraph 4.7 of the application, the Respondent No. 2 humbly submits that the statement

Ng. Routh

Deputy Accountant General (Admin)
Office of the Accountant General (AGAD)
Meghalaya etc., Shillong.



made in the paragraph by the Applicants is false and misleading the Hon'ble Tribunal as the copy of the representation dated 3.5.2007 has not been received by the Respondent No.2 till date.

6. That with regard to the statement made in paragraphs 4.8., 4.9 and 4.10 of the Application, the Respondent No.2 humbly submits that on completion of deputation period the repatriation order to his parent department was issued to the Applicant. However, the Applicant instead of reporting back to his parent department moved the court against the repatriation orders of this office. Applicant then approached the Hon'ble Itanagar Bench of Guwahati High court vide WPC No.172 (AP)/2002. The Hon'ble Guwahati High Court in its order dated 1.2.2005 disposed of the case as the Hon'ble High court did not find any merits in the batch of Writ Petitions.

The Applicant again approached the Hon'ble Tribunal vide OA No.238/2005 for absorption in the Divisional Accountants cadre under the administrative control of the Respondent No.2. The Hon'ble Tribunal while disposing the OAs No. 114/2005, 115/2005 and O.A. No.238/2005 vide order dated 21.3.2007 held that "the Government of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E) Meghalaya, Arunachal Pradesh, etc, Shillong and the proposal is under active consideration, but final approval is awaited." Further "we direct the Applicants to make individual comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the said Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter".

CAT's order dated 21.3.2007 Appendix- III

6. That with regard to the statement made in paragraphs 4.11, 4.12, 4.13, 4.14, 4.15, 4.16 and 4.17 of the application, the Respondents humbly submit that the Financial Commissioner, Government of Arunachal Pradesh was informed vide D.O. letter No. DA Cell/1-8/Court Case/2000-2001/1909 dated 28/3/2005

Ng. Muth
 Deputy Accountant General (Admin)
 Office of the Deputy Accountant General (Admin)
 Dispur, Arunachal Pradesh

that the question of absorption of the Divisional Accountants on deputation was under consideration by the office of the Comptroller and Auditor General of India. Subsequent to this, the Comptroller and Auditor General of India had confirmed vide D.O. letter No. 425 NGE(APP)/10-2005 dated 6/7/2005 (Appendix -IV) that the question of absorbing the Divisional Accountants in the Divisional Accountants cadre had been examined, but it was not found possible as the Recruitment Rules of Divisional Accountants do not provide for such absorption. Subsequently, the Director of Accounts and Treasuries vide his letter No. DA/Try-27/2000/1060-63 dated 30.7.2005 had forwarded a scheme stating the cabinet decision of the State Government for taking over administrative control of the Cadre of Sr.DAOs/DAOs/DAs from the Accountant General (A&E) Meghalaya, etc Shillong. The Comptroller and Auditor General of India has prepared a draft scheme taking into account the regular Sr.DAOs/DAOs posted in the Arunachal Pradesh. The said scheme was forwarded to the Govt. of Arunachal Pradesh vide this office letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 (Appendix -V) for approval/comments. The reply is still awaited.

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal
- 8 JAN 2006
गुवाहाटी न्यायपीठ
Guwahati Bench

D.O. letter No. 425 NGE(APP)/10-2005 dated 6/7/2005 (Appendix -IV) letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 Appendix-V

7. That with regard to the statement made in paragraph 4.18 of the application, the Respondents humbly submit that in the light of the Hon'ble Guwahati High court, Itanagar Bench order dated 1.2.2005 the repatriation orders had been issued to 12 Divisional Accountants including the Applicant, however, these 12 deputationists had filed petitions in the Hon'ble Tribunal vide O.A. No.114/2005, 115/2005 and O.A. No.238/2005 for absorption under the administrative control of the Respondent No.2. The Hon'ble Tribunal vide his common judgement dated

M. G. Pruthi
Deputy Comptroller and Auditor General (Accounts)
Office of the Comptroller and Auditor General (Accounts)
New Delhi

21.3.2007 held that " the Govt. of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc., Shillong and the proposal is under active consideration but final approval is awaited." However, the Applicant has filed present O.A.No.112/2007 only on apprehension that the Applicant is being repatriated to his parent department, which is totally false and baseless.

8. That with regard to the statement made in paragraph 4.19 of the application, the Respondent No.2 humbly submits that the Applicant had admitted that in the light of Hon'ble Tribunal's order dated 21.3.2007 the Applicant had submitted representation dated 3.5.2007 to the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh for his absorption as Divisional Accountant and prayed not to repatriate to his parent department.

9. That with regard to the statement made in paragraph 4.20 of the application, the Respondent No.2 humbly submits that the Respondent No. 2 has not initiated any move to repatriate the Applicant to his parent department immediately. The Applicant has filed the present O.A before the Hon'ble Tribunal only on apprehension that he is being repatriated to his parent department.

10. That with regard to the statement made in paragraph 4.21 of the Application, the Respondent No.2 humbly submits that the Govt. of Arunachal Pradesh in January 2000 (vide its letter No.DA/TRY/15/99 dated 12.1.2000 (Appendix VI) informed Respondent No. 2 that the take over of the cadre of Divisional Accountant was under active consideration. Thereafter, the State Government did not initiate any further move to take over the cadre. After more than two years, the Commissioner (Finance) Govt. of Arunachal Pradesh vide his letter No. DA/TRY/15/99

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 8 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

Ng. Anith
Director, Accounts & Treasuries
Govt. of Arunachal Pradesh
Dispur, Shillong

dated 11.3.2002 (Appendix-VII) requested this office that the Divisional Accountants who were appointed on deputation basis may be allowed to continue as Emergency Divisional Accountants for the time being as a working arrangement.

More than four years had elapsed and the State Government has not initiated any further move to take over the cadre. In July 2005 the Government of Arunachal Pradesh forwarded a scheme for taking over the cadre of Divisional Accountants from the administrative control of the Respondent No. 2. The said scheme was forwarded to the Comptroller and Auditor General of India for a decision. The Comptroller and Auditor General of India in turn prepared a modified scheme based on the State Govt.'s proposal. The modified scheme as prepared by the C&AG of India was forwarded to the State Govt. vide letter No. DA Cell/1-1/2000-2001/1509 dated 25/11/2005 for acceptance / comments. The State Govt. was reminded from time to time for its response to the scheme to which till date reply is awaiting.

Letter No. DA/TRY/15/99 dated 12/1/2000 (Appendix -VI)

Letter No. DA/TRY/15/99 dated 11.3.2002 (Appendix-VII)

11.

