

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No./S.R/2007.....

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SECTION OFFICER (Judl.)

*S. Saha*  
05/10/17

CENTRAL ALUMINIUM LTD.  
OMAHA, NEBRASKA

ORDER ADDRESS SHEET

1. Original Application No. 182/07

2. Mise Petition No. \_\_\_\_\_

3. Contempt Petition No. \_\_\_\_\_

4. Review Application No. \_\_\_\_\_

Applicant(s) M. B. Dey & Ors vs. Union of India & Ors

Advocate for the Applicant(s) M. Chanda

S. Nain, M.L.D. Birla

Advocate for the Respondent(s) Mr. C. A. Baishya, L. Tenzing, S. Councilor  
Mr. C. A. Baishya, A.P. Govt.

Notes of the Registry

Date

Order of the Tribunal

Information in form  
of Application No. 30/  
dated 27.6.07  
No. 349654534

3.7.2007

The Applicants are working as Divisional Accountants on deputation basis under the administrative control of A.G. (A&E), Meghalaya etc. and they are posted in different divisions at Tawang of the Works Department, Govt. of Arunachal Pradesh. The A.G. (A&E), Meghalaya, A.P. etc. was requested to transfer the cadre of Divisional Accountant to the State of Arunachal Pradesh. Their deputation period was extended as per orders of this Tribunal. The Commissioner of Finance, Govt. of A.P. requested the Respondent No.2 to allow the serving Divisional Accountants on deputation basis to continue. On 28.3.2005, 31 Divisional Accountants were granted extension of deputation period including the present

Petitioners apply  
for some notices are  
received.

DRP

Contd..

Contd  
3.7.2007

DT= 16/7/07

the cost of service of notices for R-5 to 8 has not deposited by the learned advocate for the applicant as per Hon'ble Court order dated 15/6/07.

(M.D.  
16/7/07)

Final notice on behalf of  
R.No. 1 & 2  
G.Baishya  
17.7.07

Notice & order sent to  
D/Section for issuing  
to R-3 & 4 by regd.  
A ID post.

(Case No. D/No-751,752  
16/7/07)  
DT= 23/7/07.

*Issue  
Advocate for  
in applicant's side  
17/07/07*

3/7/07  
Pl. contd

Applicants. On 15.7.2005 Respondent No.2 was requested to reconsider its decision on repatriation of the deputationists. A scheme was submitted before the Respondent No.2 by the Govt. of A.P. for taking over the administrative control of Accounts set up from the Respondent No.2. Respondent No.2 informed that C&AG has framed a draft scheme regarding proposed transfer of D.A.s and the same was forwarded to the State of A.P. for its comments. While so, the impugned order dated 5.4.2007 has been passed directing recovery of the alleged excess salary to the Applicants due to alleged overstay on deputation which is challenged in this O.A.

Heard Mr.M.Chanda, learned counsel for the Applicants. He submitted that as per orders of this Tribunal which was upheld by the Hon'ble High Court the deputation period of the Applicants was extended and the Respondents are now attempting to recover the alleged excess payment made during that period also. Mr.G.Baishya, learned Sr.C.G.S.C. accepts notice on behalf of Respondent Nos. 1 & 2.

Issue notice to the Respondents. The Applicants are directed to take steps for Respondent Nos. 5 to 8 and pay the process. Post the case on 6.8.2007. However, I direct the Respondents to maintain status quo in so far as the Applicants are concerned till the next date.

OA 182/07

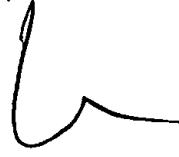
-3-

27/7/07

Reply not filed. Further time sought.

Four weeks time is granted.

Post the case on 24.9.2007. Interim order will continue till such time.

  
Vice-Chairman

the cost of service of notices for R-5 to 8 have been deposited by the advocate for the applicant on 27/7/07.

~~27/7/07~~

/bb/

Notice & order sent to D/Section for issuing to resp. nos. 5 to 8 by 27/7/07 post with the cost of applicat.

D/Ho- 772 to

~~27/7/07. Dt. 775  
30/7/07.~~

Notice duly Served on R-7,8.

~~27/8/07.~~

Notice duly Served on R-7,8.

No reply filed.

10m  
27/8/07

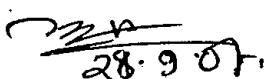
Lm

22.8.07.

Pl. comply.

order dt 22/8/07  
serving to both  
the parties.

~~27/8~~ No. Wts filed.

  
28.9.07.

01.10.07

24.9.07

Despite several adjournments have been granted no reply has been filed by the Respondents. Mr. M. Chanda learned counsel appearing for the applicant and Mr. G. Baishya learned Sr. Standing Counsel appearing on the ~~case~~ by the Government are present. Mr. Tenzin Counsel appearing for the respondents. Call this matter on 1.10.07 awaiting Arunachal Pradesh is not present. Mr. G. Baishya learned Standing Counsel appearing for the Government prays for time to file written statement. Prayer is allowed.

Vice-Chairman

Call this matter on 15.11.07, awaiting reply the Respondents.

Send copies of the order to the Respondents free copies of this order be supplied to the counsel appearing for both the parties.

(Khushirman)  
Member (A)

(Manoranjan Mahanty)  
Vice-Chairman

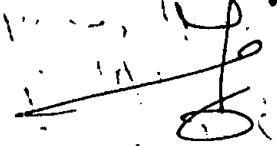
4  
15/10/07

01.10.07 Despite several adjournments have been granted no reply has been filed by the Respondents. Mr. M. Chanda learned counsel appearing for the applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Central Government are present. Mr. L. Tenzin, Counsel appearing for the Arunachal Pradesh is not present. Mr. G. Baishya, learned Standing Counsel appearing for the Central Government prays for time to file written statement. Prayer is allowed.

Call this matter on 15.11.07, awaiting reply from the Respondents.

Send copies of the order to the Respondents and free copies of this order be supplied to the counsel appearing for both the parties.

  
(Khushiram)  
Member (A)

  
(Manoranjan Mahanty)  
Vice-Chairman

15.10.07

Pl. send order

Lim

15.11.2007

Mr. G. Baishya, learned Sr. Standing counsel undertakes to file appearance memo in this case for the Respondent Govt. of India. On his prayer, matter is adjourned to 14.12.2007 for filing of reply. Mr. L. Tenzin, learned Govt. Advocate for the State of Arunachal Pradesh also undertakes to file written statement by that date.

Call this matter on 14.12.2007 awaiting written statement from the Respondents.

14.11.07

No W.S. filed

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

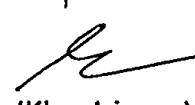
15.11.07

Pl. comply

No W.S. filed

on 13/12/07

order dt. 15/11/07 issuing 1385, 1386  
to decide the parties dt. 16/11/07

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

O.A. No. 182/07

14.12.2007

In this case, written statement has already been filed.

Subject to question of laws to be examined at the final hearing, this case is admitted. Learned counsel for the Respondents took notice of the admission of the case on behalf of all the Respondents.

Call this matter for hearing on 06.02.2008. Rejoinder, if any, be filed by 25.01.2008.

Interim order shall remain in force till disposal of the case.

St. No. 12/07.  
P1. Compl. by.

Sh.  
12/07.

  
(Gautam Ray)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

/bb/

Order dt. 14/12/07  
issuing to learned  
advocates for both  
the parties.

Copy 17/12/07. D/No. 1825 to  
18/12/07. DT = 18/12/07.

18.12.07

W/S Submitted  
by the Respondent Nos.  
1 and 2. Copy not  
served.

Lm

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

Call this matter on 19.3.2008 for hearing

Rejoinder not  
billed.

5.2.08.

Rejoinder filed  
on behalf of  
the applicant.

7.3.08.

19.03.2008 Heard Mr. M. Chanda, learned Counsel appearing for the Applicants; Mr G. Baishya, learned Sr. Standing Counsel appearing for the Union of India and Mr I. Tenzin, learned Government Advocate, Arunachal Pradesh, in part.

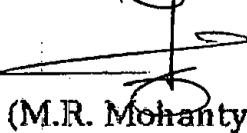
Call this matter on 02.04.2008, when the Accountant General (A&E), Arunachal Pradesh, Meghalaya, Mizoram etc. at Shillong, should appear in person, alongwith his officers, to assist the Court for effective adjudication of the matter. He should come with all details relating to the genesis and continuance 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

O.A. No.182/07

02.04.2008 Heard Mr.M.Chanda, learned counsel appearing for the Applicants; Mr.G.Baishya, learned Sr. 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/

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

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

Date of Order: This, the 11<sup>th</sup> 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.

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.

*[Signature]*



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  
Panchanukh, 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



Sri Tashi Namgey  
Divisional Accountant  
O/o the Executive Engineer  
PWD, Seppa, Arunachal Pradesh.

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.

*[Handwritten signature]*

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



12

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 Kunaran 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). *[Signature]*



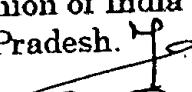
By Advocates S/Shri S.Sarma, U.K.Goswami, H.K.Das & B.Devi.

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.



14  
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

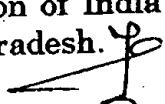
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

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.  
  
 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.

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.

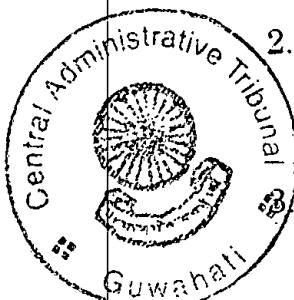
The State of Arunachal Pradesh  
 Represented by the Secretary to the  
 Government of Arunachal Pradesh  
 Department of Power, Itanagar.

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

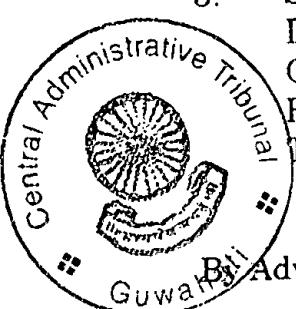
Mrs. M. Das, Addl. C.G.S.C. for the Union of India and Mr. L. Tenzin,  
 learned Govt. Advocate for the State of Arunachal Pradesh.

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

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.

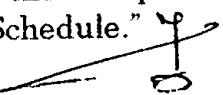
ORDER

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.



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.

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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.



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

*[Signature]*

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.

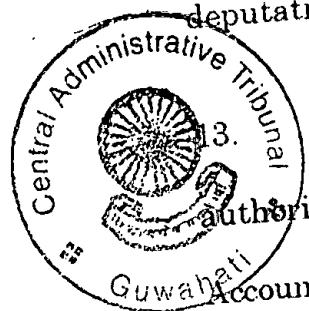
10. Since the Applicants are continuing on deputation (beyond 3 years of their deputation period) on the above said compelling/ extraordinary circumstances and since they are, by implication, are available to continue on deputation beyond 3 years; deputation allowances/higher pay in the post of Divisional 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.



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.

Date of Application : ..... 5.5.08

Date on which copy is ready : ..... 5.5.08

Date on which copy is delivered : .....

Certified to be true copy

Sd/-  
Manoranjan Mohanty  
Vice Chairman

Sd/-  
Khushiram  
Member (A)

Section Officer (J.DL)  
C. A. T. Guwahati Bench

Guwahati-5.

15/5/08

2 JUL 2007

गुवाहाटी बैचायनी  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 182 /2007

Shri Malay Bhushan Dey and others.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants are presently working as Divisional Accountant on deputation basis under the Administrative Control of A.G (A & E), Meghalaya, etc., (Respondent No. 2). They are posted in the different division offices at Tawang of the works department of the Govt. of Arunachal Pradesh.

15.11.1999- Directorate of Accounts and Treasuries, Govt. of A.P requested respondent No. 2 for further 2 years extension of deputation period of Divisional Accountants. (Annexure- 1)

12.01.2000- Respondent No. 9 requested respondent No. 2 to take necessary action for transfer of the cadre of Divisional Accountant to the State of Arunachal Pradesh immediately. (Annexure-2)

22.06.2001- This Hon'ble Tribunal in an O.A filed by the two of the applicants extended period of deputation for 2 years as sought by the State of A.P. Hon'ble High Court vide judgment dated 16.02.06 upheld the direction of the learned Tribunal. (Annexure- 3 and 4)

11.03.2002- Commissioner of Finance, Govt. of A.P requested respondent No. 2 to allow serving Divisional Accountants on deputation basis to continue. (Annexure- 5)

14.03.2005- Respondent No. 2 sought clarification from office of respondent No. 1 regarding continuation of Divisional Accountants who are serving on deputation basis. (Annexure- 6)

28.03.2005- Respondent No. 2 issued a letter to the Respondent No. 4, intimating Respondent No. 1 on the matter of extension of deputation period of 31 Divisional Accountants (including the present applicants). (Annexure- 7)

15.07.2005- Respondent No. 9 requested Respondent No. 2 to reconsider its decision on repatriation of the deputationists. (Annexure- 12)

31.07.2005- Govt. of Arunachal Pradesh submitted scheme for taking over of the administrative control of Accounts set up from the control of Respondent No. 2. (Annexure- 10 series)

July 2005- Govt. of Arunachal Pradesh handed over the scheme to the Respondent No. 2. (Annexure-11)

25.11.2005- Respondent No. 2 informed that respondent No. 1 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- 13)

16.01.2007- Respondent No. 2 intimated that Divisional Accountants working on deputation basis will be under his administrative control till finalisation of Court cases or till such time Govt. of A.P. has not taken over the cadre. (Annexure- 9)

05.04.2007- Respondent No. 2 issued impugned letter dated 05.04.07, directing to make recovery of the alleged excess salary paid to the applicants due to alleged over stay on deputation basis to the post of Divisional Accountant. (Annexure- 8)

25.05.2007- Hon'ble Tribunal in OA No. 130/07 directed to maintain status quo in the case of similarly situated Divisional Accountants. (Annexure-14)

Hence this Original Application.

#### PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007 (Annexure- 8) so far the applicants are concerned.
2. That the Hon'ble Tribunal be pleased to declare that the respondents are not entitled to re-fix scale of pay of the applicants, recovery of excess drawl of pay and allowance and increments drawn and defer increments due to them.
3. Costs of the application.

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

Interim order prayed for

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned letter bearing No. DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007 (Annexure- 8) so far the applicants are concerned till disposal of the Original Application.
2. That pendency of this application shall not be a bar to the respondents to provide relief prayed for.

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2X

**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. 182 /2007**

**Shri Malay Bhusan Dey and others. : Applicants.**

**-Versus-**

**Union of India & Ors. : Respondents.**

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**Filed By:**

**Date:- 02/07/07**

**S. Nath**  
Advocate

(28)  
Filed by the applicant  
through: S. Nah  
Advocate  
02/07/2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 182 /2007

**BETWEEN:**

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.**

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).

**-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 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-791110.

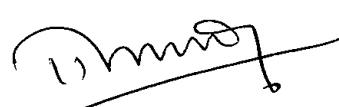
..... Respondents.

#### DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter No. DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007, whereby direction has been given to re-fix the scale of pay of the applicants, in respect of scale of pay in the State Govt. from the date of alleged unauthorized stay on deputation and with further direction to make recovery of the alleged excess drawl of pay and allowances and increments drawn after the date of alleged unauthorized stay, and for deferment of increment due in the state scale of pay with cumulative effect till the date on which the officer rejoins his parent department.

##### 2. Jurisdiction of the Tribunal:



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

**3. Limitation:**

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

**4. Facts of the case:**

4.1 That all the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. All the applicants are presently working as Divisional accountant on deputation basis under the Administrative Control of A.G (A & E), Meghalaya, Arunachal Pradesh, Tripura, Manipur etc., and they are posted in the offices of the Executive Engineers, Irrigation and Flood Control department, Rural Works department and Public Health Engineering Department respectively at Tawang, of the Govt. of Arunachal Pradesh.

4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules' 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.3 That the respondent No. 2 vide circular bearing No. DA CELL/249/97-98/Vol. II/245 dated 20.01.1998 and on earlier occasion also invited application from the willing employees of the State of A.P to serve as Divisional Accountant in various works departments under the administrative control of the AG (A & E) Meghalaya, Shillong. Pursuant to



the said advertisement, all the applicants who are regular employees of the State of A.P had applied for appointment on deputation basis to the cadre of Divisional Accountant. The respondent No. 2 after necessary scrutiny found the applicants eligible for appointment on deputation basis in the cadre of Divisional Accountant. However consequent to their selection to the post of Divisional accountant, they were appointed as Divisional accountant in different division offices of the Executive Engineer, PHE, I & FCD, RWD of Govt. of Arunachal Pradesh. The details of the office address of the individual applicant has already been furnished above. It is also stated that the applicants had joined the deputation posts on different dates during the year 1997 and 1999, which would be evident from the impugned order dated 05.04. 2007.