That with regard to the statement made in paragraph 4.22 of the application, the Respondents humbly submit that they have no comments to offer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 8 JAN 2002

गुवाहाटी न्यायपीठ
Guwahati Bench

Grounds of relief(s) with legal provisions

12

That with regard to the statement made in paragraph 5.1,5.2,5.3,5.4,5.5,5.6,5.7,5.8 of the application, the Respondent No.2 humbly submits that the Applicant was appointed on deputation to the cadre of Divisional Accountants for a period of

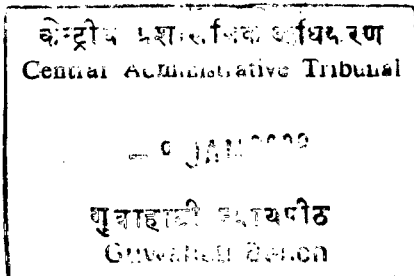
sg. Ruth

three years (maximum) . The Recruitment Rules for Divisional Accountants do not provide for such absorption. Besides, some formalities are to be observed for transfer of the cadre of Divisional Accountant from the Administrative control of the Respondent No.2 to the state Government of Arunachal Pradesh. However, the draft scheme for taking over the cadre of Divisional Accountant by the Arunachal Pradesh Government framed by the C&AG of India has been forwarded to the Government of Arunachal Pradesh for acceptance. After the process of taking over of the cadre by the State Govt. concerned is completed, the Recruitment Rule for the Divisional Accountants would be framed by the State Government itself.

Further, it may stated that there is no proposal to repatriate the Applicant to his parent department immediately. The present O.A. has been filed by the Applicant only on apprehension that he is being repatriated to his parent cadre i.e. the Govt. of Arunachal Pradesh, which is false and misleading the Hon'ble Tribunal.

13. That with regard to the statement made in paragraphs 6 and 7. of the application, the Respondents humbly submit that they have no comments to offer.
14. That with regard to the statement made in paragraphs 8 and 9 of the application, the Respondent No.2 humbly submits that no action has been taken to repatriate the Applicant to his parent department.

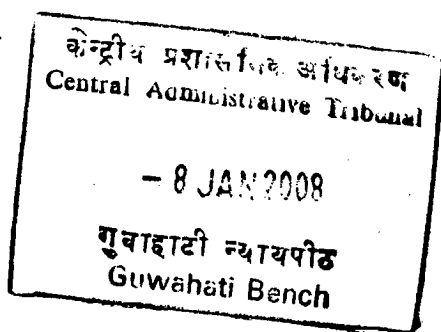
In view of the fact and circumstances mentioned above, the Respondents most respectfully and humbly pray that the present application as filed be dismissed with costs in favour of the Respondents



ng. Ruth
 Deputy Accountant General (Finance)
 Office of the Deputy Accountant General (DAG)
 Guwahati, Assam, India.

Verification

I, Ms. Ngashangva Ruth, Deputy Accountant General (Admn) Office of the Accountant General (A&E) , Meghalaya, Arunachal Pradesh and Mizoram Shillong do hereby solemnly declare that the statements made above in the written statement are true to my knowledge, belief and information and I sign the verification on 19th day of December 2007 at Shillong.



Ng. Ruth
Deponent.

Deputy Accountant General (Admn)
Office of the Accountant General (A&E)
Meghalaya etc. Shillong.

(Department of Expenditure)

New Delhi, the 8th September, 1988.

Appendix - I
Annexure NO I

9 31
S.R. 749 - In exercise of the powers conferred by clause (5) of article 145 of the Constitution, and after consultation with the Comptroller and Auditor General of India, the President hereby makes the following rules to regulate the method of recruitment to the post of Divisional Accountant under the cadre control of the Accounts and Entitlement Offices of the Indian Audit and Accounts Department, namely :-

1. Short title and commencement - (1) These rules may be called the Indian Audit and Accounts Department (Divisional Accountant) Recruitment Rules, 1988.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Number of post, classification and scale of pay. - The number of the said post, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, qualifications, etc. - The method of recruitment, age limit, qualifications and other matters relating to the said post shall be as specified in columns 5 to 14 of the said Schedule.

4. Disqualifications - No person, -

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the said post :

Provided that the Comptroller and Auditor General of India may, if satisfied that such marriage, is permissible under the personal law applicable to such a person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. Power to relax - Where the Comptroller and Auditor General of India is of the opinion that it is necessary or expedient so to do, he may, by order and for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

6. Saving - Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard as applicable to persons employed in the Indian Audit and Accounts Department.

SCHEDULE

Name of post	No. of post	Classification	Scale of pay	Whether selecti- on post or non-selecti- on post	Whether benefit of added years of service ad- missible under rule 30 of the Central Civil Ser- vice (Pen- sion) Rules 1972

Ng. Anith
Deputy Accountant General (Admin)
Office of the Accountant General (A&S)
Meghalaya etc. Shillong.

- 8 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

95

(10)

2.	3.	4.	5.	6.
2504*(1988) General	Rs.1400-40-	Not	No	
Accountant	*Subject to Central	1600-50-	applicable	
variation	Service	2300-EB-60		
dependent	Group 'C'	-2600		
on work-	Non-Caste-			
load.	tted			
	Ministerial			

Age limit for direct recruits	Educational and other qualifications required for direct recruits.	Whether age and educational qualifications prescribed for direct recruits will apply in case of promotions.	Period of probation, if any.
-------------------------------	--	---	------------------------------

7.	8.	9.	10.
Between 18 and 25 years Note: The crucial date for determining age limit shall be as advertised.	Bachelor's degree of a recognized University. Note: The educational qualifications is relaxable under the orders of the Comptroller and Auditor General of India for specified categories of staff in the Indian Audit and Accounts Department and State Public Works Accounts Clerks.	Not applicable	2 years

M. J. Dutta
Deputy Accountant General (Admin)
Office of the Accountant General (Admin)
Aizawl etc. Shillong.

Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made.
11.	12.

Direct Recruitment.

As stated in column 11

Note: 1. The direct recruits will be selected on the basis of an entrance examination conducted by an authority by the Comptroller and Auditor General of India. During the period of probation, they should qualify in the prescribed Departmental Examination.

Note: 2. Vacancies caused by the incumbent being away on transfer on deputation or long illness or sudy leave or under other circumstances for a duration of one year or more may be filled on transfer on deputation from -

- (1) Accountants (Rs.1200-2040) and senior Accountants (Rs.1400-2600) (belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen) who have passed the Departmental Examination for Accountants and have 5 years regular service as Accountant/Senior Accountant including 2 years experience in Works section or

- 11/147 92
- 1) State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.
 3. The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/Department of the Central Government shall ordinarily not exceed 3 years.

If a Departmental Promotion Committee exists, what is its composition.

Circumstances in which Union Public Service Commission is to be consulted in making recruitment.

13.

14.

Group 'C' Departmental Promotion Committee (for confirmations) consisting of :-

Not applicable

- (1) Senior Deputy Accountant General/Deputy Accountant General (dealing with the cadre of Divisional Accountants).
- (2) Any other Senior Deputy Accountant General or Deputy Accountant General or officer of equivalent rank (from an office other than the one in which confirmations are considered);
- (3) An Accounts Officer.

Note: These senior officer amongst (1) and (2) above shall be the Chairman.

P.No.A-12018/13/88-EG-1)

vg. Auth
Deputy Accountant General (Adm)
Office of the Accountant General (Adm)
Teachalaya etc. Shillong.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 8 JAN 1988

गुवाहाटी न्यायपीठ
Guwahati Bench

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

-oooooooooooo-

EO.No.DA.Cell/68

DATED

16.7.99

Consequent on his selection for the post Divisional
Accountant (on deputation basis) in the pay scale of Rs.1400-40-
1600-50-2300-60-2600/- in the combined cadre of Divisional

Accountants under the Administrative control of the office of
the Accountant General (A&E), Meghalaya, etc., Shillong, Shri

Pradip Kumar Paul, UDC at present working

in the office of the Chief Engineer, DFCI, Shillong

is posted on deputation as Divisional Accountant

in the office of the Executive Engineer, Resource

Division, Agartala Tripura

2. Shri Pradip Kumar Paul

should

join the aforesaid post of Divisional Accountant on deputation

within 30 days from the date of issue of this order, failing

which his posting on deputation is liable to be cancelled

without any further communication and the post may be

offered to some other eligible and selected candidate. No

representation for a change of the place of posting will be

entertained under any circumstances whatsoever.

3. The period of deputation of Shri Pradip Kumar Paul

will be for a duration

of (one) year only from the date of joining in the office of the

Executive Engineer, Resource Division, Agartala Tripura

4. The pay and deputation (Duty) allowances in respect of

Shri Pradip Kumar Paul

will be governed by the Government of India, Ministry of

Finance, Public Grievances and Pension (Department of Personnel

and Training) letter No.2/12/87-Estt(Pay.II) dtd. 29-4-1988

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 8 JAN 2000

गुवाहाटी न्यायपीठ
Guwahati Bench

Ng. Pith
Deputy Accountant General (Pensions)
Office of the Accountant General (A&E)
Meghalaya etc. Shillong.

Contd.....2/.

15

99

and as amended and modified from time to time. While on deputation, Shri Bordip Kumar Paul may elect to draw either the pay in the scale of pay of the deputation post or his basic pay in the parent cadre Plus personal pay, if any, Plus deputation (duty) allowance. Shri Bordip Kumar Paul, on deputation, should exercise option in this regard within a period of 1(one) month from the date of joining the assignment (i.e. the aforesaid post of deputation). The option once exercised by Shri Bordip Kumar Paul shall be treated as final and cannot be altered/changed later under any circumstances whatsoever.

5. The Dearness Allowance, CCA, Children Education Allowance, T.A., L.T.C., Leave, Pension, etc. will be governed by the Govt of India, Ministry of Finance OM No.F1(6)E-IV(A)/62 dtd.7-12-1962 (incorporated as Annexure to Govt of India decision No. in Appendix 31 of Choudhury's C.S.R. Volume IV(13th. Edition) and as amended and modified from time to time.)

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

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

ng. Auth.
Deputy Accountant General (Admin)
Office of the Accountant General (A&E)
Shillong

bdp
Sr. Dy. Accountant General (Admin)
महालेखाकार (प्र.) का कार्यालय
Office of the A.G. (A&E)
Senior Accounts Officer,
Meghalaya, Shillong

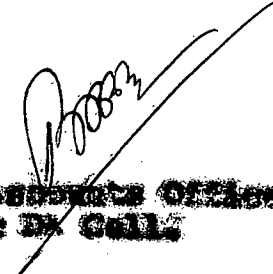
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
- 9 JAN 1977
गुवाहाटी न्यायपीठ
Guwahati Bench

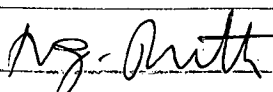
Hand No. DA Cell/2-12/91-03/556-664

17
100
Dt. 19.7.99

Copy forwarded for information and necessary action to :-

1. The Accountant General (AG) Tripura Agartala.
2. The Chief Engineer, I & P.C. Deptt. Itanagar, Arunachal Pradesh. He is requested to release Shri Pradip Kumar Paul immediately with the direction to report to his place of posting on deputation under intimation to this office.
3. The Chief Engineer, (WR) Kunjaban Agartala Tripura for information.
4. The Executive Engineer, Resource Division Agartala Tripura. He is requested to intimate the date of joining of Shri P.K. Paul in his Division as DA on deputation.
5. Shri Pradip Kumar Paul, SAC Office of the Chief Engineer, I & P.C. Itanagar.
6. L.O. File.
7. S.C. File.
8. P.C. File of Shri P.K. Paul.
9. Deputation file.


Sender Accounts Officer,
I/c DA Cell.


Deputy Accountant General (Admin)
Office of the Accountant General (AG)
Meghalaya etc. Shillong.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 0 JAN 2000
गुवाहाटी न्यायपीठ
Guwahati Bench

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Appendix - III

19

106

Original Application Nos. 114/2005, 115/2005 & 238/2005

Date of Order : This, the 21st day of March 2007

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE-CHAIRMAN

THE HON'BLE SHRI TARSEM LAL, ADMINISTRATIVE MEMBER

1. Lendi Chatung
S/o Late Lendi Sala
O/o the Executive Engineer, Along Electrical Division
Department of Power, Along.

2. Tonkeswar Borah
S/o Late Golap Chandra Borah
O/o the Executive Engineer
Tezu Public Works Division.

3. Sanjay Kumar Dam
S/o Late Subodh Kumar Dam
O/o the Executive Engineer
Seppa Electrical Division.

4. Love Rao
S/o Luxmi Rao
O/o the Executive Engineer
Hydro Power Development Department.

5. Jitendra Kanungo
S/o Sri T. Kanungo
Irrigation & Flood Control Department
Daporijo Division, Upper Subansiri
Daporijo.

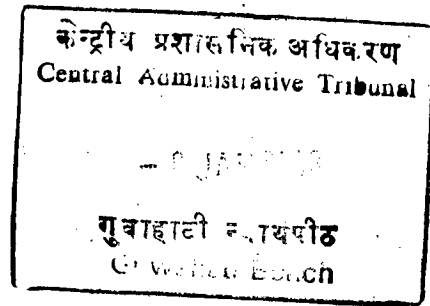
6. Dilip Kumar Dey
O/o the Executive Engineer
Public Works Department, Boleng
East Siang District.

7. Tashi Namgye
O/o the Executive Engineer
P.W.D. Division Seppa
East Kameng District, Seppa.

8. Lani Bhutan Karmakar
S/o Late K.M. Karmakar
P.W.D. Division, Dimpur
Upper Subansiri District.

Applicants in O.A. No. 114/2005

9. Shri L. Appal Swami
S/o Late L.A. Naidu
Presently working as Divisional Accountant
O/o the Executive Engineer



kg. Rathi
Deputy Accountant General (Admin)
Office of the Accountant General (A.G.)
Teachalaya etc. Shillong

PHE & Water Supply Division, Khumsa
Dist- Tirap, Arunachal Pradesh.