- 4.4 That it is stated that most of the applicants were serving as UDC in the State of A.P prior to their appointment to the cadre of Divisional Accountant on deputation basis. Be it stated that, initially the period of deputation was for 1 year, however the said deputation period was extended up to 3 years at the instance of respondent No. 2 with due consent of the parent organization of the applicants. It is also categorically stated that all the applicants are still continuing as Divisional accountant on deputation basis.
- 4.5 That it is stated that while the applicants working as such, on deputation basis. The Director of accounts and Treasuries, Govt. of A.P wrote a letter to the respondent No. 2 requested to take necessary action for transfer of the cadre of the Divisional accountant to the State of Arunachal Pradesh immediately. It is further stated in the said letter bearing No. DA/TRY/15/99 dated 12.01.2000, that it was under active consideration of the Govt. of A.P for sometime to take over the accounts cadres of the works department totaling 91 posts from the existing combined cadre being controlled by the AG (A & E), Meghalaya etc. Shillong. But now the Govt.



of A.P has decided to take over the said cadre under the direct control of the Director of accounts and treasuries, govt. of A.P with immediate effect. It is also stated in the said letter, that no fresh Divisional Accountants on deputation would be entertained and cases of those who are presently on deputation and serving in this state of A.P should be examined by the Govt. of A.P for their further continuation even after their completion of the existing term on deputation. It is specifically stated in the letter dated 12.01.2000 that formal notification is under issue and shall be communicated in due course.

Copy of the letter dated 15.11.99 and 12.01.2000  
are enclosed as Annexure- 1 & 2 respectively.

4.6 That in the meanwhile the state cabinet of the Govt. of A.P formally approved the decision to take over the administrative control of the entire accounts set up from the A.G (A&E), Meghalaya, Shillong on 02.12.2001. It is stated that the said news also published in the Arunachal Times, a local newspaper on 02.12.2001. It is pertinent to mention here that, at the relevant point of time, the respondent No. 2 had issued repatriation order in respect of the applicants those who have completed 3 years period of deputation, with instruction to the concerned Chief Engineer, Executive Engineer for issuing necessary relieving order.

In the aforesaid circumstances, many of the applicants approached before the learned Tribunal as well the Hon'ble High Court against the order of repatriation, more particularly in view of the decision taken by the Govt. of A.P for taking over the entire Accounts cadre under the control of the Govt. of AG (A & E), Shillong.

In view of the letter dated 12.01.2000 issued by the Govt. of A.P and also in view of the approval given by the cabinet, Govt. of A.P for such taking over the entire accounts set up, the present applicants who are basically employees of Govt. of A.P, as such they were under the legitimate



expectation that since the Govt. of A.P have decided to take over the entire accounts set up, so there will be fair chance on their part to get absorbed in the existing vacant post of Divisional accountant since they have acquired long practical experience in the relevant field and with this view of intention, they had approached the learned Tribunal/Hon'ble High Court praying for direction upon the respondents to consider absorption of the applicants in the cadre of Divisional Accountant in the light of the decision communicated by the Govt. of A.P vide letter dated 12.01.2000

It is pertinent to mention here that Original Applications preferred by some of the applicants before the learned Tribunal were dismissed on the ground that the AG (A&E) Meghalaya i.e. respondent No. 2 opposed such absorption by filing affidavit before the learned Tribunal. However, order of the learned Tribunal have been challenged before the Hon'ble High Court under Article 226 and the Hon'ble Gauhati High Court upheld the decision of the learned Tribunal.

It is pertinent to mention here that the applicants in the instant case namely; Maloy Bhusan Dey and 7 others, approached the learned Tribunal by filing an O.A praying for a direction upon the respondents to allow the applicants to continue on deputation basis till the process of taking over of entire Accounts set up by the Govt. of A.P from the administrative control of the respondent No. 2 is completed and with a further prayer for absorption in the light of the Govt. of A.P's decision communicated through letter dated 12.01.2000. The learned Tribunal disposed of the said O.A on 22.06.2001 extending the period of deputation as requested by the state of A.P to the respondent No. 2. The respondent No. 2, being aggrieved by the decision of the learned Tribunal approached the Hon'ble High Court by filing a writ petition under Article 226 which was registered as WP (C) No. 3992/2002 [AG (A& E) Meghalaya, Shillong - Vs- Shri R. Prathapan and others]. The said writ petition came up before the Hon'ble High Court for final hearing on 16.02.2006 and the Division Bench of the Hon'ble High Court after hearing the parties upheld the decision of the learned Tribunal.



It is relevant to mention here that applicant No. 1 was one of the respondent in W.P. (C) No. 3992/2002 before the Hon'ble Gauhati High Court.

Copy of the learned Tribunal's judgment and order dated 22.06.01 and the order of the Hon'ble High Court passed in WP (C) No. 3992/2002 are enclosed as Annexure- 3 and 4 respectively.

4.7 That it is stated that, some of the writ petitions was preferred by the applicant No. 2 and 3 and by some other similarly situated employees withdrew their petition in view of the fact that the Govt. of A.P in the meanwhile requested the respondent No. 2 not to repatriate the existing Divisional Accountant's working on deputation till the process of taking over the entire accounts set up is completed. It is relevant to mention here that in the meanwhile Govt. of A.P had prepared a scheme for taking over the entire Accounts set up and submitted the same to the respondent No. 1 and 2 for approval of such scheme, wherein provision has been made for regular absorption of the applicants who are working on deputation basis provided, they qualify in the prescribed examination. More particularly in view of the Joint Director of Accounts Directorate of Accounts and Treasuries, Govt. of A.P, Naharlagun, wrote a letter bearing No. DA/TRY/15/99/9629 dated 15.11.1999, whereby Directorate of Accounts and Treasuries requested respondent No. 2, not to make further recruitment of Divisional Accountant/Divisional Accounts officers in view of the financial condition of the State exchequer. It has been stated in the said letter dated 15.11.1999 that the pay and allowances of the Divisional Accounts officers/Divisional Accountant since born by the Govt. of A.P from the state exchequer and further requested to allow the serving D.As in the works department on deputation basis to continue to work by granting extension for a further period of 2 years from the date of expiry of their

respective tenure in the interest of rural service and same would provide succor poor financial condition of the State prevailing at the present time. Even after expiry of 2 years, the Govt. of A.P, more particularly, Commissioner Finance, wrote another letter, addressed to respondent No. 2 bearing No. DA/TRY/15/99 dated 11.03.2002, wherein the respondent No. 2 has requested not to make any fresh recruitment to the post of Divisional Accountant against the works division of the state of A.P, putting the reference of letter dated 15.11.1999 and further stated that the recruitment of the Divisional Accountant would be made by the state Govt. through A.P.P.S.C and also requested the respondent No. 2 to allow to continue the serving Divisional Accountant's on deputation as emergency Divisional Accountant's for the time being as working arrangement. It is further stated that a scheme has already been formulated for submission for obtaining approval of the appropriate authority for issuance of a formal notification.

Therefore, it is quite clear, apart from the Court cases, The Govt. of A.P had requested respondent No. 2 for extension of period of deputation of the present applicants due to poor financial condition of the State of A.P. therefore the present applicants cannot be held responsible for extension of the deputation period from time to time. Moreover, in view of the judgment and order dated 22.06.2001 passed in O.A No. 200-208/2001 (R. Prathapan and ors. -Vs- U.O.I and Ors) and also in view of the Hon'ble High Court's order dated 16.02.2006 passed in WP (C) No. 3992/2002.

Copy of the Govt. letter dated 11.03.2002 is enclosed herewith and marked as Annexure- 5.

4.8 That it is stated that the respondent No. 2 vide D.O letter bearing No. DA Cell/1-8/Court Case/2000-2001/1898 dated 14.03.2005, addressed to Director (legal), office of the Comptroller & Auditor General of India, New Delhi sought an advise as to whether the deputationists (D.As) should be reverted back as the judgment has come nearly after 4 years. The



respondent No. 2, again wrote a DO letter bearing No. DA Cell/1-8/Court case/2000-2001/1909 dated 28.03.2005, addressed to Commissioner, Finance, wherein it has been stated that the HQ has confirmed consideration of extension of deputation period of the 31 Divisional Accountants working on deputation basis in the establishment of AG (A & E). It was further pointed out that the Division Bench of the Hon'ble Gauhati High Court had issued an order dated 10.02.2005 regarding the 12 Divisional Accountants on deputation who are to be reverted to their parent departments in the Govt. of A.P and it has been specifically stated by the respondent No. 2 in his D.O letter dated 28.02.2005 that the order of the Hon'ble High Court is not being implemented presently and the remaining 19 Divisional Accountants whose cases are pending before the Hon'ble Court/CAT may be immediately requested to withdraw all their Court cases and once this is done their continuity on deputation would be considered. It is further stated in the DO letter dated 28.03.2005 that on the question of absorption of this 31 deputationist, the HQ has informed that the modalities would be worked out and further requested to take urgent action to ensure that the pending Court cases are withdrawn to facilitate their continued deputation/absorption.

Therefore, it is quite clear that even the respondent No. 2 also assured the Govt. of A.P that the deputationist will not be repatriated and modalities for absorption would be worked out. It is also abundantly clear from the DO letter dated 28.03.2005, that the respondent No. 2 did not propose for repatriation, for public interest even after the Division Bench judgment passed by the Hon'ble High Court of Itanagar Bench, dismissing the writ petition on 10.02.2005 in respect of 12 Divisional Accountants.

Moreover, it is quite clear from DO letter dated 14.03.2005 that in the event of repatriation of the applicants to their parent department, there will be a tremendous problem relating to the closure, finalization and rendition of accounts of the Govt. of A.P. Therefore the applicants cannot be held responsible for continuation on deputation basis even after the



expiry of normal tenure, rather the applicants have been retained on deputation after the expiry of the normal deputation period on the request of the State of A.P in public interest. It is needless to mention here that all the applicants are regular employees of the state of A.P and they are serving in the post of Divisional Accountant on deputation basis for and on behalf of the State of A.P since the payment of salary are being received from the State exchequer. The respondent No. 2, is only vested with the administrative control of the post of Divisional Accountant/Divisional Accountants officers but the pay and allowances are being paid by the state of A.P, as such the AG (A & E), Shillong has no jurisdiction to issue the impugned order dated 05.04.2007 bearing letter No. DA Cell/2-46/DDA/Vol III/2007/10-15 directing to make recovery of the alleged excess salary paid to the applicants due to alleged overstay in the deputation post of Divisional accountant after expiry of the specific period of deputation, relying on an O.M of the Govt. of India, DOP & T bearing OM No. AB 14017/30/2006-Estt (RR) dated 29.11.2006, such decision of the respondent No. 2 is not maintainable in view of the Govt. of A.P letter dated 15.11.1999, 12.01.2000, 11.03.2002, 14.03.2005, 28.03.2005 issued by the respondent No. 2, is in the interest of the State.

Copy of the letter dated 14.03.05, 28.03.05 and the impugned letter dated 05.04.07 are enclosed as Annexure- 6, 7 and 8 respectively.

4.9 That it is stated that the respondent No. 2 have issued the impugned letter bearing No. DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007, which is based on a DOP&T's O.M bearing No. AB 14017/30/2006-Estt (RR) dated 29.11.2006, the said O.M of DOP&T cannot be applied in the instant case of the applicants in view of the facts and circumstances narrated in preceding paragraphs. It is categorically stated that the respondent No. 2 have not implemented the order of repatriation and the



reason for non implementation have been elaborately explained by the respondent No. 2 in D.O letter dated 14.03.2005 as well as in the D.O letter dated 28.03.2005, besides the decision taken by the Govt. of A.P. in their letter dated 15.11.1999, 12.01.2000 and 11.03.2002, whereby the Govt. of A.P categorically requested the respondent No. 2 not to repatriate the applicants for the interest of the state, more particularly in view of the poor financial condition of the state as because fresh recruitment and posting on deputation involves huge investment from the state exchequer. In view of the aforesaid position, the decision of the respondent No. 2 for recovery of pay and allowances on the alleged ground of excess drawl of pay and allowances by the applicants after expiry of the stipulated period of deputation is contrary to the decision communicated by the respondent No. 2 through DO letter dated 28.03.2005, as such the impugned order of proposed recovery and re-fixation of pay is not sustainable in the eye of law. The respondent No. 2 is barred by law of estoppel, waiver and acquiescence.

It would be pertinent to mention here that the respondent No. 2 have passed the impugned order dated 05.04.2007 directing to make recovery of excess pay and allowances on the ground of alleged overstay after the expiry of the deputation period, whereas the said respondent No. 2 vide letter bearing circular No. DA Cell/81 dated 16.01.2007 invited options for permanent allocation of the employees holding the post of Divisional Accountant/Divisional Accounts officer, Gr-I and Gr-II, Sr. Divisional Accounts officer serving in the state of A.P, Tripura and Manipur w.e.f. 01.05.2007 consequent upon the decision of the Comptroller and Auditor General to separate the cadre of Divisional Accountant/ Divisional Accounts officer etc. In the said letter dated 16.01.2007, it has been decided by the respondent No. 1 and 2 that the employees of the State A.P appointed on deputation basis as Divisional Accountant would be under administrative Control of the AG (A & E), Meghalaya, Shillong, till finalization of the Court cases pending in different courts/CAT or till such



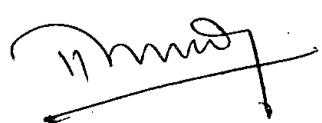
time the state Govt. of A.P has not taken over the cadre. The relevant portion of clause 10 of letter dated 16.01.2007 is quoted below:-

**"10. Employees of the State of Arunachal Pradesh appointed on deputation basis as Divisional Accountant will be under administrative control of the Accountant General (A & E) Meghalaya, Shillong till finalization of court cases pending in different Courts/Central Administrative Tribunals or till such time the state Government of Arunachal Pradesh has not taken over the cadre."**

It is relevant to mention here that there is no case pending either before the Hon'ble High Court or before the Hon'ble CAT, as such, the decision contained in clause 10 of the letter dated 16.01.2007 of the respondent No. 2 would confine to the extent that the deputationist will remain under the administrative control of respondent No. 2. In clause 11, it has been stated that, there is every likelihood of taking over of the cadre of Divisional Accountant by the State Govt. of Arunachal Pradesh in near future.

Copy of the letter dated 16.01.07 is enclosed as Annexure-9.

4.10 That it is stated that the State of Arunachal Pradesh have already prepared a scheme and submitted the same to the Respondent No. 2 vide letter No. DA/TRY-27/2000/1060-68 dated 31.07.2005, seeking approval of the said Scheme for taking over the administrative control of the cadres of Sr. DAO/DAO Grade-I/DAO Grade-II and Divisional Accountant and the said scheme was ultimately handed over to the respondent No. 2 vide letter No. DA/TRY-27/2000 dated \_\_\_ July 2005, whereby approval is sought on the proposed scheme submitted by the State of A.P.



It would further be evident from the letter bearing No. DA/TRY/15/99/Part dated 15.07.05, whereby the Govt. of A.P. requested the respondent No. 2 to reconsider the decision of repatriation of the deputationists, since the scheme for taking over the Accounts set up is being submitted.

It is relevant to mention here that the respondent No. 2 vide letter bearing No. DA. Cell/1-1/2000-2001/1509 dated 25.11.05 whereby draft scheme framed by the C&AG's office regarding proposed transfer of DA's cadre was forwarded to the office of the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh for comments, suggestion, if any, on the proposed scheme for transfer of DA's cadre. Therefore, it is evident from the above correspondences that the Govt. of A.P all along requested the respondent No. 2 for retention of the deputationists in public interest and accordingly the respondent No. 2 also conceded such request considering the interest of the State, therefore the present applicants cannot be held responsible for retention for overstay in the deputation post till date.

Copies of the written statement in OA No. 115/05, letter dated 31.07.05 along with scheme, letter dated nil July 2005, 15.07.05 and 25.11.05 are enclosed herewith as Annexure- 10 (Series), 11, 12 and 13 respectively.

4.11 That it is stated that in O.A. No. 114/2005 as well as O.A. No. 115/2005 which were filed by the some of the similarly situated Divisional Accountants before the learned Tribunal praying inter alia for a direction upon the respondents to consider the cases of those applicants for absorption in the light of the decision contained in the letter dated 28.03.05 issued by the respondent No. 2. In the said Original Applications Govt. of A.P. submitted written statements on behalf of the respondent No. 8



(respondent No. 11 in OA No. 114/05 and 115/05) wherein in para 7 of the written statement the Govt. of A.P. had reiterated its stand for continuation of D.As on deputation till the process of taking over administrative control from the Respondent No. 2 is completed. In view of such specific statement for and on behalf of the State of A.P. who have paid the salaries of the applicants during the entire deputation period from the State exchequer has never asked the present applicants to refund the alleged excess salary which is aid against the deputation post, as such respondent No. 1 or 2 has no jurisdiction under the law to issue the impugned order dated 05.04.07 claiming refund and re-fixation of the pay of the applicants, when the State of A.P. has no objection in paying the salary to the deputationists from the State exchequer and further the State has no objection in continuation of the deputationists in the deputation post till the process of taking over the entire Accounts set up is completed.