2. M.V. Kantikeyan Nair
S/o K.P.V. Nair
Working as Divisional Accountant
O/o the Executive Engineer
Kalaktang P.W. Division
Dist: West Kameng, Arunachal Pradesh.

3. Shri Santanu Ghosh
S/o Late S.R. Ghosh
Working as Divisional Accountant
O/o the Executive Engineer
RWD, Yingkiong, Upper Siang
Arunachal Pradesh.

Applicants in O.A. 115/2005

1. Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o the Executive Engineer
Irrigation and Flood Control, Resource Division
Panchamukhi, P.O: Agartala
West Tripura - 799 003.

Applicant in O.A. No. 238/2005

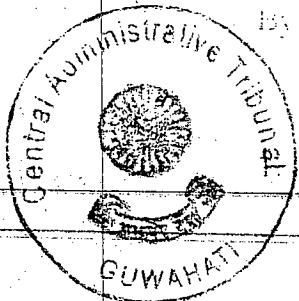
By Advocates S/ Shri M. Chanda, S. Nath & G.N. Chakraborty.

- Versus -

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

2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar - 791 111.
5. The Chief Engineer (T&D)
Department of Power
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer, Public Works Department
Government of Arunachal Pradesh
Itanagar.

M. Ruth
Deputy Accountant General (Admin)
Office of the Accountant General (Admin)
Shillong etc. Shillong.



- The Chief Engineer
Public Health Engineering Department
Government of Arunachal Pradesh
Itanagar.
- The Chief Engineer, Rural Works Department
Government of Arunachal Pradesh
Itanagar.
- The Chief Engineer, IFCD
Government of Arunachal Pradesh
Itanagar.
- The Chief Engineer
Hydro Power Development Department
Itanagar.
11. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A. Nos.114/2005 & 115/2005

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

मुख्यालय, शिल्लॉंग
Office, Shillong



4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar - 791 111.
5. The Chief Engineer, I&FCD
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer, I&FCD
Government of Tripura
Agartala.
7. The Chief Engineer
PWD (R&B), Agartala
Tripura.
8. The Director of Accounts & Treasuries
Government of Arunachal Pradesh
Naharlagun - 791 110.

Respondents in O.A. No.238/2005

By Mr.C.Baishya, Sr.C.G.S.C. & Mr.A.Buzarbaruah, Govt. Advocate
State of Arunachal Pradesh.

ND. Dutta
Deputy Accountant General (Admin)
Office of the Accountant General (Admin)
Shillong

190 104 (22)

ORDER (ORAL)

SACHIDANANDAN, K.V.(V.C.):

There are 8 Applicants in O.A.114/2005, 3 in O.A.115/2006 and one in O.A.238/2006. All the cases are taken up together since reliefs sought for are common. All the Applicants are regular employee of the PWD of Arunachal Pradesh and are presently working as Divisional Accountant under the different units of PWD on deputation basis under the administrative control of Respondent No.2. It was further contended that as it was under active consideration of the Government of Arunachal Pradesh to take over the cadre of Divisional Accountants/Divisional Accounts Officers totaling 91 (Ninety One) posts from the existing combined cadre being controlled by the Respondent No.2 and now the Respondent No.3 had decided to take over the said cadre and place thus under the direct control of the Respondent No.11 with immediate effect. However, orders of repatriation have been passed when they were anticipating their regular absorption in the higher pay scale, cadre, rank and status even though the resultant vacancies were going to be filled up by bringing other persons on deputation. Hence these Original Applications (O.A.114 & 115 of 2005) seeking the following similar main reliefs: -

"8.1 The applicants are entitled to consideration of their cases for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005."

8.2 The respondents are liable to consider the cases of the applicants for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005 and

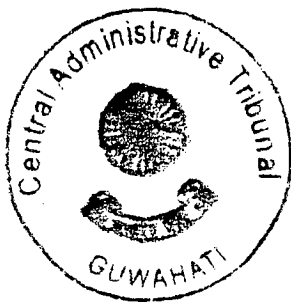


M. R. Dutta
Deputy Accountant General (Adm.)
Office of the Accountant General (Adm.)
Mangalaya etc. Shillong.

any action to repatriate the applicants prior to such consideration is arbitrary, unfair and bad in law.

In O.A. No.238/2005 the sole Applicant has sought the following main relief:-

- "8.1 The applicant is entitled to consideration of his case for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated nil July' 2005.
- 8.2 The respondents are liable to consider the case of the applicant for permanent absorptions/continuation as Divisional Accountant in the light of the decision contained in the letter dated 28.03.2005, dated 15.07.2005 as well as letter dated July' 2005 and any action to repatriate the applicant prior to such consideration is arbitrary, unfair and bad in law."



2. Respondents have filed their written statements.

Applicants also submitted additional affidavits in the cases. We have

heard Mr. M. Chanda, learned counsel for the Applicants and Mr.

Buzarbaruah, learned counsel for the Government of Arunachal

Pradesh. Paragraph 5 of the written statement filed by the Respondent

No. 11, which is relevant for this cases, is reproduced herein below:-

"5.

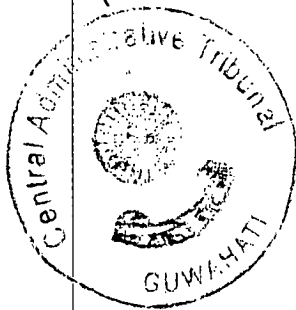
..... the State of Arunachal Pradesh through its Principal Secretary (Finance) Government of Arunachal Pradesh has formulated a scheme for taking over the Administrative control of the cadres of Senior DAO/DAO Grade-I/DAO Grade-II and DA of working divisions alleging to PHE/RWD/IFCD/PWD/Power Department of Arunachal Pradesh from the control of Accountant General (A&E) Meghalaya, Arunachal Pradesh, etc. Shillong. The said scheme has been sent to the Accountant General (A&E) Meghalaya, Arunachal Pradesh etc Shillong for taking over of the

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 8 JAN 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

Ng. Ruth
Deputy Accountant General (A&E)
Office of the Accountant General (A&E)
Meghalaya etc. Shillong.



6

(24)

administrative control of the cadre of Divisional Accountant from the later vide office letter dated 30.7.2005. This has been done in consonance to cabinet decision taken on 28.11.2001."

3. When the matter came up for hearing, learned counsel for the Applicants Mr.M.Chanda submits that there are developments in these cases and the Government of Arunachal Pradesh have proposed a scheme for taking entire Accounts set up from the Accountant General (A&E), Meghalaya, Arunachal Pradesh, etc. Shillong and the proposal is under active consideration, but final approval is awaited. He further submitted that considering the development took place in all these matters Applicants will be satisfied if they are permitted to submit comprehensive representation with a direction to the concerned Respondents to consider and dispose of the same and take a decision within a time frame. Counsel for the Respondents has no objection in adopting such course of action.

4. Accordingly, we direct the Applicants to make individual comprehensive representations before the concerned Respondents forthwith and on receipt of such representations, the said Respondents shall consider and dispose of the same and take a decision thereon within a time frame of three months thereafter.

5. All the O.A.s are disposed of accordingly. No order as to costs.

TRUE COPY

प्रतिनिधि

[Signature]
29.3.07
अनुमार्ग अधिकारी
Section (Misc. Judl)
Central Administrative Tribunal
गुवाहाटी : 781005
29.3.07

SA/VICE CHAIRMAN
SA/MEMBER (A)

[Signature]
Deputy Accountant General (Admin)
Office of the Accountant General (A&E)
Meghalaya etc. Shillong



सत्यमेव जयते
H.C.

Dy Sgm/B&E/150106-15/7/05
D.O. No. 425 N.G.E.(App)/10-2005
भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय

Manish Kumar.
Asstt. C.&A.G.(N)

Appendix-IV

10, बहादुरशाह जफर मार्ग,
नई दिल्ली - 110 002

OFFICE OF THE
COMPTROLLER & AUDITOR GENERAL
OF INDIA

10, BAHADUR SHAH ZAFAR MARG,
New Delhi - 110 002

दिनांक / DATE 6.7.2005

2A Cell/L&AG/20 dt 13.7.05

25

Dear Sir,

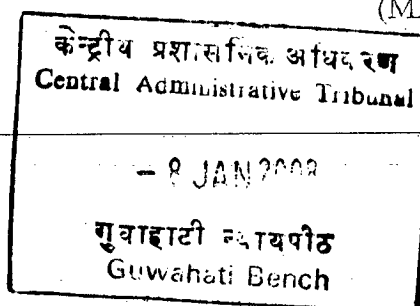
Kindly refer to your D.O. letter No. D.A. Cell / 1-8 / Court Case/ 2000- 2001 / 415 dated 13.06.2005 regarding absorption of 31 employees of the state Govt. of Arunachal Pradesh, working as Divisional Accountants on deputation, in the Divisional Accountant Cadre. I would like to mention here that the above issue has been examined in this office. As the Recruitment Rules for the post of Divisional Accountant do not provide for such absorption, it has not been found possible to accede to the request of the State Government of Arunachal Pradesh to absorb these personnel in the Divisional Accountant cadre.

With regards,

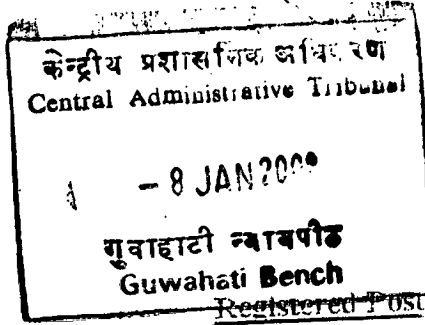
Yours sincerely,

(MANISH KUMAR)

Shri A.W.K. Langstieh
A-G.(A&E)
Meghalaya,
Shillong.



ng. Arith
Deputy Accountant General (Admin)
of the Accountant General (A&E)
Meghalaya etc. Shillong.



27

8/108

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

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

Dated:- 25.11.2005

To

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

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

Sir,

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

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

Encls:- As stated above.

Yours faithfully,

mg. Anith
Deputy Accountant General (Admn)
Office of the Accountant General (A&E)
Meghalaya etc Shillong

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



GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries
Naharlagun-791 110

No. DA/TRY/15/99

(29)

Dated, the 17th Jan 2000

To,

The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, etc.,
Shillong - 793 001.

Sub : Transfer of the Cadre of Divisional Accounts
Officer / Divisional Accountants to the State of
Arunachal Pradesh - regarding.

Sir,

It was under active consideration of the Government of Arunachal Pradesh for sometime to take over the Cadre of the Divisional Accounts Officers / Divisional Accountants of the Works Department totaling 91 (Ninety one) posts from the existing combined cadre being controlled by you. Now, the Government of Arunachal Pradesh has decided to take over the above said Cadre under the direct control of the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, with immediate effect.

Persons those who are borne on regular basis in the cadre and opt to come over to Arunachal Pradesh state Cadre, will be taken over on status quo subject to acceptance of the state Government. It is also decided that henceforth no fresh Divisional Accountant(s) on deputation will be entertained. Cases of those who are presently on deputation and serving in this state shall be examined at this end for their future continuation even after completion of the existing term of deputation.

केन्द्रीय प्रशासनिक न्यायपीठ
Central Administrative Tribunal

9 JAN 2000

गुवाहाटी न्यायपीठ
Guwahati Bench

It is, therefore, requested to take necessary action at your level so that the process of the transfer of the Cadre along with the willing personnel can be completed immediately.

Formal notification is under issue and shall be communicated in due course.

Yours faithfully,

12/1/2000
(Y. Megu)

Director of Accounts & Treasuries
& Ex-Officio Dy. Secy. (Finance),
Govt. of Arunachal Pradesh,
NAHARLAGUN.

ng. Arth
Deputy Accountant General (Admin)
Office of the Accountant General (A&E)
Meghalaya etc. Shillong

REGD. POST

GOVT OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS & TREASURIES
NAHARLAGUN

31/10

NO. DA/TRY/15/99

Dated Naharlagun the 11th March '02

To,

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

Sub:- Continuation of service in respect of the Divisional Accountant on deputation.

Sir,

I would like to inform you that the state cabinet of Arunachal Pradesh has already taken a decision for taking over of the administrative control of the cadres of Sr.DAO/DAO/DA of works divisions belonging to PWD/PHED/IFCD/RWD and Power department of Arunachal Pradesh. In order to ensure smooth transition of the controlling authority of the said cadres a scheme has already been formulated which is being submitted to you shortly for obtaining approval of the appropriate authority for issuance of a formal 'Notification'.

Meanwhile you are requested for not to make any fresh recruitment to the post of the Divisional Accountants against the Works divisions of the State of Arunachal Pradesh which is in continuation to our letter No. DA/TRY/15/99 dated 15/11/99. Fresh recruitment of the Divisional Accountants will be made by the state government through Arunachal Pradesh Public Service Commission. Therefore the Divisional Accountants those who are appointed by you on deputation from the state service of Arunachal Pradesh may be allowed to continue as Emergency Divisional Accountants for the time being as a working arrangement. But for their absorption on regular basis they will be given chance to qualify themselves in the Divisional Test examination which will be conducted by the state government through the authorized officer of the state government after taking over the administrative control of the cadres.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

- 8 JAN 2002

गुवाहाटी न्यायपीठ
Guwahati Bench

Yours faithfully,

(A.K. Guha)

Commissioner (Finance)
Govt. of Arunachal Pradesh
Itanagar.