In the circumstances stated as above, the impugned order dated 05.04.07 is liable to be set aside and quashed so far the applicants are concerned.

4.12 That it is stated that the D.O.P&T circular dated 29.11.06 has been relied upon by the respondent No. 2 while issuing the impugned order dated 05.04.07, but while passing the impugned order the respondent No. 2 in a most arbitrary manner sought enforcement of the said decision/order with retrospective effect directing the Chief Engineer PWD, PHE, I&FCD, RWD, Power Department, Govt. of A.P. to recover excess pay/re-fixation of pay with retrospective effect i.e. on expiry of 3 years service on deputation whereas the said O.M dated 29.11.06, as such respondent No. 2 has no jurisdiction to issue the impugned order enforcing the same with retrospective effect. It is categorically submitted that the respondent No. 2 has no jurisdiction to pass such an arbitrary, unfair and illegal order of recovery of alleged excess withdrawal of pay and allowances as well as

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2007

for re-fixation of pay of the applicants in the lower scale and on that score alone the impugned order dated 05.04.07 is liable to be set aside and quashed.

4.13 That it is stated that the applicants are apprehending recovery of the excess withdrawal of pay and allowances from the salary bill of the current months as such the Hon'ble Tribunal be pleased to pass an appropriate order/interim order directing the respondents not to make any recovery or re-fixation of pay in terms of impugned order dated 05.04.07 so far the applicants are concerned till disposal of Original Application.

4.14 That it is stated that in the fact and circumstances stated above, the impugned order dated 05.04.07 is not sustainable in the eye of law in view of the categorical stand taken by the respondent Govt. of A.P who is liable to pay the salary of the applicants from the State exchequer as such the impugned order dated 05.04.07 is liable to be set aside and quashed so far the applicants are concerned.

4.15 That it is stated that some of the similarly situated Divisional Accountants serving on deputation basis have approached this Hon'ble Tribunal by filing O.A. No. 130/2007 challenging the validity and legality of the impugned order dated 05.04.2007. However, the Hon'ble Tribunal while issuing notice on 25.05.2007 in OA No. 130/2007 was pleased to direct the respondents to maintain status quo in so far the applicants are concerned and the said O.A. No. 130/2007 is pending before the Hon'ble Tribunal for further consideration. The present applicants in the instant Original Application being similarly situated Divisional Accountants working in the State of Arunachal Pradesh under the administrative control of Respondent No. 2, praying for stay of operation of the impugned order



dated 05.04.2007 so far the applicants are concerned till disposal of the Original Application.

Copy of the order dated 25.05.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 14.

4.16 That it is stated that there is no scope to submit any representation against the impugned order dated 05.04.07 as because there is a specific direction to take action in regard to scale of pay of all the Divisional Accountants to be re-fixed in their respective scale of pay in the State Govt. from the date of their unauthorized over stay on deputation, (ii) excess drawl of pay and allowances and increments drawn after the date in every case is to be recovered. (iii) increments due in the stayed scale of pay to be deferred with cumulative effect till the date on which the officer rejoins his parent department.

In view of such arbitrary order passed through the impugned letter dated 05.04.07 and apprehending re-fixation of pay and recovery of alleged excess drawal, the applicants has approached this learned Tribunal with the prayer to protect the valuable legal right and interest of the applicants by passing an appropriate order setting aside the impugned letter dated 05.04.2007 so far the applicants are concerned and further be pleased to declare that the applicants are entitled to the scale of pay of the deputation post.

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

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

5.1 For that, the respondent No. 2 has no jurisdiction to issue the impugned letter dated 05.04.2007 claiming recovery of the alleged excess amount of pay and allowances drawn in the higher scale and re-fixation of pay and



deferment of increment on the alleged ground of over stay in the deputation post, as because the pay and allowances of the applicants in the deputation post have been paid by the Govt. of A.P from the State exchequer.

5.2 For that, the Govt. of A.P repeatedly requested and made their stand clear for retention and confirmation of the applicants in the deputation post by extending the period of deputation through Govt. of A.P. letter dated 15.11.99, 12.01.2000, 11.03.02, 31.07.05, July 2005, 15.07.05 as such question of recovery, re-fixation of pay, deferment of increment and placement in the State scale of pay does not arise, more so when the Govt. of A.P has no objection to continue the deputationists till the process of taking over of the entire Accounts set up is completed, as such the impugned letter dated 05.04.07 is liable to be set aside and quashed so far the applicants are concerned.

5.3 For that, the Govt. of A.P have made their stand clear regarding continuation and retention of the applicants on deputation basis till the process of taking over the entire Accounts set up is completed as indicated in para 7 of the written statement filed by the Govt. of A.P i.e. respondent No. 11, Director of Accounts and Treasuries, Govt. of A.P before this competent Court in OA No. 114/05 as well as in OA No. 115/05, as such question of recovery, re-fixation of pay in the State scale of pay, deferment of increments and placement in the State scale of pay as contemplated by the Respondent No. 2 through impugned letter dated 05.04.07 is not sustainable in the eye of law.

5.4 For that, pay and allowances of the applicants in the cadre of DAs have been paid by the State of A.P, the respondent No. 2 has no jurisdiction for reduction of such pay scale with retrospective effect and for placement of

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the applicant in the State scale of pay as decided by the respondent No. 2 through impugned letter dated 25.04.07, when the applicants are discharging the higher duties and responsibilities in the cadre of DAs.

5.5 For that, respondent No. 2 has also decided not to repatriate the applicants through D.O letter dated 14.03.05 as well as through D.O letter dated 28.03.05, rather decided to allow the applicants to continue to work in the deputation post in spite of the judgment and order passed by the Division Bench of the Hon'ble Gauhati High Court on 01.02.05 for the interest of the State respondent. As such respondent No. 2 is barred by law of estoppel, waiver and acquiescence to enforce the impugned letter dated 05.04.07 retrospectively against the interest of the State respondents.

5.6 For that the Hon'ble Tribunal upheld the decision of the State respondents for extension of period of deputation as requested by the State of A.P vide judgment and order dated 22.06.01 passed in OA No. 200-208/2001 which was further upheld by the Hon'ble High Court on 16.02.06 in W.P (C) No. 3992/02 and the said judgment has attained finality. As such respondent No. 2 has no jurisdiction to issue the impugned letter dated 05.04.07 and on that score alone the same is liable to be set aside and quashed.

5.7 For that, the DOP&T O.M dated 29.11.06 has no retrospective effect as such the respondent No. 2 is not entitled to enforce the impugned order dated 05.04.07 with retrospective effect, however the said circular dated 29.11.06 has no application in the instant case of the applicants, in the facts and circumstances as explained above.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.



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

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No: DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007 (Annexure- 8) so far the applicants are concerned.
- 8.2 That the Hon'ble Tribunal be pleased to declare that the respondents are not entitled to re-fix scale of pay of the applicants, recovery of excess drawl of pay and allowance and increments drawn and defer increments due to them.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

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



9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned letter bearing No. DA Cell/2-46/DDA/Vol. III/2007/10-15 dated 05.04.2007 (Annexure- 8) so far the applicants are concerned till disposal of the Original Application.

9.2 That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the Respondents to provide relief prayed for:

10. ....

11. Particulars of the I.P.O

i) I.P.O No. : 349654534  
ii) Date of issue : 27.06.2007  
iii) Issued from : G.P.O, Bawali  
iv) Payable at : G.P.O, Bawali

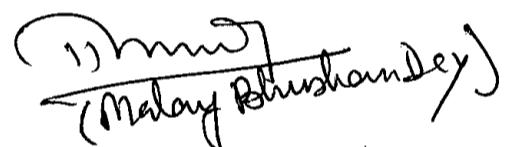
12. List of enclosures : As given in the index.



VERIFICATION

I, Sri Malay Bhushan Dey, son of Shri Brajendra Chandra Dey, aged about 53 years, working as Divisional Accountant, O/o The Executive Engineer, I&FC Department, Tawang, Arunachal Pradesh, applicant No. 1 in the instant Original Application duly authorized by the others to verify the statements made in the Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 30<sup>th</sup> day of June 2007.



(Malay Bhushan Dey)

(copy)

GOVT. OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS & TREASURIES : NAHARLAGUN  
(THROUGH FAX/SPEED POST )  
NODA/TRY/15/99 Dated Naharlagun the 15th Nov'99

To,

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

Sub :-

Recruitment/ posting of regular Divisional Accountants.

Ref :-

Your letter No DA/Cell/2-46/92-93/1241  
dtd 4-10-99 & this office letter No. DA/29/85/  
(Part)/6304 dtd 8-9-99

Sir,

The issue of recruitment and posting of Divisional Accountants to 38 public works division of this state which are presently manned by deputationist were under active consideration of the state Government. The Govt. of A.P. has observed that prior to this correspondance under reference the state Govt. as well as this Directorate were never consulted while recruiting and posting of DAOs/DAs, though these posts were borne in the establishment of Executive Engineers and paid from the state exchequer. It has also been observed that prior to declaration of the state-hood (20-2-87), the cadres of the DAOs/DAs were enjoying pay scales without anomaly with the comparable status of Accountant/Assistant/Superintendent in the state Govt. working either in the Directorate of Accounts & Treasuries as well as in other Directorates or in the district establishment. The Directorate of Accounts and Treasuries now express concern on the pay scales presently enjoying by the cadres of DAOs/DAs which were enhanced without having approval of the state Govt of A.P. The higher pay scales presently enjoying by the cadre of DAOs/DAs has been posing a problem for granting huge amount in the form of pay and allowances during the proposed training period of 38 Divisional Accountants.

The Government of Arunachal Pradesh is of the view that recruitment and posting of the DAOs/DAs for 38 working Divisions of PWD may not be done at this stage, since final decision of the Govt is still awaited. The serving Divisional Accountants in the works deptts on deputation basis may be allowed extension for a further period of two years from the date of expiry of their present respective tenure in the interest of public service. This will provide succour to the poor financial position of the state prevailing at the present time. This arrangement is proposed till view of the state Govt. in final shape could be put forward to your esteemed office.

Yours faithfully,

( C.M. Mongmaw )

Joint Director of Accounts  
Directorate of Accounts & Treasuries  
Govt. of Arunachal Pradesh  
Phs. No. 9360 244281

Copy to :-

1. The P.D. to the Hon'ble Chief Minister, Arunachal Pradesh, Itanagar for information of the Hon'ble Chief Minister.

Contd. p/2

*Akash  
Advocate*

The P.S. to the Commissioner(Finance)Govt. of A.P. Itanagar for information.

3. The PS to the Commissioner PWD/RWD/PHED/IFCD/Power for information.

4. The Accountant General (Audit) Arunacha, Meghalaya etc shillong for favour of information.

5. The Chief Engineer, PWD(EZ/WZ)/RWD/PHED/IFCD/Power for information please. They are requested to give continuation to the serving DAs who are on deputation for a further period of 2 years on expiry of their present term of deputation & meanwhile they may please direct the Executive Engineer concerned not to accept joining report of new appointee(DA) without consulting the state Govt/Directorate of Accounts and Treasuries, Naharlagun.

6. The Chief Accounts Officer PWD (EZ/WZ)/RWD/PHED/IFCD/Power for information.

7. Office copy.

Sd/-

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

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries  
Naharlagun-791110

DN/TRY/15/99

Dated, the 12th Jan 2000

Annexure -2

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,

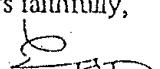
It was under active consideration of the Government of Arunachal Pradesh for sometime to take over the Cadre of the Divisional Accounts Officers / Divisional Accountants of the Works Department totaling 91 ( Ninety one ) posts from the existing combined cadre being controlled by you. Now, the Government 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.

*Atul  
Jaiswal  
Advocate*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWA

Original Application Nos. from 200(1) to 203(1) of 2001.

Date of Order : This is the 22nd Day of June, 2001.

HON'BLE MR. JUSTICE R.N.K. TRIVEDI, VICE CHAIRMAN.

HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

✓ O.A.No.200/2001(T) (In C.H.6037/98) :

R. Prathapan . . . . . Applicant.

By Advocate Mr. B.K. Sharma & Mr. P.K. Tripathi.

- Vs -

State of Arunachal Pradesh & Ors. . . . . Respondents.

By Mr. B.C. Pathak, Addl.C.G.S.C.

✓ O.A.No.201/2001(T) (In W.P.(c)1117/2000 :

Shri Habung Lalin . . . . . Applicant.

By Advocate Mr. Tagla Michi

- Vs -

Union of India & Ors. . . . . Respondents.

Mr. B.C. Pathak, Addl.C.G.S.C.

✓ O.A.No.202/2001(T) (In W.P.(c)374/2000 :

Sri Krishan Chandra Das . . . . . Applicant.

By Advocate Mr. Amitava Roy & Mr. S. Dutta

- Vs -

State of Arunachal Pradesh & Ors. . . . . Respondents.

Mr. M. Deb Roy, Sr.C.G.S.C., Addl.C.G.S.C.

✓ O.A.No.203/2001(T) (In W.P.(c)257/2000) :

Shri Gamboh Nagay . . . . . Applicant.

By Advocate Mr. M. Chanda & Mr. S. Dutta

- Vs -

The State of Arunachal Pradesh & Ors. . . . . Respondents.

Mr. B.C. Pathak, Addl.C.G.S.C.

✓ O.A.204/2001(T) (In W.P.(c)373/2000) :

Shri Rathindra Kumar Das . . . . . Applicant.

By Advocate Mr. Amitava Roy & Mr. S. Dutta

- Vs -

The State of Arunachal Pradesh & Ors. . . . . Respondents.

Mr. A. Das Roy, Sr.C.G.S.C.

Afesh  
Das  
Advocate

O.A.205/2001(T)

Applicant.

Shri Utpal Maitanta

By Advocate Mr. A. Roy & Mr. S. Dutta

- Vs -

The State of Arunachal Pradesh & Ors. . . . Respondents.

Mr. A. Deb Roy, Sr.C.G.S.C.

O.A.206/2001(T) (In W.P.(c) 496/2000) :

Applicant.

Hago Mubi Taina

By Advocate Mr. A. Roy, Mr. M. Chanda & Mr. S. Dutta

- Vs -

Union of India & Ors.

Mr. A. Deb Roy, Sr.C.G.S.C.

O.A.207/2001(T) (In W.P.(c) 876/2000) :

Applicant.

Maley Bhuglan Day

By Advocate Mr. D. C. Das & Mr. S. Dutta

- Vs -

Respondents.

Union of India & Ors.

Mr. A. Deb Roy, Sr.C.G.S.C.

O.A.208/2001(T) (In W.P.(c) 375/2000) :

Applicant.

Shri Hago Tamin

By Advocate Mr. A. Roy, Mr. M. Chanda & Mr. S. Dutta

- Vs -

The State of Arunachal Pradesh & Ors. . . . Respondents.

Mr. A. Deb Roy, Sr.C.G.S.C.

## ORDER

R.R.K. II (VCDL 26/10/2001)

We have heard Mr. M. Chanda for the applicants and Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents.

2. In all the aforesaid O.A.s the questions of law are similar and they can be disposed of by a common

contd. 3

order, against which learned counsel for the parties have no objection.

3. The applicants of the present U.A.O are serving in different capacities under the State of Arunachal Pradesh. The applicants are serving on the basis of deputation. They are mainly involved with Divisional Accountant in the organisation, <sup>"Under"</sup> and Administrative control of Accountant General (A&E), Arunachal Pradesh and Meghalaya. After expiry of the period of deputation, orders have been passed for repatriation to their original department. Aggrieved by the order of repatriation the applicants have filed the Writ Petitions in High Court, which have been transferred to this Tribunal.

4. Learned counsel for the applicant has submitted that by order dated 15-11-1999, the Government of Arunachal Pradesh has extended the period of deputation for a period of two years from the date of expiry of their present respective tenure, in the interest of public service. The operative part of the order reads as under :

"The Govt. of Arunachal Pradesh is of the view that recruitment and posting of the DAO/DAS for 38 working Divisions of PWD may not be done at this stage, since final decision of the Govt. is still awaited. The serving Divisional Accountants in the works Deptt on deputation basis may be allowed extension for a further period of two years from the date of expiry of their present respective tenure in the interest of public service. This will provide succour to the poor financial position of the state prevailing at the present time. This arrangement is proposed till vind of the State Govt. in final shape could be put forward to your esteemed office."