Memo No. DA/TRY/15/99/

Dated Naharlagun the 11th March '02.

Copy to :-

- 1). The Chief Engineer, PWD (E/Z, W/Z)/PHED/IFCD/RWD and Power Department of Arunachal Pradesh for information.

Deputy Accountant General (Admin),

Office of the Accountant General (A&E),

Meghalaya etc. Shillong.

1204.0337

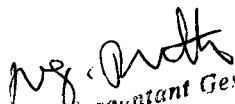
32

-2-

- 2). All Executive Engineers, PWD/PHED/IFCD/RWD & Power department of Arunachal Pradesh for information. They are requested for not to release the Divisional Accountants, who are on deputation from the state service of Arunachal Pradesh, on expiry of their deputation term, until further order from this end.



(A.K. Guha)
Commissioner, (Finance)
Govt. of Arunachal Pradesh
Itanagar.


Deputy Accountant General (Admin)
Office of the Accountant General (A.G.)
Meghalaya etc. Shillong.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 112 /2007

Sri Pradip Paul

-Versus -
Union of India & Others.

INDEX

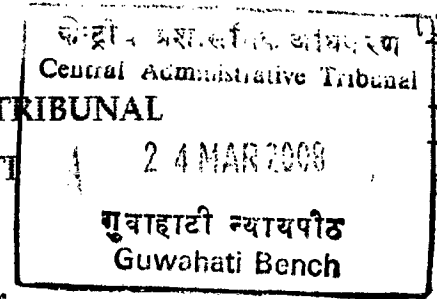
SL. No.	Annexure	Particulars	Page No.
01.	-	Rejoinder	1-2
02.	-	Verification	-3-
03.	A (Series)	Copies of representations dated 03.05.2007	4-11
04.	B	Copy of the impugned letter dated 05.06.2007.	-12-
05.	C	Copy of the impugned letter dated 26.06.2007.	-13-

Date: 24.03.08

Filed by

Adutta
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI



In the matter of:-

O.A. No. 112/2007

Shri Pradip Paul

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statements
submitted by the respondent.

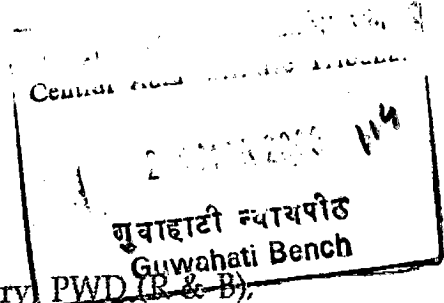
The applicant above named most respectfully begs to state as follows:-

1. That the applicant denies the statements made in paragraph 2, 3, 5, 6 and 7 and further beg to say that the applicant has submitted his representation on 03.05.2007 addressed to the respondent no. 2 and 10 by registered post through C.P.O, Guwahati. As such the contention of the respondents made in para 5 is not factually correct, it is true that the applicant approached the Hon'ble Gauhati High Court for his absorption in the cadre of Divisional Accountant through WP (C) No. 172 (AP)/2002. Moreover pursuant to the direction passed by the Hon'ble High Court on 21.03.2007, the applicant submitted his representation on 03.05.2007 but to no result, other contention raised in the aforesaid paragraphs is categorically denied which are borne on record.

(Copy of the representation dated 03.05.2007 is enclosed as
Annexure-A series).

2. That with regard to the statement made in paragraph 7, 8, 9, 10, 12 and 14 the applicant begs to say that the contention of the respondent no. 1 and 2 is also factually not correct as because although there was no move from the respondent no. 1 and 2 to repatriate back the applicant to his parent

Pradip Kumar Paul.

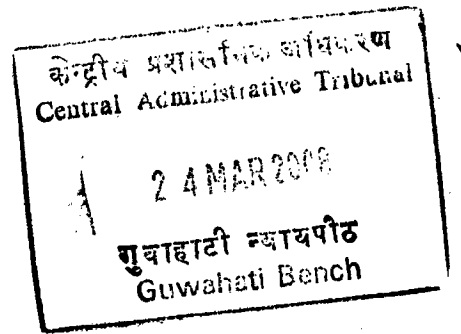


department but the Engineering officer/Deputy Secretary, Tripura issued a impugned letter bearing no. F. CE-19/PEO (S) dated 02.05.2007 directing the respondent no. 9 to release the applicant to his parent department with immediate effect. Similar impugned memorandum also issued by the Deputy Secretary vide impugned letter no. F. 6 E-19/PEO/S dated 26.06.2007, whereby Executive Engineer was directed to release the applicant on or before the 28th June, 2007. Therefore the contention of the respondent no. 1 and 2 that the applicant has approached the learned Tribunal on apprehension is not correct. It is humbly submitted that it is true that there was no direction from the office of the respondent no. 2 for repatriation of the applicant but the office of the Chief Engineer has issued the impugned order directing the respondent no. 9 for release of the applicant without having any authority and on that score alone the impugned letter dated 05.06.2007 and 26.06.2007 are liable to be set aside and quashed.

(Copy of the impugned letter dated 05.06.2007 and 26.06.2007 are enclosed and marked as Annexure- B and C respectively).

3. That in the facts and circumstances stated above, the original application is deserves to be allowed with costs.

Indip Kumar Paul.

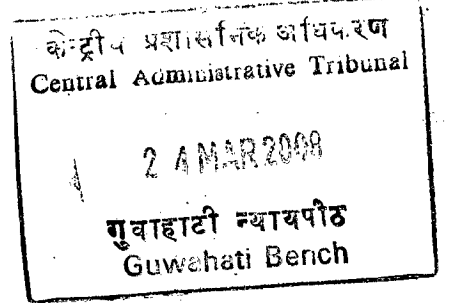


VERIFICATION

I Shri Pradip Kumar Paul, S/o Late Paresh Chandra Paul, aged about 50 years, presently working as Divisional Accountant, O/o The Executive Engineer, Irrigation and Flood Control, Resource Division, Panchamukh, P.O- Agartala, West Tripura- 799003, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 3 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 21st day of March 2008.

Pradip Kumar Paul



To,

The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, Mizoram etc.,
Shillong.