Thus the period of expiry stands extended by order dated 15th Nov'99 from the date of expiry. In the meantime the State of Arunachal Pradesh has taken a decision to abrogate the

contd. 4

deputationist applicants in the State Cadre by order dated 12-1-2001, copy of which has been filed as Annexure-9. The letter is being reproduced below:

To,

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

Subj 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 totalling 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,  
NAMJALAGUIN

contd. 1

5. As the State Government has extended the period of deputation and further has taken a decision to absorb the applicants in the State Cadre by order dated 12-1-2001, in our opinion, nothing is left to be decided by this Tribunal in these O.A.s. The order of repatriation impugned in these O.A.s stands ~~pending~~ suspended (by order dated 15-11-1999, filed in Annexure-7).

The applications are accordingly, disposed of.

It is made clear that if change in the present situation arises, it is open to the applicants to approach this Tribunal.

There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN  
Sd/ MR. CHINN (ADM).

TRUE COPY

xfp/AM

17/11/2001  
Section Officer (O)  
Central Administrative Tribunal  
2nd Floor, Chancery  
Biju Bhaban, Bhubaneswar  
Orissa - 751009

17/11/2001

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संस्था सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
1/31/02	1/31/02	1/31/02	1/31/02	1/31/02

## IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)

## CIVIL APPELLATE SIDE

. NO. 2002. 8. 15

Appeal from

WPC

No. 3992/2002

Civil Rule

Petitioner

Appellant

Petitioner

Accountant General (A&amp;E) Meghalaya etc., Shillong

Shri R. Prathapan, Esq.

Respondent

Mr. A. K. Choudhury

Opposite Party

Petitioner

Mr. P. Bheromick, Advocate

Respondent  
for

Mr. U. K. Nair, Advocate for Res. No. 1.

Opposite Party

Mr. S. Choudhury

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4

A. K. Choudhury  
Advocate

IN THE MATTER OF

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

.... Petitioner

- Vs -

1. Shri R. Prathapan,  
S/o Shri V. Raghavan  
Divisional Accountant  
O/o Executive Engineer (Civil)  
Ziro Civil Division, Department of Power,  
P.O. Ziro, Dist. Lower Subansiri,  
Arunachal Pradesh.
2. Shri Habung Lalit  
S/o Shri Habung Tasso  
A-Sector, Naharlagun  
Dist. - Papumparo  
Arunachal Pradesh.

3. Shri Keshab Chandra Das,  
S/o Shri Kamini Kumar Das,  
Divisional Accountant,  
Bomdila R.W.D., Singchung  
Tenga Valley, West Kameng  
District, Arunachal Pradesh.

4. Shri Gamboli Hagey,  
S/o Shri H. N. Bhat,  
Divisional Accountant,  
O/o the Executive Engineer,  
R.W.D. Ziru, Arunachal Pradesh.  
DIST. LOHIT SUBANSIRI

5. Shri Rathindra Kumar Deh,  
S/o Late Ramani Mohan Deh,  
Divisional Accountant,  
O/o the Executive Engineer,  
I & FCD, Tezu, Arunachal Pradesh.  
DIST. LOHIT

6. Shri Utpal Mahanta,  
S/o Shri Krishna Kanta Mahanta  
Divisional Accountant  
O/o the Executive Engineer  
Daporijo PHED Division,  
Arunachal Pradesh.  
DIST. UPPER SUBANSIRI

- 4 -

7. Shri Hage Mubi Tada,  
S/o Shri Hage Mubi,  
Divisional Accountant,  
O/o the Executive Engineer  
Papumpare, R.W.D.  
Arunachal Pradesh.

8. Shri Malay Bhusan Dey  
S/o Shri Brajendra Chandra Dey,  
Divisional Accountant,  
O/o the Executive Engineer,  
Tawang I & FC Division,  
Arunachal Pradesh.  
DIST. TAWANG.

9. Shri Hage Tamin,  
S/o Late Hage Murchi,  
Divisional Accountant,  
O/o the Executive Engineer,  
Electrical Division,  
Daporijo Department of Power,  
Arunachal Pradesh.  
DIST. UPPER SUBANSIRI

..... Respondents.

The humble petition of the Petitioner above-named

10. Central Administration Tribes  
Gumabati Beach, Gumabati.

11. State of Arunachal Pradesh  
Hansgar, represented by  
the Chief Secretary  
Govt. of Arunachal Pradesh  
Hansgar.

30m leaded ride Head 16.8.05 as R.No.106  
etc

ATC  
19-8-87

## THE HISTORY OF THE AMERICAN CIVIL

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	13	<p>WP(C) No. 3992/2002</p> <p>BEFORE</p> <p>HON'BLE THE CHIEF JUSTICE MR BS REDDY</p> <p>HON'BLE MR JUSTICE T NANDAKUMAR SINGH</p> <p><u>16-02-2006</u></p> <p>The view taken by the Central Administrative Tribunal, in our considered opinion, is not vitiated for any reason whatsoever requiring our interference exercising the power of certiorari jurisdiction. The impugned order does not suffer from any error on the face of the record.</p> <p>The writ petition shall accordingly stand dismissed.</p>

Sd/- T. N. K. Singh

Judge

Sd/- B. S. Reddy  
Chief Justice

P.M. 69167  
dtd 11/3/06

CERTIFIED TO BE TRUE COPY  
Akron Borbela's Utham  
Date 01/3/06  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76, Act I, 1873

1/3/06

-35-  
GOVT OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS & TREASURIES  
NABARLAGUN

ANNEXURE-5

NO. DA/TRY/15/99

Dated Naharlagun the 11th March '02

To,

The Accountant General (A&E)  
Mouthalayat, Arunachal Pradesh  
City, Itanagar

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.

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 (C/Z, A/Z)/PHED/IFCD/RWD and Power Department of Arunachal Pradesh for information.

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.

*Attested  
for  
Advocate*

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



OFFICE OF THE ACCOUNTANT GENERAL (A&E),  
MEGHALAYA, ARUNACHAL PRADESH & MIZORAM  
SHILLONG-793 001  
Phone : 0364-2223191 (O) Fax : 0364-2223163

E. R. Solomon  
Accountant General

D.O.No.DA Cell/1-8/Court Case/2000-2001/1898

Dated: March 14, 2005.

Dear Shri *Srinivasan*,

In continuation to this office D.O.letter No.DA Cell/1-8/Court Case/2000-2001/1867 dated 25/2/2005, I would request you to advise if these Divisional Accountants on deputation should now be reverted back to their parent departments based on the judgement and orders of the Division Bench.

However, as discussed with you, if these deputationists are reverted back based on the Court's orders there will be tremendous problems relating to the closure, finalisation and rendition of accounts of the Govt. of Arunachal Pradesh. I also enclose a copy of D.O.letter No.1/ACTRY/2/2002 dated 10.3.2002 received from the Commissioner in the Govt. of Arunachal Pradesh, Finance Department regarding the same subject.

I am to inform you that in 1999, the Govt. of Arunachal Pradesh had unilaterally passed an order of taking over the cadre of Divisional Accountants but during my discussion with the Chief Secretary to the Govt. of Arunachal Pradesh on the 24<sup>th</sup> February 2005 the Chief Secretary was very clear that the cadre would not be taken over and would continue to be administered by the Accountant General. In order to overcome all these difficulties I seek HQs. order as to whether these deputationists (Divisional Accountants) should be reverted back as the judgement has come after nearly four years.

*Kindly*

*Yours sincerely,*

*S. Srinivas*

14/3/2005

*End : as stated*

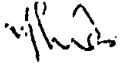
Shri R. Srinivas  
Director (Legal),  
Office of the Comptroller & Auditor General of India,  
10, Bahadur Shah Zafar Marg,  
Indraprastha Head Post Office,  
NEW DELHI: 110 002.

*Attested  
S. Srinivas  
Advocate*

filed before the CAV/High Court as a prelude to the eventual transfer of the cadre of DAs to the State Government.

4. The State Government is therefore, kindly requested to take steps to ask the 22 persons to withdraw all their court cases unconditionally and once this is done, the ball for transfer of the cadre to the Government of Arunachal Pradesh will be set in motion.

Yours faithfully,

  
Deputy Accountant General (A)



OFFICE OF THE ACCOUNTANT GENERAL (A&E),  
MEGHALAYA, ARUNACHAL PRADESH & MIZORAM  
SHILLONG-793 001  
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

*S. Saha*

24/3/05

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

*Attested  
for  
Advocate*

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MECHALAYA ::  
SHILLONG-793001.

No. DA.Cell/2-46/DDA/Vol.III/2007/10 - 15

Dated: 5.1.2007

To

Chief Engineer  
PWD,PIE, I&FCD, RWD, Power Department  
Government of Arunachal Pradesh,  
Itanagar.

Sub:- Implications of overtime while on deputation.

Sir,

Please find herewith a copy of the Office Memorandum of Govt. of India, Ministry of Personnel Public Grievances and Pension, Department of Personnel and Training No. O.M.No. AB 14017/30/2006-Estt (RR) dated 29.11.2006 regarding implications of overtime while on deputation without the approval of Competent Authority. The Govt. of India has decided that all the cases of deputation should be regulated as per the conditions laid down in the above O.M.

In this connection I am to state that a good number of employees of the Govt. of Arunachal Pradesh who have overstayed their deputation period despite of their deputation period which had already expired are not willing to join their parent department even after repatriation. They are enjoying the higher Central pay scale for Divisional Accountant compare to the pay scale of the State Government.

As per para III of the office memorandum, the Govt. of India has decided that in the event of the deputationist over staying for any reason whatsoever he is liable to disciplinary action and other adverse Civil Service consequences which should include that the period of unauthorised overtime shall not count against service for the purpose of pension and that any increment due during the period of unauthorised overtime shall be deferred, with cumulative effect till the date on which officer joins his parent cadre.

*Albert  
SAC  
Parvate*

- 40 -

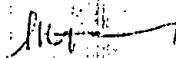
These will equally apply to all deputationist including State Govt. Officer/All India Services Officers joining Central Govt. Post on deputation and to officers proceeding on deputation to state govt. /autonomous & statutory institutions/foreign bodies etc.

Therefore you are requested to take action in regards to the scale of pay of all Divisional Accountants to be re-fixed in their respective scale of pay in the State Govt. from the date of their unauthorised over stay on deputation. (ii) excess drawl of pay & allowance and increments drawn after the date in every case to be recovered. (iii) Increments due in the state scale of pay to be deferred with cumulative effect till the date on which the officer rejoins his parent department.

You are therefore, kindly requested to take action as regards to para 3 of the GOI order against the deputationist (List enclosed) who have overstayed their deputation periods under intimation to this office.

Enclo:- As stated above.

Yours faithfully,

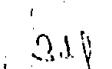
  
Dy. Accountant General (Admin)

Memo No. DA Cell/2-46/DID/A/Vol.III/2007/

Dated:-

Copy forwarded to:-

The Pt. Accountant General (Audit), Meghalaya etc., Shillong with the request to kindly issue instruction to the field parties to verify with reference to the instructions passed by this office regarding over payment of pay & allowances to Divisional Accountant on deputation.

  
Dy. Accountant General (A)

6A  
-41-

Registers

Memo No; DA Cell/2-46/DDA/Vol. II/2007/(7-8) Dated: 6.4.2007.

Copy forwarded to the :-

13 APR. 2007

1. The Executive Engineers, P.W.D./R.W.D./I&P/C.P.H.E/ Electricity Department, Soppee, Anantapur, Andhra Pradesh.

2. Shri \_\_\_\_\_ D.A.  
Office of the Executive Engineer, P.W.D./R.W.D./I&P/C.P.H.E/ Electricity Department,

Queshah July  
Sr. Accounts Officer  
I/c DA Cell

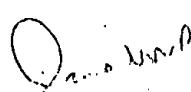
List of the employees of the Govt. of Arunachal Pradesh appointed as  
Divisional Accountants on Deputation

Sl. No.	Name of D.A. on deputation	Parent Department of Arunachal Pradesh & post from which the person came on deputation	Division/ State where presently posted	Date of joining as D.A. on deputation	Date of expiry Deputation periods	Remarks
1.	2. Shri V.K.Nair	3. the C.E.PHE, Itanagar; Head Asstt.	4. Electrical Division (Power), Bondila	5. 4/1999	6. 31.3.2002	
2.	Binith Kr.Das	7. C.E.(Power) Arunachal Pradesh; UDC	8. Ziro PWD	9. 11.2.1997	10. 11.2.2000	11. Released from the Division on 30.6.2001
3.	U.C.Debnath	12. The C.E.PWD Itanagar; UDC	13. R.W.D. Tawang	14. 9.9.1998	15. 9.9.2001	
4.	Radheshyam Das,	16. The C.E. Power, Itanagar; UDC	17. Pasighat RWD	18. 25.8.1998	19. 25.8.2001	
5.	Takong Taboh	20. The C.E. Power, Arunachal Pradesh; LDC	21. Yingkiong P. PHE	22. 1.4.1999	23. 1.4.2002	
6.	Bimal Bibwan	24. The C.E. I&FC Itanagar; UDC	25. Tezu, R.W.D	26. 1.11.1999	27. 31.7.2002	
7.	Debabrata Roy	28. The C.E. Power, Itanagar; UDC	29. Roing I&FC	30. 18.3.1999	31. 18.3.2002	
8.	T.K.Barua	32. C.E. PWD, Itanagar; UDC	33. Khonsa, R.W.D.	34. 21.6.1999	35. 21.6.2002	
9	N.R.Nath	36. C.E(EZ) PWD, Itanagar; UDC	37. Tawang P.H.E.	38. 14.6.1999	39. 14.6.2002	

Attest  
Jagdishwar

10.	I. Appai Swami	C.E. PWD, Itanagar.  UDC	Khokha PWD	3/1996	5/2002	Released from Div. on 21.1.2006 on his retirement
11.	M.V.K.Nair,	C.E. (WZ) PWD,Itanagar,  LDC	Kalakhang PWD	14.3.1996	14.3.1999	
12.	Santanu Ghosh	C.E. PWD,Itanagar  Asstt.	Yingkiong PWD	15.10. 1999	15.10.2002	
13.	Lendi Chatung	C.E. Power, Itanagar  UDC	Along Elect. Division	12.4.1999	12.4.2002	
14.	Tankeswar Borah	C.E (EZ) PWD Itanagar.  UDC	Tezu PWD	3.2.1997	32.2.2000	Released on 30.5.2005
15.	S.K.Dam	C.E.(EZ), PWD, Itanagar.  UDC	Seppa., Electrical Division	7.4.1997	7.4.2000	
16.	Love Rao	C.E.PWD, Itanagar  LDC	Along Civil Divn. (Power)	8.4.1999	8.4.2002	
17.	Jummi Kamurn	C.E.PWD.  UDC	Daporijo, I&FC Division	5.8.1998	5.8.2001	
18.	Dilip Kr.Dey	C.E.PWD, Itanagar  UDC	Boleng PWD	13.4.1999	31.3.2002	
19.	Tashi Namgye	C.E. PWD,Itanagar  UDC	Seppa. PWD	28.7.1998	28.7.2001	
20.	Loni Bhushan Karmakar	C.E.PWD, Itanagar.  UDC	Daporijo, PWD	12.5.1999	12.5.2002	

21.	Pradip Kr.Paul	C.E I&FC, Department, UDC	Resource Division I&FC, Agartala, Tripura	9.8.1999	9.8.2002	
22.	Tago Murtom	C.E.,I&FC Department, UDC	Yomicha, PWD	9.1.1997	9.1.2000	
23.	Milir Das	C.E.Power	Geku Civil Divn S. p.t. of Hydro Power Development Cachar, A. P.	14.9.98	14.9.2001	He was not released from the Division. However he was release on 8.8.2005.
24.	R.Pratapan	CE(EZ) PWD	Ziro Civil Divn (Power)	29.1.1996	29.1.1999	
25.	Habung Lalit	CE Power	Bameng PWD	13.1.1997	13.1.2000	
26.	Gamboh Hagey	CE (EZ) Itanagar	Ziro RWD	15.1.1997	15.1.2000	
27.	Rathindra Kr.Deb	CE(EZ) PWD	Tezu I&FC	21.1.1997	21.1.2000	
28.	Malay Bn.Dey	CE RWD	Tawang,I&FC	10.2.2997	10.2.2000	
29.	Hage Mubi Tach	CE I&FC	Papumpoma, RWD	14.2.1997	14.2.2000	
30.	Keshab Ch.Das	CE(EZ)PWD	Bomdila RWD	22.2.1997	22.2.2000	Retired on 30.4.2006.
31.	Hage Tamin	CE,I&FC,Dept. AP	Daporijo Elect.Divn	14.1.1997	14.1.2000	
32.	Debabruto Roy	CE Power	Roing,I&FC Deptt.	18.3.1999	18.3.2002	

  
 St. Accounts Officer  
 DA Cell.

NOVAFW103 / 30/2006 E&H (RR)

Ministry of Personnel, Public Grievances and Pensions  
Department of Personal and Training

Dated the 29<sup>th</sup> November, 2006 King Arun

OFFICE MEMORANDUM 29 NOV 2006

Subject: Implications of overstay while on deputation

It has been brought to notice of the Government that that even though the terms and conditions of deputation issued by the various Ministries/Departments/Offices specify the period of deputation, there have been a number of cases of overstay without the approval of the competent authority. A number of proposals for regularization of such overstay are also being received for approval by the Competent Authority. It is necessary to ensure that there is no laxity on the part of the controlling authorities in relieving the deputationist and the deputationist should not go by the presumption that he needs to join his parent cadre only after being formally relieved by the borrowing department. It has, therefore, been decided that in future all cases of deputation shall be regulated by the following conditions viz.:-

(i) The terms and conditions of deputation shall clearly lay down not only period of deputation as per the Recruitment Rules for the post or as approved by the competent authority but also the date of relieving of the deputationist. No further orders for relieving the officer will be necessary;

(ii) The deputationist officer including those who are presently on deputation would be deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. It will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In cases where offices are on deputation on the date of issue of these orders and the normal tenures are getting over in a period of six months, the concerned officers/Organisations may be allowed an extension of not more than one month, on a case to case basis with the approval of the DOP.

(iii) That in the event of the officer overstaying for any reason whatsoever, he is liable to disciplinary action and other adverse Civil/Service consequences which would include that the period of unauthorized overstay shall not count against service for the purpose of pension and that, any increment due during the period of unauthorized overstay shall be deferred, with cumulative effect, till the date on which the officer comes for payment of his

Alfesh  
Jalib. Advocate

2. A written consent of the officer concerned shall be taken in the term and condition of deputation inclusive of the period in which he has been deputed. The final order is issued when the contents of these instructions will be communicated to the officer presently on deputation for information/compliance.

3. These instructions will apply to all deputationists including State Government Officers/All India Services officers joining Central Government posts on deputation and to officers proceeding on deputation to State Government/autonomous & statutory institutions/foreign Bodies, etc.

4. If the borrowing Organisations would like a relocation from these terms, they should obtain approval of DoP&I to it prior to the start of deputation.

5. Hindi version follows.

*[Signature]*  
(Smita Kumar)  
Director

To

1. All Ministries/Departments of Government of India.
2. Chief Secretaries of All State Governments.
3. The President's Secretariat, New Delhi.
4. The Prime Minister's Office, New Delhi.
5. The Cabinet Secretariat, New Delhi.
6. The Rajya Sabha Secretariat, New Delhi.
7. The Lok Sabha Secretariat, New Delhi.
8. The Comptroller and Auditor General of India, New Delhi.
9. The Union Public Service Commission, New Delhi.

Copy to :

1. All Attached Offices under the Ministry of Personnel, Public Grievances and Pensions.
2. Establishment Officer and Secretary, ACC (10 copies).
3. All Officers and Sections in the Department of Personnel & Training
4. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
5. All Staff Members of National Council (JCM)
6. All Staff Members of the Departmental Council (JCM), Ministry of Personnel, Pensions and
7. Establishment (R&E Division) (200 copies)

*[Signature]*  
(Smita Kumar)  
Director

07/12/07

REGISTERED POST.

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

No. Circular No. DA Cell/ 81

Dated:- 16.1.2007.

Consequent upon the decision of the Comptroller and Auditor General to separate the cadre of Divisional Accountants/Divisional Accounts Officer Grade-I & II/St. Divisional Accounts Officer in the States of Arunachal Pradesh, Tripura and Manipur w.e.f. 01.05.2007, all regular DAs/DAOs/Sr.DAOs under the administrative control of the Accountant General (A&E) Meghalaya, Arunachal Pradesh and Mizoram, Shillong are hereby required to exercise option for permanent allocation to the office of their choice in the prescribed Option Form enclosed herewith.

1. The proposed Sanctioned Strength and Person- in- position in the three states i.e. Manipur, Tripura and Arunachal Pradesh is shown below:-

Name of the state	No. of Division in each state	Strength of the cadre and men on roll							
		Sr. DAO		DAO-I		DAO-II		Regular D.A.	
		Sanctioned Strength	Men on roll	Sanctioned Strength	Men on roll	Sanctioned Strength	Men on roll	Sanctioned Strength	Men on roll
Arunachal Pradesh	91	13	16	23	9	23	2	32	0
Manipur	79	12	8	20	4	20	1	27	0
Tripura	52	8	8	13	0	13	0	18	0
AG(A&E) Shillong.	01						/	01	
	223	33	32	56	13	56	3	78	0

2. The Sanctioned Strength will be determined for the States of Manipur, Tripura and Arunachal Pradesh on the basis of number of existing Divisions for which post of DAs/DAOs/Sr.DAOs have been sanctioned for these States.

Contd..2

Office of the Comptroller  
General Accounts and Audit  
Department  
Shillong (15-12-07) 9/2/07

Afternoon  
Law  
Parivartan

3. Permanent allocation of existing DAs/DAOs & Sr.DAOs to the States of their choice will be made by the present cadre Controlling Authority i.e. the Accountant General (A&E) Meghalaya, etc., Shillong.
4. Allocation of DAs/DAOs/Sr.DAO opting to a particular States will be made on the basis of their seniority in the concerned grade starting from the senior first.
5. If the number of optees for a State is more than the sanctioned posts in a grade, the junior most person in the grade in excess of the sanctioned strength of that State who can not be accommodated in that State against the existing posts shall be posted temporarily to the State for which the number of optees is less than the sanctioned strength. Such persons will be posted to the State for which they have exercised their options on availability of subsequent vacancies in that State.
6. After separation of the cadre, the seniority of the cadre members will be fixed as per the existing inter-se seniority.
7. The vacancies remaining unfilled in a State after separation of cadre will be filled up by the concerned Accountant General office as per Recruitment Rules for the concerned post.
8. Direct recruitment will be done in the deficit State only against the requisition already placed/to be placed to the Staff Selection Commission.
9. After final separation of the cadre, the cadre of Arunachal Pradesh will be controlled by the present Cadre Controlling Authority i.e. Accountant General (A&E) Meghalaya, etc., Shillong till such time a separate Accounts & Entitlement office is not functioning from Itanagar.
10. Employees of the State of Arunachal Pradesh appointed on deputation basis as Divisional Accountant will be under administrative control of the Accountant General (A&E) Meghalaya Shillong till finalisation of court cases pending in different courts / Central Administrative Tribunals or till such time the State Government of Arunachal Pradesh has not taken over the cadre.

11. There is every likelihood of taking over of the cadre of DAs by the State Government of Arunachal Pradesh in the near future.
12. All the Divisional Accounts Officer Grade I & Grade II and Sr.Divisional Accountants Officer are to exercise his/her one time option in the enclosed Option Form and submit the same to the undersigned within one month from the date of issue of this Circular.
13. If such option is not received within one month from any person, such person will be allocated to the State for which number of optees in the concerned grade are less than the sanctioned strength.
14. The option once exercised will be treated as final and cannot be revoked under any circumstances.
15. The option to be exercised by the regular Divisional Accounts Officer Grade-I & Grade-II and Sr. Divisional Accounts Officer and not by the Divisional Accountants appointed on deputation basis.

Authority:- C&AG's letter No.909-NGE(App)/32-2006 dated 17.11.2006.

16  
Dy. Accountant General (Admn)

Contd..4

Memo No. DA Cell/BOC/2006-2007/927-937

Dated:-

Copy forwarded to for information and necessary action:-

1. The Accountant General (Audit) Tripura, Agartala.
2. The Accountant General (Audit) Manipur, Imphal.
3. The Sr.Dy.Accountant General (A&E) O/o the Sr.Dy.Accountant General (A&E), Tripura, Agartala.
4. The Dy.Accountant General (A&E) O/o the Sr.Dy.Accountant General (A&E) Manipur, Imphal.
5. The Secretary, PWD, I&FC, R.W.D. & Electricity Department, Govt. Tripura, Agartala.
6. The Secretary, PWD, I&FC, R.W.D. & Electricity Department, Govt. Arunachal Pradesh, Itanagar.
7. The Secretary, PWD, I&FC, R.W.D. & Electricity Department, Govt. Manipur, Imphal.
8. The Chief Engineer, PWD, I&FC, R.W.D., Electricity Department of the States of Manipur Imphal.
9. The Chief Engineer, PWD, I&FC, R.W.D., Electricity Department of the States of Arunachal Pradesh, Itanagar.
10. The Chief Engineer, PWD, I&FC, R.W.D., Electricity Department of the States of Tripura, Agartala.
11. The Executive Engineer, \_\_\_\_\_
12. Shri \_\_\_\_\_  
O/o the Executive Engineer \_\_\_\_\_
13. Spare Copy.

*Omabifor*  
Sr. Accounts Officer  
I/c DA.Cell.

Com- 1893

### Form of Option

In the event of separation of Divisional Accounts Officers/Sr. Divisional Accounts Officer cadre in the States of Manipur/ Tripura/Arunachal Pradesh,

I, Shri/Smti/Ms \_\_\_\_\_

working as \_\_\_\_\_ (designation) under the

administrative control of Accountant General (A&E) Meghalaya, Mizoram and

Arunachal Pradesh, Shillong do hereby opt to be finally allocated in the State of

\_\_\_\_\_ (name of the State),

under the administrative control of the Accountant General

(A&E) \_\_\_\_\_ in knowing fully that the option so

exercised shall be final and no further change in the above option shall be allowed in

any case.

Date \_\_\_\_\_

Station \_\_\_\_\_

(Signature)

Name \_\_\_\_\_

Designation \_\_\_\_\_

Division \_\_\_\_\_

State \_\_\_\_\_

*SAC*

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Annexure 7A  
10  
(Series)

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.

*Atul  
Jyoti  
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 herunder:

12.2. 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 Accountant 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 ha 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) Meghelia, Aruanchal 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 area 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 subinission of the scheme for taking

over of the cadre, the State of Arunachal Pradesh has consented for permanent absorption of the deputationists under the administrative control of the Accountant General ( A&E ) Meghalaya, Arunachal Pradesh etc. Shillong.

The deponent further states that the Divisional Accountants on deputation be allowed to continue till such time the cadre is taken over by the State Government of Arunachal Pradesh keeping in view of the experience gathered by the serving deputationists and if the scheme is implemented and control of deputationists are taken over by the State of Arunachal Pradesh, the deputationists shall have to qualify themselves for permanent absorption indicated above.

#### VERIFICATION

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 to the Government of Pradesh, Naharlagun, do hereby verify that the facts states herein above are true to my knowledge, information and belief derived from relevant records. Nothing substantial to the issue raised by way of the present O.A. has been concealed.

Verify at Guwahati on this day of 26<sup>th</sup> September, 2005

DEPONENT

22  
-56-

69

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.

Enclo : As stated above.

Yours faithfully

Sd/-

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

Dated 31 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.

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

Attn  
Jaswinder  
Advocate

(R)

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 1 ( 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 absorption of the cadre.

1.5 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.

1.6 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.

### 1/2. 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

3. 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

4. The state government through Arunachal Pradesh PSC shall fill up all the vacancies of Divisional Accountant.

### Method of Recruitment

5.1 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 A).

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 wherein 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 Bain ),  
Principal Secretary (Finance)  
Govt. of Arunachal Pradesh  
Itanagar.

(Typed)

Annexure-11

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

No. DA/TRY-27/2005

Dated July 2005

To,

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 &  
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.

Please acknowledge the receipt of the scheme enclosed in quadruplicate.

Endo:- As stated above

Yours faithfully

Sd/-

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

Memo No. DA/TRY-27/2005

Dated July 2005

*Alfesh  
Sub-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)

62-72

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

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

Dated Naharlagun, the 15<sup>th</sup> 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/1-8/Court Cases/2000-01/1909, dated 28.3.03 from Shri E.R. Solomon, Accountant General (A&E) to Shri Olem 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.

*After  
Smt.  
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/15799/ Part

Dated Naharlagun, the \_\_\_\_<sup>th</sup> July 2005.

Copy to :

1. The Chief Engineer, PWD ( E/Z, W/Z ) / PHED / JECD / 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.

REGISTERED 1981

11/11/2005

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA, 1981  
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 DA/DAQ 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.I/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 Q/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.

Enclo:- As stated above.

Yours faithfully,

*Al. E. Das*  
(A.E. Das)  
Dy. Accountant General (Admin)

*Attest  
Satish  
Advocate*

65-

Draft Scheme for the transfer of the cadre of Divisional Accountants / Divisional Accounts Officers from the administrative control of A.G.(A&E) Meghalaya, Shillong to the Government of Arunachal Pradesh.

The Government of Arunachal Pradesh has decided to take over the existing cadre of Divisional Accountants / Divisional Accounts Officers from the administrative control of the Accountant General (A&E) Meghalaya, Shillong to its administrative control on the following terms and conditions:-

**1. Administrative Control:**

The administrative control of the Divisional Accountants / Divisional Accounts officers, who are presently governed under the Central Civil Service Rules and are working under the administrative control of Accountant General (A&E) Meghalaya, Shillong shall on their transfer to services of Govt. of Arunachal Pradesh, vest with the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh under Department of Finance who would exercise all the administrative powers like recruitment / promotion / leave / transfers & postings / disciplinary matters etc.

**2. Status and composition of the cadre on transfer:**

(a) The existing Divisional Accountants / Divisional Accounts Officers under the administrative control of Accountant General (A&E) Meghalaya, Shillong have the following cadre composition:-

Sl. No.	Name of the Post / Grade	Scale of Pay (Rs)	Percentage composition of cadre strength
1.	Divisional Accountants (ordinary Grade)	5500-175-9000	35%
2.	Divisional Accounts Officers (Grade-II)	6500-200- 10500	25%
3.	Divisional Accounts Officer(Grade-I)	7450-225-11500	25%
4.	Sr. Divisional Accounts Officers	7500-250-12000	15%

(b) After taking over to the service of Govt. of Arunachal Pradesh, the existing regular Divisional Accountants / Divisional Accounts Officers would continue to constitute a separate cadre with the existing cadre structure and designations.

**3. Option for transfer to service of Govt. of Arunachal Pradesh**

(a) After publication of the order for the proposed transfer of cadre in the official Gazette of the State Government, Accountant General (A&E) Meghalaya, Shillong shall call upon all the regular Divisional Accountants / Divisional Accounts Officers of the combined cadre, who find place, on the date of Gazette Notification, in the Gradation list maintained by his office to exercise their option in the prescribed proforma appended herewith through the respective executive engineers within a period of two month for going over to the service of the State Govt. of Arunachal Pradesh or for their continuance in the Central Government Service under the administrative control of A.G.(A&E) Meghalaya. The option so exercised shall be final and in no case whatsoever it shall be altered. Those who do not exercise such option within the specified period for whatever reasons shall be deemed to have made an option to remain in the Central Govt. Service under the Administrative control of A.G.(A&E) Meghalaya. The pension and other retirement liabilities of those who opt for the State Service shall be borne by the Govt. of Arunachal Pradesh.

(b) Those Divisional Accountants / Divisional Accounts Officers who opt for their continuance in the Central Government Service under the administrative control of the A.G. (A&E) Meghalaya will be posted in Maipu / Tripura.

(c) The employees of office of the Accountant General (A&E) Meghalaya, Shillong and the employees of State Government who are on deputation to the posts of Divisional Accountants / Divisional Accounts Officers shall not be allowed to exercise any option to go over to the state Govt. Such employees, if required by the state Govt., may be allowed to serve on the standard terms and conditions of deputation duly approved by the State Govt.

#### 4. Regulation of Conditions of service

Subsequent to transfer to the State Govt., the conditions of service of the existing Divisional Accountants / Divisional Accounts Officers shall be regulated as follows:

(I) **Scales of Pay-** Existing Divisional Accountants / Divisional Accounts Officers shall continue to be placed in their existing pay scales. However, in the event of any revision of pay scales of existing Divisional Accountants / Divisional Accounts Officers by the Govt. of India with effect from a date prior to the date of taking over the cadre control, the existing incumbents shall be entitled to such revised scales of pay from the said date. Any subsequent revision of pay scale by the State Govt. shall be applicable to them.