(Through proper channel)

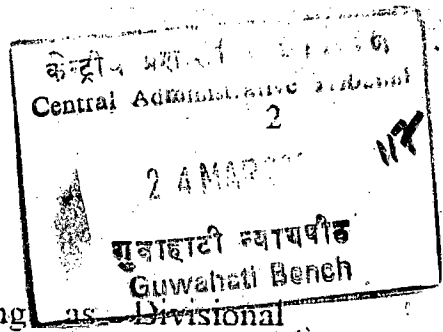
Sub: - Submission of representation in terms of the Judgment and order dated 21.03.2007 passed in OA No. 238/2005 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

With due respect and humble submission I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by filing O.A. No. 238/2005 praying for permanent absorption/continuation as Divisional Accountant in the light of the decision in the letter dated 28.03.2005, dated 15.07.2005 and also in terms of letter bearing No.NB/TRY-27/2000 dated Nil July 2005. However, the aforementioned Original application has been disposed of with a direction to the undersigned to submit a comprehensive representation. Hence the undersigned submitting this representation and begs to state as follows:

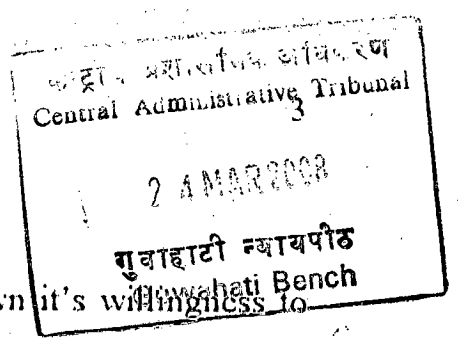
- 1) That Sir, I was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, after bifurcation of the Rural Works Department by the Government of Arunachal Pradesh I was placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh, therefore, IFCD is my parent department.
- 2) That Sir, when I was serving in the office fo the IFCD, Itanagar I was selected for the post of Divisional Accountant and appointed as

*Collected
Mulla
Advocate*



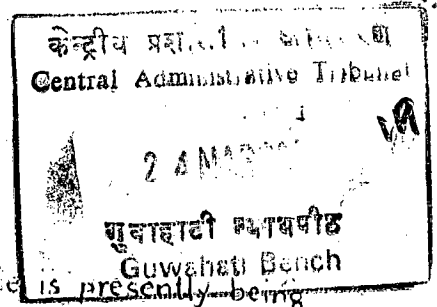
Divisional Accountant and presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. It is relevant to mention here that earlier also in two occasions I was selected and appointed to the post of Divisional Accountant under the administrative control of Accountant General (A&E) Meghalaya etc. during the year 1989 to 1995 again in the year 1996 to 1999 and this is the third occasion when I am found suitable for appointment for the post of Divisional Accountant. As such I have served altogether about 15 years as Divisional Accountant on deputation basis and aquired a valuable right to be absorbed as regular Divisional Accountant in the event of taking over the entire Accounts set up by the Govt. of Arunachal Pradesh.

- 3) That Sir, your good office vide order bearing No. DA/TRY/15/99 dated 12.01.2000 informed the Accountant General (A&E), Arunachal Pradesh, Meghalaya etc. that there are total 91 (ninety one) posts of Divisional Accountant/Divisional Accounts Officer and the Govt. of Arunachal Pradesh has decided to take over the said cadre under the direct control of the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh. It is relevant to mention here that at present 38 Divisional Accountant/Divisional Accounts Officer are working against the total 91 posts, therefore there will be no difficulty to abosorb the undersigned in the event of taking over the control of Accounts set up by the Govt. of Arunachal Pradesh.
- 4) That Sir, the Govt. of Arunachal Pradesh i.e. my parent department has already submitted a scheme for handing over the entire Accounts set up to the Govt. of Arunachal Pradesh from the administrative



control of the A.G (A&E), Meghalaya etc. shown it's willingness to take over the cadre of DAs/DAOs, therefore, there is no difficulty to absorb the undersigned to the post of Divisional Accountant in the event of taking over the administrative control of Accounts set up by the Govt. of Arunachal Pradesh otherwise the undersigned shall suffer irreparable loss and injury. In this connection I also beg to state that in terms of the Scheme submitted by the Govt. of Arunachal Pradesh to the Accountant General a specific provision is made regarding absorption of the Divisional Accountants on deputation and it is also provided that the Divisional Accountant on deputation who have completed the existing term of deputation will be continued as emergency Divisional Accountant for the time being as working arrangement but for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional Tests examination within 2 years from the date of taking over the cadre from the administrative control of the AG (A&E) Meghalaya, Shillong etc. Therefore in terms of the Scheme I am entitled to be continued as Divisional Accountant and further request you to provide the benefit of the aforesaid Scheme to the undersigned and further request you to provide the scope to appear in the necessary Divisional Tests examination to the undersigned in the event of taking over the entire Accounts set up.

Under the facts and circumstances as stated above I request you for permanent absorptions/continuation as Divisional Accountant in the light of the decision taken by the Govt. of Arunachal Pradesh to take over the entire Accounts set up of the Divisional Accountant/Divisional Accounts Officer and further request you not to repatriate the undersigned till the process of regular absorption as Divisional Accountant is completed in the State of A.P.



It is pertinent to mention here that though my service is presently being utilized by the A.G. (A&E) Meghalaya etc. in the Resource Division Panchmukh, Agartala, as such the undersigned is legally entitled to the benefit of absorption in the existing vacant post of Divisional Accountant in the event of taking over the administrative control of DAO/DA set up by the Govt. of A.P.

I am enclosing herewith a copy of the judgment and order dated 21.03.07 passed in OA No. 238/2005 (Pradip Kumar Paul Vs- U.O.I & Ors.) for your perusal and necessary action for compliance thereof.

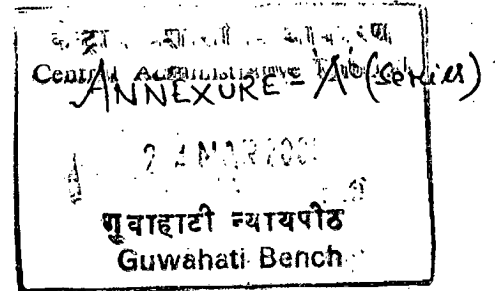
Encl: - Copy of the judgment and order dated 21.03.07.

Yours faithfully

(PRADIP KUMAR PAUL)
Divisional Accountant,
O/o The Executive Engineer,
Resource Division
Panchamukh, P.O. Agartala,
West Tripura- 799003.

Date: 03.05.07.

Copy to: - The Director of Accounts & Treasuries, Government of Arunachal Pradesh, Nahariagun-791110.



To,
The Director of Accountants & Treasuries,
Government of Arunachal Pradesh,
Naharlagun- 791110.