(II) **Age of Superannuation-** Since the age of Superannuation in respect of existing Divisional Accountants / Divisional Accounts Officers working under the administrative control of A.G. (A&E) Meghalaya is 60 years as applicable to the Central Govt. employees, they shall be, as a special dispensation, allowed a general extension of service without any discrimination for two years over the existing age of superannuation of 58 years applicable to the employees of state Govt. of Arunachal Pradesh, subject to the condition that the retirement age of the Divisional Accountants / Divisional Accounts Officers transferred to the State Service will be as is ordered by the Central Govt. from time to time for their employees.

(III) **Seniority under State Govt.-** The inter-se seniority of Divisional Accountants / Divisional Accounts Officers taken over to the cadre of State Govt. shall continue to be the same as existing on the date of taking over the cadre by the State Govt.

(IV) **Recruitment-** The recruitment to the post of Divisional Accountant after taking over the cadre by the State Govt. would be as per policy decided by the govt. of Arunachal Pradesh.

(V) **Promotions--** After taking over the cadre, the State Govt. shall formulate suitable rules under the Arunachal Pradesh Service Rules to provide adequate promotional avenues for the cadre which shall, however, not be less advantageous than what is available under the administrative control of A.G.(A&E) Meghalaya. Till such rules are framed, the promotions shall be regulated by the extant rules / instructions applicable prior to the date of taking over the cadre.

(VI) **Training / Departmental Examination -** State Govt. shall, with a view to provide adequate qualified manpower to the taken over cadre of Divisional Accountants / Divisional Accounts Officers, evolve a system of theoretical / practical training in Public Works Accounting system and functioning of Public Works Divisions and a suitable departmental examination comparable to the existing training and examination to ensure that the existing quality and regularity of rendition of accounts to the A.G.(A&E) Meghalaya is maintained.

(VII) **Transfers and postings-** The transfer and postings of Divisional Accountants / Divisional Accounts Officers shall be made by the State Government. No employee from the state Govt. shall be posted to the regular charge of any division unless he / she has completed the special training required in Public Works Accounting system as well as the functioning of the Public Works Divisions and has subsequently qualified in an appropriate departmental examination to be introduced by the State Govt. of Arunachal Pradesh as referred to in clause 4(VI). Notwithstanding this provision, the Director of accounts and Treasuries, Arunachal Pradesh Govt. shall have the powers to appoint any employee of the State Govt. as Divisional Accountant / Divisional Accounts Officers on a temporary and ad-hoc basis for a specified period, till the post is filled by regular qualified personnel.

(III) Disciplinary Authority- Subsequent to the transfer of the cadre to the state Govt, the Director of Accounts and Treasuries, Arunachal Pradesh Govt. shall be the disciplinary authority in respect of Divisional Accountants / Divisional Accounts Officers.

(IX) Reporting and Reviewing Officers- The Executive Engineer of the various divisions shall continue to be the reporting officer for the purpose of writing of Annual Confidential Reports in respect of Divisional Accountants / Divisional Account Officers working under them. The FA/CAO of the concerned department shall be the Reviewing Officer and Director of Accounts and Treasuries, Arunachal Pradesh shall function as the accepting authority.

5. Transitional Provisions- Till such time the State Govt. frames appropriate rules concerning conditions of service of the taken over cadre, the incumbents shall be governed by the rules hitherto in force.

(c) Power to relax- Where the Govt. of Arunachal Pradesh is of the opinion that it is necessary or expedient to do so, it shall, after consultation with the Comptroller & Auditor General of India, by an order for reasons to be recorded in writing, relax any of the provisions of these terms and conditions with respect to any class or category of persons.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

## ORDER SHEET

1. Original Application No. 130/07

2. Misc. Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Tashi Namigey vs. Union of India & OrsAdvocate for the Applicant(s) M. Chandra, S. NathMs. Le. Dutt.....Advocate for the Respondent(s) Case.....

File No. of the Registry	Date	Order of the Tribunal
2802	25.5.2007	XXXXXX

25.5.2007 The Applicants are working as Divisional Accountant on deputation basis under the administrative control of A.G. (A&E), Meghalaya etc and they are posted in different divisions at different places. The A.G. (A&E), Meghalaya, A.P. etc. was requested to transfer the cadre of Divisional Accountant to the State of Arunachal Pradesh. Their deputation period was extended as per orders of this Tribunal. The Commissioner of Finance, Govt. of A.P. requested the Respondent No.2 to allow the serving Divisional Accounts on deputation basis to continue. On 28.3.2005, 31 Divisional Accountants were granted extension of deputation period including the present

Contd..

*After*  
*Lab.*  
*Advocate*



OA. 130/2007

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Contd  
25.5.2007

Applicants. On 15.7.2005, Respondent No.2 was requested to reconsider its decision on repatriation of the deputationists. A scheme was submitted before the Respondent No.2 by the Govt. of A.P. for taking over the administrative control of Accounts set up from the Respondent No.2. Respondent No.2 informed that C&AG has framed a draft scheme regarding proposed transfer of D.A.s and the same was forwarded to the State of A.P. for its comments. While so, the impugned order dated 5.4.2007 has been passed directing recovery of the alleged excess salary to the Applicants due to alleged overstay on deputation which is challenged in this O.A.

Heard Mr.M.Chanda, learned counsel for the Applicants. He submitted that as per orders of this Tribunal which was upheld by the Hon'ble High Court the deputation period of the Applicants was extended and the Respondents are now attempting to recover the alleged excess payment made during that period also. Mr.G.Baishya, learned Sr.C.G.S.C. representing the respondents submitted that notice should be issued to the Respondents.

Issue notice to the Respondents. Post the case on 12.07.2007. However, I direct the Respondents to maintain status quo in so far as the Applicants are concerned till the next date.

S/VICE CHAIRMAN



of Application

25.5.07

on which copy is received

25.5.07

on which copy is received

25.5.07

certified to be true copy

25.5.07  
Section Officer (Jdli)  
C. A. T. Guwahati Bench  
Guwahati-5

25.5.07  
MS/29507

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

IN O.A NO. 182/2007

File in Court on.....  
Court Officer.

SHRI MALAY BHUSAN DEY AND OTHERS -  
APPLICANTS  
-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 statements made in paragraph 4.1 of the Original Application, the Respondents humbly submit that the Applicants are employees of the Government of Arunachal Pradesh who were appointed on deputation basis for a specified period only.
3. That with regard to statements made in paragraph 4.2 of the Original Application, the Respondents humbly submit that they have no comments to offer.
4. That with regard to the statement made in paragraphs 4.3 and 4.4 of the Original Application, the Respondents humbly submit that the Applicants are regular employees 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

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through  
Brahmaputra  
Society  
14.12.07  
Duly Accountant General (Adm)  
Office of the Accountant General (Adm)  
Meghalay etc. Shillong

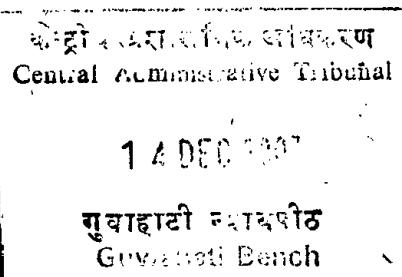
for Divisional Accountants) through the Staff Selection Commission to fill up vacancies would take time, Respondent

No. 2 from time to time called for applications from the experienced staff of Public Works Department, PHE, RWD, I&FC, Electricity Divisions 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 Applicants have been selected and posted as Divisional Accountant on deputation basis under the administrative control of Respondent No.2. The letter of Respondent No.2, while appointing the Applicants as Divisional Accountant on deputation categorically stated that the period of deputation was initially for one year and that the Applicants were liable to work as a Divisional Accountant on deputation basis in any of the three States of Tripura, Arunachal Pradesh and Manipur. The said letter also stated that the period of deputation could be extended for a maximum period upto three years and in no case it will be extended beyond three years. However, the Applicants are still continuing in their deputation posts.

*Recruitment Rules 1988 (Appendix I)*

*Appointment letter dated 28.1.1997 (Appendix II)*

5. That with regard to the statement made in Paragraphs 4.5 and 4.6 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. and stated that the formal notification in this regard would be communicated by the State Govt. in due course vide their letter dated 12.1.2000. However, no such notification was issued by the Govt. of Arunachal Pradesh till date. 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 State Accountant General without the prior consent and approval of the Comptroller & Auditor General of India. Only

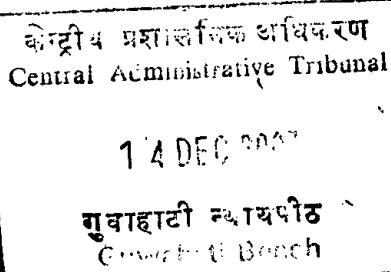


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*Mr. Ruth*  
Deputy Accountant General (Adm)  
Office of the Accountant General (Adm)  
Meghalaya etc. Shillong

after the State Govt. accept all the terms and conditions laid down by the C&AG 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 Govt. The Respondent No. 2 humbly submits that on completion of the Applicant's deputation period, the repatriation order to their parent department were issued to the Applicants. However, the Applicant, instead of reporting back to their parent department filed a petition in Gauhati High Court which was transferred to CAT, Guwahati against the repatriation order. The Hon'ble CAT vide its order dated 22/6/2001 passed an order that as the State Govt. of Arunachal Pradesh had taken a decision to absorb the Applicant No.1 (Shri Malay Bhusan Dey) in the state cadre by order dated 12/1/2001 nothing is left to be decided by the Hon'ble CAT Thereafter, the Respondent No. 2 filed a writ petition before the Hon'ble Gauhati High Court challenging the impugned judgement of the learned Tribunal vide WPC (C) No. 3992/2002 .

6. That with regard to the statement made in paragraph 4.7 of the Application, the Respondents humbly submit that as stated earlier, the Government of Arunachal Pradesh had in January 2000 (vide its letter No. DA/TRY/15/99 dated 12/1/2000) informed Respondent No. 2 that the take over the cadre of Divisional Accountant was under active consideration Thereafter, the State Government of Arunachal Pradesh did not initiate any further move to take over the cadre of Divisional Accountants in the State of Arunachal Pradesh. After more than two years, the Commissioner (Finance), Govt. of Arunachal Pradesh vide his letter No. DA/TRY/15/99 dated 11/3/2002 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. 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 Govt. of Arunachal Pradesh through the authorised officer of the State Govt. after taking over of the administrative control of the cadre of Divisional Accountants / Divisional



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Mr. Dutt  
Deputy Accountant General (Admn.)  
Office of the Accountant General (Admn.)  
Meghalaya etc. Shillong.

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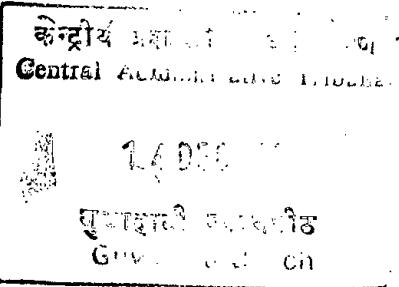
Accounts Officer / Senior Divisional Accounts Officer of Works Divisions belonging to PWD/PHE/IFCD/RWD and Power Departments of Arunachal Pradesh.

More than four years had elapsed but the State Government of Arunachal Pradesh has not initiated any further move to take over the cadre of Divisional Accountants in the States from the administrative control of the Accountant General (A&E). However, the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh vide his letter No. DA/TRY/27/2000/1060-63 dated 30/7/2005 has forwarded a scheme stating that the Govt. of Arunachal Pradesh has decided in pursuance of Cabinet decision of the State Government to take over administrative control of the cadre, of Divisional Accountants / Divisional Accounts Officer / Senior Divisional Accounts Officer from the Accountant General (A&E), Meghalaya etc. Shillong. 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 government's proposal which was forwarded to the state government by this office under letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 for acceptance/comments. The state government was reminded vide letter No. DA Cell/1-1/2000-2001/28 dated 28.4.2006 and letter No. DA Cell/1-1/2000-2001/96 dated 6.6.2006, letter No. D.O. No. DA Cell/BOC/2006/977 dated 25.1.2007, letter No. D.O. No. DA Cell/1-1/2000-2001/1171 dated 6.3.2007 and letter No. D.O. No. DA Cell/1-1/2000-2001/549 dated 16.8.2007. It is again humbly submitted that the post of Divisional Accountant to which Applicants were appointed on deputation basis is a Civil Post under the Union of India. The handing over of the Divisional Accountants cadre from administrative control of Accountant General cannot take place without the consent of the Comptroller and Auditor General of India.

Letter No. DA/TRY/15/99 dated 12/1/2000 -Appendix -III

Letter No. DA/TRY/99 dated 11/3/2002 Appendix IV

Letter No. DA/TRY/27/2000/1060-63 dated 30/7/2005 Appendix V



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*Mr. Bhattacharya*  
Deputy Accountant General (Adm)  
Office of the Accountant General (Adm)  
Meghalaya State, Shillong

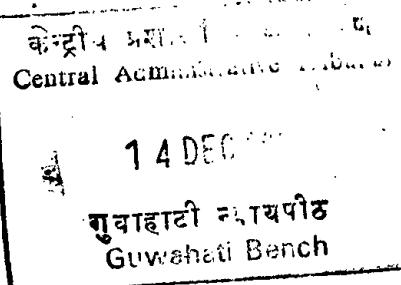
7. That with regard to the statement made in paragraph 4.8 of the application, the Respondent No.2 humbly submit that in this connection in reply to letter No. DA /TRY/Part/15/99 dated 12.4.2005 ( Appendix-VI ) received from the Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, then reaffirmed vide letter No. DA Cell/108/Court case/2000-2001/147 dated 24.5.2005 (Appendix- VII ) the decision to repatriate 12 Divisional Accountants on deputation in the light of the Hon'ble Guwahati High court, Itanagar Bench order dated 1.2.2005 and repatriation orders had been issued to 12 Divisional Accountants. However, these 12 deputationist had filed petition 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 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. Accordingly we direct the Applicants to make individual comprehensive representation 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" (Appendix -VIII ) However, no such representation have been received by the Respondent No.2 till date.

No. DA /TRY/Part/15/99 dated 12.4.2005 Appendix-VI .

DA Cell/1-8/Court case/2000-2001/147 dated 24.5.2005 -Appendix- VII

Hon'ble CATs order dated 21.3.2007 – Appendix - VJII

8. That with regard to the statement made in Paragraph 4.9 of the Application, the Respondent No. 2 humbly submits that the Recruitment Rules for Divisional Accountants do not provide for such absorption and all the Divisional Accountants on deputation after completion of their deputation periods are required to be repatriated back without any exceptions. The Comptroller and Auditor General of India has also confirmed that the



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Mr. Arun  
Deputy Accountant General (Adm)  
Office of the Accountant General (A&E)  
Meghalaya etc. Shillong

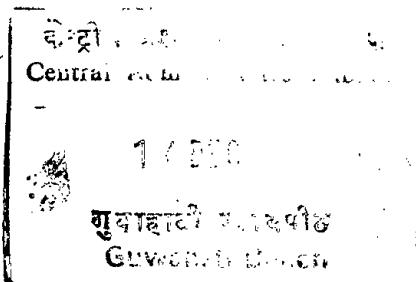
Recruitment Rules for Divisional Accountants cadre do not provide such absorption. The Respondent No.2 humbly submits that on compliance of the Government of India ,Ministry of Personnel, Public Grievances and pension's Office Memorandum No.AB14017/30/2006-Estt.(RR) dated 29.11.2006 the recovery orders of excess drawl of pay and allowance on over stayal on deputation periods were issued to these deputationist as their deputation term expired long back and denied to join in their parent department.

9. That with regard to the statement made in paragraph 4.10 of the application, the Respondents humbly submit that the Director of Accounts and Treasuries vide his letter No. DA/Try-27/2000/1060-63 dated 30.7.2005(Annexure -V) 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 which was sent to the Comptroller and Auditor General of India who has prepared a draft scheme taking into account of 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 -IX) for approval/comments. In response to this office letter dated 25.11.2005, the Government of Arunachal Pradesh only recently conveyed the decision to formally take over the cadre of DAs/DAOs/Sr.DAOs from the administrative control of this office with modification of some of the clauses for draft scheme vide letter No. DA/TRY/15/99/1921 dated 8.9.2007 (Appendix-X). The said scheme has been forwarded to the Comptroller and Auditor General of India's office for perusal and comments vide this office letter No. DA Cell/1-1/2000-2001/569 dated 28.9.2007 (Appendix-XI).

letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 -Appendix -IX

letter No. DA/TRY/15/99/1921 dated 8.9.2007 -Appendix-X

letter No. DA Cell/1-1/2000-2001/569 dated 28.9.2007- Appendix-XI.



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Mr. Arun  
Deputy Accountant General, Admin.  
Office of the Accountant General (Adm)  
Meghalaya etc. Shillong.

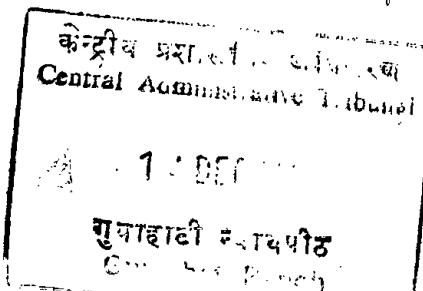
10. That with regard to the statement made in paragraph 4.11 of the application, the Respondents humbly submit that the Financial Commissioner, Government of Arunachal Pradesh was informed vide D.O. letter No. DA Cell/1-8/Court Case/2000-2001/1909 dated 28/3/2005 that the question of absorption of the 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 -XII) 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.

*D.O. letter No. 425 NGE(APP)/10-2005 dated 6/7/2005 Appendix -XII*

11. That with regard to the statement made in paragraphs 4.12 and 4.13 of the application, the Respondents humbly submit that in compliance of the D.O. P&T circular dated 29.11.2006 the orders for excess recovery of pay & allowances drawn on overstay on deputation periods was issued to these Applicants vide this office letter No. DA Cell /2-46/DDA/Vol.III/2007/10-15 dated 5.4.2007 (Appendix - XIII) as they have been continuing in the deputation post on expiry of deputation terms. Further, the DO P&T's instructions are also equally applicable to all employees while over stayal on deputation.

*letter No. DA Cell /2-46/DDA/Vol.III/2007/10-15 dated 5.4.2007 Appendix - XIII*

12. That with regard to the statement made in paragraphs 4.14 and 15 of the application, the Respondents humbly submit that on compliance of the Hon'ble Tribunal's interim order dated 25.5.2007 passed in the O.A No.130/2007, filed by Shri Tashi Namgy and others before the Hon'ble Tribunal, the implementation of Government of India ,Ministry of Personnel, Public Grievances and pension's Office Memorandum No.AB14017/30/2006-Estt.(RR) dated 29.11.2006 has been kept in abeyance until further orders and the concerned Chief Engineers have been requested to communicate the action taken in this regard immediately vide letter No. DA Cell/2-46/DDA/Vol.III/



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*M. Arith*  
 Deputy Accountant General (Adm)  
 Office of the Accountant General (Adm)  
 Employment Sec. Shillong

86-90 dated 29.6.2007 (Appendix -XIV) with a copy forwarded to all the Executive Engineers and the Divisional Accountants on deputation.

*letter No. DA Cell/2-46/DDA/Vol.III/ 86-90 dated 29.6.2007 Appendix-XIV*

13. That with regard to the statement made in paragraphs 4.16 and 4.17 of the application, the Respondents humbly submit that they have no comments to offer.

Grounds for relief(s) with legal provisions

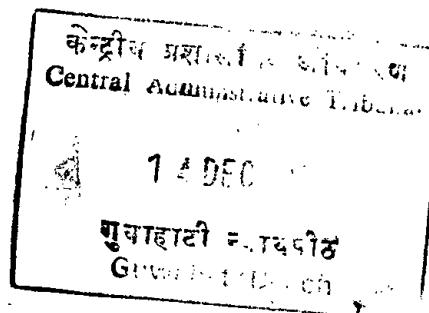
14. That with regard to the statement made in paragraphs 5.1,5.2,5.3,5.4,5.5, 5.6,5.7 of the application, the Respondents humbly submit that they are not entitled to get relief as they are continuing in the Deputation post on expiry of the deputation terms against the rule.

15. That with regard to the statement made in paragraphs 6,7, 8 and 9 of the application, the Respondents humbly submit that they have no comments to offer.

In view of the facts and circumstances stated above, the Respondents most respectfully and humbly pray that the present Application as filed be dismissed and the interim order granted in the case be vacated and order dated 5.4.2007 be allowed to be implemented.

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 27<sup>th</sup> of November , 2007 at Shillong.



*Ms. Ruth*

Deponent.

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

(Department of Expenditure)  
New Delhi, the 06th September, 1988.

G.O.R. 749 - In exercise of the powers conferred by clause (5) of article 148 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, ~~whether or not 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, except any person from the operation of this rule.~~

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.

IN EXERCISE OF THE POWER

BY THE GOVERNMENT OF INDIA

Name of post	No. of post	Classification	Scale of pay	Whether selecti- on post	Whether benefit of service ad- missible under rule 30 of the Central Civil Ser- vice (Per- son) Rules 1972
Divisional Accountant	1	Central Admin. Cadre	Rs. 10,000/- per month	on post	of added or non- years of selecti- on post

गुवाहाटी एक्सेस  
Guwahati

affixed  
Labin Jay  
ex-103

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-Gazetted  
 load. 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 promoted probationaries. If any.

7. 8. 9. 10.

Between 18 and Bachelor's degree of a recognised Note: The crucial date Note: The educational qualifications is flexible 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

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 study 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 Entertainment 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

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.

2. 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.

12. If a Departmental Promotion Committee exists, what are the 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 :-

(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)

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

14 DEC

प्राप्तिकार्यालय

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

EO No. DA Cell/ 217

Dated: 28/1/97

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 Malay Bhushan

~~Deputy Assistant~~ at present working in the office of the Chief Engineer, RWA, Itanagar is posted on deputation as Divisional Accountant in the office of the Executive Engineer, HE

Division NO III, Udaipur, Tripura.

2. Shri Malay Bhushan shall join in 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 position 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 Malay Bhushan

~~Deputy~~ will be for a period of (one) year at the initial stage, from the date of joining in the office of the Executive Engineer, HE, Itanagar.

NO III, Udaipur, Tripura.

However the period of deputation may be extended upto 3 years. But in no case, the period of deputation will be extended beyond 3 years.

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

Shri Malay Bhushan ~~Deputy~~ will be governed by the Government of India, Ministry of Finance, Public Grievances and Pension (Dept. of Personnel and Training) letter No. 2/12/87-Estt (Pay. II) dtd: 29.4.1980

Central Govt.  
Contd. 2/2

गुवाहाटी = । । । । ।  
Guwahati Bench

Abhijit  
Gupta  
S. C. S.

P.T.O. Contd... 2/-

and as amended and modified from time to time; While on deputation

Shri Malay Bhushan Roy 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 Malay Bhushan Roy

Roy 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 Malay Bhushan Roy  
shall be treated as final and cannot be altered/changed later under  
any circumstances whatsoever.

5. The Dearness Allowance, D.A., Children Education Allowance, T.A.,  
L.T.C. Pension, etc. will be governed by the Govt. of India, Ministry  
of Finance OM No: F1(6)E-IV(4)/62 dt. 7/2/1962 (Incorporated as  
Annexure 31 of Chendum 1962 S.R. Volume. IV (13th Edition) and as  
amended and modified from time to time.)

6. Shri Malay Bhushan Roy 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 Malay Bhushan Roy

Roy (on deputation) is entrusted additional charges  
appointed or transferred to a post/station other than cited in this  
Establishment. Order

Sd

Sh. D.A.C.

Sh. Accountant Officer

12-14-62

- 3 -

Memo No. DA Dell/2-49/94-95/

2669 + 2674

Dated: 28/1/37

Copy forwarded for information and necessary action to :-

- 1) The Accountant General (A&E), Manipur, Imphal.
- 2) The Accountant General (A&E) Tripura, Agartala.
- 3) The Chief Engineer,

He is requested to release Shri

immediately with the direction to report for duty to his place of posting on deputation under intimation to this office.

REGISTERED

He is requested to release  
immediately Shri

with the direction to report for duty to his place of posting on  
deputation under intimation to this office.

REGISTERED. The Executive Engineer

He is requested to intimate  
the date of joining of Shri

REGISTERED. Shri

O/O the

7. B.O. File
8. S.C. File.
9. P.C. File.
10. File of the deputationist.

*[Signature]*  
Sr. Accounts Officer

পুনর্গত  
Guwahati  
Assam



### Appendix - III

ITS  
(O)  
(R)

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries  
Naharlagun-791 110

NO. DA/TRY/15/99

Dated, the 17th Jan 2000

10

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 Gadre along with the willing personnel can be completed immediately.

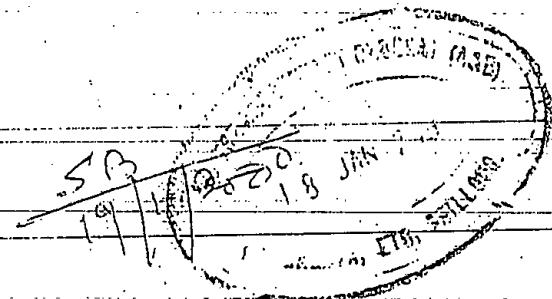
Formal notification is under issue and shall be communicated in due course.

Yours faithfully,

VY Mequ

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

affectionately  
Graham S. Greene



Pradesh  
GUN. ....

गुवाहाटी न्यायपीठ  
Guwahati Bench

REGD. POST

GOVT OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS & TREASURIES  
NAHARLAGUN

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.

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.

Central Administrative Tribunal

14 DEC 2002

Guwahati Bench

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

Appendix - V

NO. DA/TRY-27/2000/1060-63

Dated 20 July 2005.

To,

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.

Enclo : As stated above.

Yours faithfully

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

Dated 20 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.

14/5/05  
गुवाहाटी न्यायपीठ  
Guwahati Bench

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

44  
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.

केन्द्रीय न्यायालय  
Central Administrative Tribunal

14 DEC 2007

गुवाहाटी न्यायालय  
Guwahati Bench

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1.5 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.

1.6 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.

## 2. 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  
Central Accounts Service

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Guwahati Bench

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.

## 3. 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*.

## 4. Recruitment

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

## 5. Method of Recruitment:

5.1 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 )

18  
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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 incase 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 therafter intensive practical training in all aspects of public works accounts for a further period of 6 ( Six ) months.

14 DEC

গুৱাহাটী নথায়েট  
Guwahati Bench

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.

gull/ Fax/6 att 5.5.05

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DA/18/1083/15/05

Apr. 12 2005 12:02PM P1

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GOVT. OF ARUNACHAL PRADESH  
DIRECTORATE OF ACCOUNTS AND TREASURIES  
NAHARLAGUN

Appendix - VI

DA/TRY/Part/15/99

Dated Naharlagun the \_\_\_\_\_ April'05.

To

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

Sub:- Divisional Accountants on deputation – regarding.

Ref:- Your No. DA Cell/1-8/Court Case/2000-01/1909 dated  
March 24,05. *DA/44b*

Sir,

While inviting a reference to your letter no. & dated quoted above, I am directed to request you to furnish detail list of 12 Divisional Accountants on deputation in whose cases Divisional Bench of Guwahati High Court has ordered for repatriation / reversion back to their parent department. Similar information also be furnished in respect of 19 Divisional Accountants whose cases are pending in the Court/ CAT in order to persuade the officials to withdraw the cases.

An early response is solicited.

*Abhijit Borkindar*  
केन्द्रीय प्रशासन न्यायालय  
Central Administrative Tribunal  
14 DEC 2005  
गुवाहाटी न्यायालय  
Guwahati Bench

Yours faithfully,  
*(C.M. Moringmaw)*  
Director of Accounts & Treasuries,  
Govt. of Arunachal Pradesh,  
Naharlagun.

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11/11  
S. M. Moringmaw

10/05  
K. D. Duni

Speed Post

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ::  
MEGHALAYA ARUNACHAL PRADESH :: SHILLONG :: 793001.

No.DA Cell/1-8/Court Cases/2000-2001/147,

Dated:-20-5-2005.

24

To

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

Sub:- *Divisional Accountants on deputation- regarding.*

Sir,

In inviting a reference to your letter No.DA /TRY/Part/15/99 dated April,2005 on the subject mentioned above, I am to inform you that, in light of the order dated 1.2.2005 passed in 12 cases by the Hon'ble Gauhati High Court, Itanagar Permanent Bench, Naharlagun, repatriation orders in respect of 12 (Twelve) Divisional Accountants on deputation to their parent department are being issued.

Further, in respect of another 19 (Nineteen) cases of a similar nature regarding Divisional Accountants which are pending in the Hon'ble High Court/CAT Guwahati, the Standing Counsels have been requested to take necessary steps to transfer these cases to the Hon'ble High Court, Itanagar Permanent Bench, for speedy disposal.

*Arunachal Pradesh*  
Central Accounts & Treasuries  
14 DEC 2005  
Yours faithfully,

*S.A. Bathew*  
(S.A.Bathew)

St.Dy. Accountant General (Admn).

गुवाहाटी न्यायालय  
Guwahati Bench

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

- 21 -

Appendix - VIII

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

106

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

✓ Lendi Chatung

S/o Late Lendi Sala

O/o the Executive Engineer, Along Electrical Division

Department of Power, Along

✓ Tonkeshwar Borah

S/o Late Golap Chandra Borah

O/o the Executive Engineer

Tezu Public Works Division

✓ Sancharan Kumar Dam

S/o Late Subodh Kumar Dam

O/o the Executive Engineer

Seppa Electrical Division

✓ Love Rao

S/o Luxmi Rao

O/o the Executive Engineer

Hydro Power Development Department

✓ Jitunni Karmum

S/o Sri T. Karmum

Irrigation & Flood Control Department

Daporijo Division, Upper Subansiri

Daporijo

✓ Dilip Kumar Dey

O/o the Executive Engineer

Public Works Department, Goleng

East Siang District

✓ Tashi Namgey

O/o the Executive Engineer

P.W.D. Division Sepa

East Kameng District, Sepa

✓ Lani Bhutan Karmakar

S/o Late K. M. Karmakar

P.W.D. Division, Dhempherijo

Upper Subansiri District

Applicants in O.A. No. 114/2005

✓ Shri L. Appal Swami

S/o Late L.A. Naidu

Presently working as Divisional Accountant

O/o the Executive Engineer

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

2. M.V.Kunikeyan Nair  
S/o K.P.V.Nair  
Working as Divisional Accountant  
O/o the Executive Engineer  
Kakching 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

1. Mr. Associates 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.

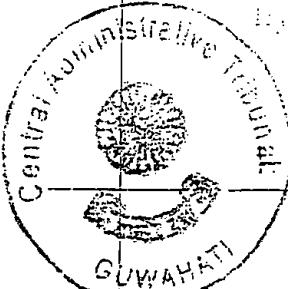
2. The Accountant General (A&E)  
Arunachal Pradesh, Meghalaya, Mizoram etc.  
Shillong - 793 003.

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.



Government of India  
Ministry of Environment & Forests  
Government of Arunachal Pradesh  
Itanagar

The Chief Engineer, Rural Works Department  
Government of Arunachal Pradesh  
Itanagar

The Chief Engineer, I&FCD  
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.

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

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



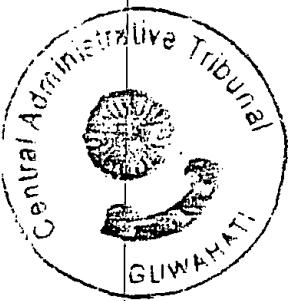
ORDER (ORAL)

SANTU KANDAN, R.V.(V.C.)

There are 8 Applicants in O.A.114/2005, 3 in O.A.115/2005 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

relief:-

"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 1st 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

met 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

Central Admin. Tribunals  
GUNJALI  
administerive 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."

1. The pleader came up for hearing, learned counsel for the Applicants M. N. 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

सत्यापिता

20.3.07  
लक्ष्मण अधिकारी  
Section Judge (Jud)

Central Administrative Tribunal

लक्ष्मण अधिकारी

Section Judge (Jud)

Central Admin. Tribunals

लक्ष्मण अधिकारी

Section Judge (Jud)

sd/VICE CHAIRMAN

sd/MEMBER (A)

- 24 -

Appendix IX

(85) 12

Registered Post

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,

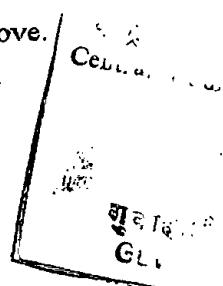
In inviting a reference to this office letter No. DA Cell/1-8/Court case/Vol.II/1045 dated 23.8.2005 on the subject cited above, I am to state that the draft scheme framed by the C&AG's office regarding proposed transfer of DAs cadre has been received by this office. A Copy of the draft scheme is forwarded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

*affixed stamp*  
Enclo:- As stated above.

Yours faithfully,

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



GOVT. OF ARUNACHAL PRADESH  
FINANCE DEPARTMENT  
ITANAGAR

NO. DA/TRY/15/99/1021

Dated Naharlagun, the

August 2007.

To,

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

Sub :- Taking over of the cadre of Divisional Accountants/Divisional Account Officers / Sr. Divisional Account Officers.