It is referred to (Through proper channel)

Sub: - Submission of representation in terms of the Judgment and order dated 21.03.2007 passed in OA No. 238/2005 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

With due respect and humble submission I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati by filing O.A. No. 238/2005 praying for permanent absorption/continuation as Divisional Accountant in the light of the decision in the letter dated 28.03.2005, dated 15.07.2005 and also in terms of letter bearing No.NB/TRY-27/2000 dated Nil July 2005. However, the aforementioned Original application has been disposed of with a direction to the undersigned to submit a comprehensive representation. Hence the undersigned submitting this representation and begs to state as follows:

- 1) That Sir, I was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, after bifurcation of the Rural Works Department by the Government of Arunachal Pradesh I was placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh, therefore, IFCD is my parent department.
- 2) That Sir, when I was serving in the office for the IFCD, Itanagar I was selected for the post of Divisional Accountant and appointed as

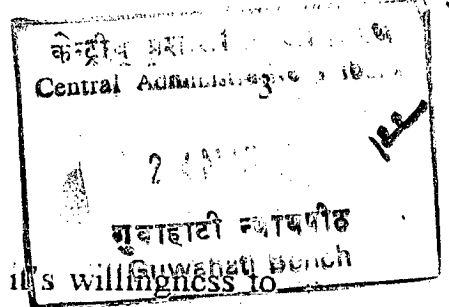
*Attested
By
Advocate*

24 MAR 2000

गुवाहाटी न्यायपीठ
Guwahati Bench
as Divisional

Divisional Accountant and presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. It is relevant to mention here that earlier also in two occasions I was selected and appointed to the post of Divisional Accountant under the administrative control of Accountant General (A&E) Meghalaya etc. during the year 1989 to 1995 again in the year 1996 to 1999 and this is the third occasion when I am found suitable for appointment for the post of Divisional Accountant. As such I have served altogether about 15 years as Divisional Accountant on deputation basis and acquired a valuable right to be absorbed as regular Divisional Accountant in the event of taking over the entire Accounts set up by the Govt. of Arunachal Pradesh.

- 3) That Sir, your good office vide order bearing No. DA/TRY/15/99 dated 12.01.2000 informed the Accountant General (A&E), Arunachal Pradesh, Meghalaya etc. that there are total 91 (ninety one) posts of Divisional Accountant/Divisional Accounts Officer and the Govt. of Arunachal Pradesh has decided to take over the said cadre under the direct control of the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh. It is relevant to mention here that at present 38 Divisional Accountant/Divisional Accounts Officer are working against the total 91 posts, therefore there will be no difficulty to absorb the undersigned in the event of taking over the control of Accounts set up by the Govt. of Arunachal Pradesh.
- 4) That Sir, the Govt. of Arunachal Pradesh i.e. my parent department has already submitted a scheme for handing over the entire Accounts set up to the Govt. of Arunachal Pradesh from the administrative



control of the AG (A&E), Meghalaya etc. shown its willingness to take over the cadre of DAs/DAOs, therefore, there is no difficulty to absorb the undersigned to the post of Divisional Accountant in the event of taking over the administrative control of Accounts set up by the Govt. of Arunachal Pradesh otherwise the undersigned shall suffer irreparable loss and injury. In this connection I also beg to state that in terms of the Scheme submitted by the Govt. of Arunachal Pradesh to the Accountant General a specific provision is made regarding absorption of the Divisional Accountants on deputation and it is also provided that the Divisional Accountant on deputation who have completed the existing term of deputation will be continued as emergency Divisional Accountant for the time being as working arrangement but for their absorption as regular Divisional Accountant they shall have to qualify themselves in the Divisional Tests examination within 2 years from the date of taking over the cadre from the administrative control of the AG (A&E) Meghalaya, Shillong etc. Therefore in terms of the Scheme I am entitled to be continued as Divisional Accountant and further request you to provide the benefit of the aforesaid Scheme to the undersigned and further request you to provide the scope to appear in the necessary Divisional Tests examination to the undersigned in the event of taking over the entire Accounts set up.

Under the facts and circumstances as stated above I request you for permanent absorptions/continuation as Divisional Accountant in the light of the decision taken by the Govt. of Arunachal Pradesh to take over the entire Accounts set up of the Divisional Accountant/Divisional Accounts Officer and further request you not to repatriate the undersigned till the process of regular absorption as Divisional Accountant is completed in the State of A.P.

21/03/2008 4

गुवाहाटी न्यायपीठ
Guwahati Bench

It is pertinent to mention here that though my service is presently being utilized by the A.G. (A&E) Meghalaya etc. in the Resource Division, Panchmukh, Agartala, as such the undersigned is legally entitled to the benefit of absorption in the existing vacant post of Divisional Accountant in the event of taking over the administrative control of DAO DA set up by the Govt. of A.P.

I am enclosing herewith a copy of the judgment and order dated 21.03.07 passed in OA No. 238/2005 (Pradip Kumar Paul Vs- U.O.I & Ors.) for your perusal and necessary action for compliance thereof.

Encl: - Copy of the judgment and order dated 21.03.07.

Yours faithfully

Date: 03.05.07

(PRADIP KUMAR PAUL)
Divisional Accountant,
O/o The Executive Engineer,
Resource Division
Panchamukh, P.O- Agartala,
West Tripura- 799003.

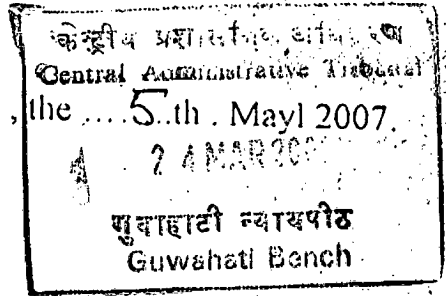
Copy to: - The Accountant General (A&E), Arunachal Pradesh, Meghalaya,
Mizoram etc., Shillong.

No.F.6E -19/PEO (S)/
Government of Tripura
Public work department

ANNEXURE-B

129

Dated, Agartala, the 5th May 2007.



To
The Executive Engineer,
Resource Division,
Panchamukh, Agartala.

Sub :- Release of Sri Pradip Kr. Paul, D.A. (on deputation).

Sir,

I am directed to refer to this office letter No. F.6E-19/PEO(S) dated 22/11/2004 on the subject mentioned above and to request to you release of Sri Pradip Kr. Paul , Divisional Accountant (on deputation) immediately with the direction to report to his parent department.

(Yours faithfully)

(B.P. Das)
Engineering Officer
To Chief Engineer, PWD(R&B)

Attested
Advocate

- 13 -

No.F.6E-19/PEO/S
GOVERNMENT OF TRIPURA
PUBLIC WORKS DEPARTMENT

125
ANNEXURE - C

Dated, Agartala, the 24th June, 2007
সি. বি. বি. ট্রিবিয়াল

MEMORANDUM

২০০৭
গুণাধী ন্যায়ালয়
Government Bench

It is very much painful to remind the concerned head of Office requesting for implementation of the order of transfer specifically in respect of Sri Pradip Kr. Paul, D.A. (on deputation). The response of the respective head of Office is not up to the mark and even his trend of un-willingness in carrying out the instruction of the higher authority made him liable for dis-satisfaction of the authority.

In view of the above, it is presumed that the concerned head of Office will realize the gravity of the situation and extend his Co-operation without any further delay to release the transferee on or before 28th June, 2007 and intimate the same to this Office.

(B. P. Das)
Deputy Secretary, PWD(R&B)
Agartala, Tripura.

To

- 1). The Chief Engineer, W.R. Kunjaban, Agartala.
- 2). The Superintending Engineer, W.R. Circle No.I, Kunjaban, Agartala.
- ✓ 3). The Executive Engineer, Resource Division, Panchamukh.

*Attended
Mulla
Advocate*