Ref :- Your D.O. No. DA. Cell/1-1/2000-2001/1509, dated 25.11.2005  
NO. DA. Cell/Annual Trans./2006-07/Vol-III/601-dtd. 5.9.2006

Sir,

While referring to your letter quoted above, I am to convey the decision of the Govt. of Arunachal Pradesh to formally take over the cadre of the DAs / DAOs / SDAOs from your administrative control with the following modification in concerned clauses of the draft scheme.

Clause 4(I) Scale of pay :- Existing DA/DAO's shall continue to be placed in their existing pay scale till a separate scale of pay is introduced by the State Govt. However, any subsequent revision of pay scales by Central Govt. after taking over shall not be binding on the State Govt. and such matters shall be governed with the orders issued by Govt. of Arunachal Pradesh for its employees from time to time.

Clause 4(II) Age of Superannuation :- The existing age of superannuation of 60 years as applicable in Central Govt. services will continue to be applicable to the Cadre as a special dispensation for those who are appointed by AG, Shillong on regular basis before issue of this order. Others will retire under the superannuation policy of State Govt.

Clause 4(IV) Recruitment :- The recruitment after taking over of the cadre would be done as per policy of the State Govt. through Arunachal Pradesh Public Service Commission (APPSC) under proper recruitment rules framed by the Director of Accounts & Treasuries (DAT) in consultation with Finance Department. Those who are on deputations shall be reverted back in due course of time as and when regular appointment is made by the State Govt.

*Put to department. Examine the implications of the order issued by  
Govt. and take*

Contd. next page

DA/DA

Clause 4(V) Promotion: - Matters of promotion shall be regulated by the rules/instruction issued from time to time by the Govt. of Arunachal Pradesh and as applicable to its employees.

Clause 4(VII) Transfer and Posting: - Shall be done by the State Govt. through DAT in consultation and concurrence of Finance Department.

Clause 4(VIII) Disciplinary authority: - The Commissioner (Finance) and the DAT shall be the disciplinary authority in respect of Gazetted and Non-Gazetted posts of the cadre respectively.

Clause 4(IX) Reporting & Reviewing Officers: - The Commissioner(Finance)/ DAT/ Executive Engineer concerned shall be the Accepting/Reviewing/Reporting Officer in case of Gazetted Officers and the DAT / Superintending Engineer / Executive Engineer shall be the Accepting/Reviewing / Reporting Officer in respect of the Non-Gazetted posts of the cadre respectively.

Other terms and conditions as laid down in the draft scheme (copy enclosed) forwarded by you are found acceptable other than those mentioned above.

In view of the Govt.'s decision to take over the cadre with the above modifications, your high office is requested to modify the aforesaid scheme accordingly and extend your kind advice for smooth handing over and taking over of the administrative control of the cadre of DAs/DAOs/SDAOs.

Enclo : 1 copy

केन्द्रीय विकास बोर्ड  
Central Administrative Tribunal

7/6/05

गुरुग्राम राजस्थान  
Government Dcsh

Yours faithfully,

K.K. Sharma

(K.K. Sharma)  
Development Commissioner (Finance)  
Govt. of Arunachal Pradesh,  
Itanagar

OFFICE OF THE ACCOUNTANT GENERAL (A&E),  
 MEGHALAYA, ARUNACHAL PRADESH & MIZORAM  
 SHILLONG-793 001  
 Phone : 0364-2223682 (O) Fax : 0364-2223103

No.DA Cell/1-1/2000-2001/569  
 Dated: September 28, 2007

To

Shri Saurabh Narain,  
 Asstt. Comptroller & Auditor General (N),  
 Office of the Comptroller & Auditor General of India,  
 10, Bahadur Shah Zafar Marg,  
 Indraprastha Head Post Office,  
 NEW DELHI: 110 124.

28, SEP 2007

Subj:- Take over of the Divisional Accounts cadre by the State Government of Arunachal Pradesh.

Ref: Headquarters D.O.letter No.618-NGE (App.)/66-2005 dated 3<sup>rd</sup> October 2005.

Sir,

In July 2005 the Government of Arunachal Pradesh had forwarded a scheme for taking over of a Divisional Accountants cadre in that State. The said scheme was forwarded to HQrs. for comments. HQrs. in turn under D.O.letter No.618-NGE(App.)/66-2005 forwarded a draft scheme for acceptance by the State Government. A response to this has recently been received from the State Government vide Government of Arunachal Pradesh, Finance Department letter No.DA/TRY/15/99/1921 dated 8.9.2007, a copy of which is enclosed herewith.

2. The comments of this office with reference to the modifications proposed by the State Government to the various clauses of the scheme prepared by HQrs. is enclosed as Appendix-I. It may please be noted that the State Government in its letter has requested that the scheme for the transfer of the Divisional Accountants cadre as was proposed by HQrs. office, be modified to the extent as suggested by the State Government.
3. HQrs. decision/further suggestions in the matter may please be communicated at an early date.
4. This issues with the approval of Accountant General.

Yours sincerely,

Sr.Dy.Accountant General (Admn.)

ज्ञानरत्न नगरी  
 Guwahati Bench

Manish Kumar  
Asstt C&A G (N)

Appendix - XII

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

रा. ८२. ८८८/८८८/८८८/८८८/८८८/८८८/८८८

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.

Central  
Govt.

attended  
Gabinete  
Secty

Y. M. M.  
S. K. K.  
S. K. K.

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

No. DA Cell/2-46/DDA/Vol.III/2007/10 - 15

Dated:- 5.1.2007

To

Chief Engineer  
PWD, PHE, I&FCD, RWT, Power Department  
Government of Arunachal Pradesh.  
Itanagar.

Sub:- Implications of overstaying while on deputation.

Sir,

Please find herewith a copy of the Office Memorandum of Govt. of India, Ministry of Personnel Public Grievances and Pension Department of Personnel and Training No. O.M.No. AB 14017/30/2006-Estt (RR) dated 29.11.2006 regarding implications of overstaying while on deputation without the approval of Competent Authority. The Govt. of India has decided that all the cases of deputation should be regulated as per the conditions laid down in the above O.M.

In this connection I am to state that a good number of employees of the Govt. of Arunachal Pradesh who have overstayed their deputation period inspite of their deputation period which had already expired are not willing to join their parent department even after repatriation. They are enjoying the higher Central pay scale for Divisional Accountant compare to the pay scale of the State Government.

As per para III of the office memorandum, the Govt. of India has decided that in the event of the deputationist overstaying for any reason whatsoever he is liable to disciplinary action and other adverse Civil/Service consequences which should include that the period of unauthorised overstaying shall not count against service for the purpose of pension and that any increment due during the period of unauthorised overstaying shall be deferred, with cumulative effect till the date on which officer rejoins his parent cadre.

*affixed copy for service*

These will equally apply to all deputationist including State Govt. Officer/All India Services Officers joining Central Govt. Post on deputation and to officers proceeding on deputation to state govt. /autonomous & statutory institutions/foreign bodies etc.

Therefore you are requested to take action in regards to the scale of pay of all Divisional Accountants to be re-fixed in their respective scale of pay in the State Govt. from the date of their unauthorised over stay on deputation. (ii) excess drawl of pay & allowance and increments drawn after the date in every case to be recovered. (iii) Increments due in the state scale of pay to be deferred with cumulative effect till the date on which the officer rejoins his parent department.

You are therefore, kindly requested to take action as regards to para 3 of the GOI order against the deputationist (List enclosed) who have overstayed their deputation periods under intimation to this office.

Enclo:- As stated above.

Yours faithfully,

Dy. Accountant General (Admn)

Memo No. DA Cell/2-46/DDA/Vol.III/2007/

Dated:-

Copy forwarded to:-

The Pr. Accountant General (Audit), Meghalaya etc., Shillong with the request to kindly issue instruction to the field parties to verify with reference to the instructions passed by this office regarding over payment of pay & allowances to Divisional Accountant on deputation.

28/12/2007

Dy. Accountant General (A)

29  
Memo No. DA Cell/2-40/DA/Vol.II/2007/14-81 Dated: 5-1-2007

Copy forwarded to the :-

1. The Executive Engineers, P.W.D./ R.W.D./ I & F C/ P.H.E/ Electricity Department

2. Shri \_\_\_\_\_ D.A.

Office of the Executive Engineer, P.W.D./ R.W.D./ I&FC/ PHE/  
Electricity Department,

Q. M. D. W.  
Sr. Accounts Officer  
I/c DA Cell.

P.A. to DAG (Admn.) /161  
Date: 8/11/06

Dy. Asstt (A&E) / 35, dt 8/11/06  
NO. 904 coll/ Inward /177 dt 8.3.07 - 31 -

(3) 130

IMMEDIATE

NOTAB/140/17/30/2006-Estt (RR)

Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training

Dated the 29<sup>th</sup> November, 2006 Kiru Auro

OFFICE MEMORANDUM 29 NOV 2006

Sh. Awk. Langstieh  
AG (A&E)  
Meghalaya

Subject: Implications of overstaying while on deputation.

It has been brought to notice of the Government that that even though the terms and conditions of deputation issued by the various Ministries/Departments/Offices specify the period of deputation, there have been a number of cases of overstaying without the approval of the competent authority. A number of proposals for regularization of such overstaying are also being received for approval by the Competent Authority. It is necessary to ensure that there is no laxity on the part of the controlling authorities in relieving the deputationist and the deputationist should not go by the presumption that he needs to join his parent cadre only after being formally relieved by the borrowing department. It has, therefore, been decided that in future all cases of deputation shall be regulated by the following conditions viz.:-

- (i) The terms and conditions of deputation shall clearly lay down not only period of deputation as per the Recruitment Rules for the post or as approved by the competent authority but also the date of relieving of the deputationist. No further orders for relieving the officer will be necessary;
- (ii) The deputationist officer including those who are presently on deputation would be deemed to have been relieved on the date of expiry of the deputation period unless the competent authority has with requisite approvals, extended the period of deputation, in writing, prior to the date of its expiry. It will be the responsibility of the immediate superior officer to ensure that the deputationist does not overstay. In cases where offices are on deputation on the date of issue of these orders and the normal tenures are getting over in a period of six months, the concerned officers/Organisations may be allowed an extension of not more than one month, on a case to case basis with the approval of the DOPT.
- (iii) That in the event of the officer overstaying for any reason whatsoever, he is liable to disciplinary action and other adverse Civil/Service consequences which would include that the period of unauthorized overstaying shall not count against service for the purpose of pension and that any increment due during the period of unauthorized overstaying shall be deferred, with cumulative effect, till the date on which the officer rejoins his parent cadre.

*Short action can be taken against the DOPT  
in terms of the 0177 file.*

2. Written consent of the officer concerned shall be taken to the terms and conditions of deputation (inclusive of the conditions mentioned below) before the deputation order is issued. The contents of these instructions will be conveyed to all officers presently on deputation for information/compliance.

3. These instructions will apply to all deputationists including State Government Officers/All India Services officers joining Central Government posts on deputation and to officers proceeding on deputation to State Government/autonomous & statutory institutions/foreign Bodies, etc.

4. If the borrowing Organisations would like a relaxation from these terms, they should obtain approval of DoPT to it, prior to the start of deputation.

5. Hindi version follows.

*Smita Kumar*  
(Smita Kumar)  
Director

To

1. All Ministries/Departments of Government of India
2. Chief Secretaries of All State Governments
3. The President's Secretariat, New Delhi.
4. The Prime Minister's Office, New Delhi.
5. The Cabinet Secretariat, New Delhi.
6. The Rajya Sabha Secretariat, New Delhi.
7. The Lok Sabha Secretariat, New Delhi.
8. The Comptroller and Auditor General of India, New Delhi.
9. The Union Public Service Commission, New Delhi.

Copy to :-

1. All Attached Offices under the Ministry of Personnel, Public Grievances and Pensions.
2. Establishment Officer and Secretary, ACC (10 copies).
3. All Officers and Sections in the Department of Personnel & Training
4. Secretary, Staff Side, National Council (JCM), 13-C, Ferozeshah Road, New Delhi
5. All Staff Members of National Council (JCM)
6. All Staff Members of the Departmental Council (JCM), Ministry of Personnel, PG and Pensions
7. Establishment (RR Division) (200 copies)

*Smita Kumar*  
(Smita Kumar)  
Director

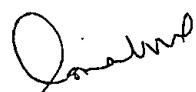
List of the employees of the Govt. of Arunachal Pradesh appointed as  
Divisional Accountants on Deputation

Sl. No.	Name of D A on deputation	Parent Department of Arunachal Pradesh. & post from which the person came on deputation	Division/ State where presently posted	Date of joining as DA on deputation	Date of expiry Deputatio n periods.	Remarks.
1.	2.	3.	4.	5.	6.	8.
1.	Shri V.K.Nair	the C.E.PHE, Itanagar. Head Asstt.	Electrical Division (Power), Bomdila	4/1999	31.3.2002	
2.	Binith Kr.Das	C.E.(Power) Arunachal Pradesh.  UDC	Ziro PWD.	11.2.1997	11.2.2000	Released from the Division on 30.6.2001
3.	U.C.Debnath	The C.E.PWD Itanagar,  UDC	R.W.D. Tawang	9.9.1998	9.9.2001	
4.	Radheshyam Das.	The C.E. Power,Itanagar  UDC	Pasighat RWD	25.8.1998	25.8.2001	
5.	Takong Taboh	The C.E. Power,Arunacha l Pradesh  LDC	Yingkiong P PHE	1.4.1999	1.4.2002	
6.	Bimal Biswas	The C.E. I&FC Itanagar. UDC	Tezu,R.W.D	1.11.1999	31.7.2002	
7.	Debobrata Roy	The C.E.Power, Itanagar. UDC	Roing I&FC	18.3.1999	18.3.2002	
8.	T.K.Barua	C.E. PWD,Itanagar, UDC	Khonsa, R.W.D.	21.6.1999	21.6.2002	
9.	N.R.Nath	C.E(EZ) PWD,Itanagar  UDC	Tawang P.H.E.	14.6.1999	14.6.2002	<i>Ceased to be</i>

GATEWAY TO  
GATEWAY BANCH

10.	L.Appal Swami	C.E. PWD, Itanagar. UDC	Khonsa PHE	3/1999	3/2002	Released from Divi. on 31.1.2006.on his retirement.
11.	M.V.K.Nair,	C.E. (WZ) PWD,Itanagar, LDC	Kalaktang PWD	14.3.1996	14.3.1999	
12.	Santanu Ghosh	C.E. PWD,Itanagar Asstt.	Yingkiong, PWD	15.10. 1999	15.10.2002	
13.	Lendi Chatung	C.E. Power, Itanagar UDC	Along Elect. Division	12.4.1999	12.4.2002	
14.	Tankeswar Borah	C.E (EZ) PWD Itanagar. UDC	Tezu PWD	3.2.1997	32.2000	Retire on 30.5.2005
15.	S.K.Dam	C.E.(EZ), PWD, Itanagar. UDC	Seppa,, Electrical Division	7.4.1997	7.4.2000	
16.	Love Rao	C.E.PWD, Itanagar LDC	Along Civil Divn. (Power)	8.4.1999	8.4.2002	
17.	Jummi Kamurn	C.E.PWD, UDC	Daporijo, I&FC Division.	5.8.1998	5.8.2001	
18.	Dilip Kr.Dey	C.E.PWD, Itanagar UDC	Boleng ,PWD	13.4.1999	31.3.2002	
19.	Tashi Namgey	C.E. PWD,Itanagar UDC	Seppa, PWD	28.7.1998	28.7.2001	
20.	Lani Bhusan Karmakar	C.E.PWD, Itanagar. UDC	Dumporijo, PWD	12.5.1999	12.5.2002	

21.	Pradip Kr.Paul	C.E.I&FC, Department. UDC	Resource Division ,I&FC, Agartala, Tripura	9.8.1999	9.8.2002	
22.	Tage Murtem	C.E.I&FC Department. UDC	Yonicha, PWD	9.1.1997	9.1.2000	
23.	Mihir Das	C.E.Power	Geku Civil Divn Dept. of Hydro Power Development, Geku, A. P.	14.9.98	14.9.2001	He was not released from the Division. However he was released on 8.8.2005
24.	R.Prathapan	CE(EZ) PWD	Ziro Civil Divn (Power)	29.1.1996	29.1.1999	
25.	Habung Latin	CE Power	Bameng PWD	13.1.1997	13.1.2000	
26.	Gamboh Hagey	CE (EZ) Itanagar	Ziro RWD	15.1.1997	15.1.2000	
27.	Rathindra Kr.Deb	CE(EZ)PWD	Tezu I&FC	21.1.1997	21.1.2000	
28.	Malay Bn.Dey	CE RWD	Tawang,I&FC	10.2.2997	10.2.2000	
29.	Hage Mubi Tada	CE I&FC	Papumpoma, RWD	14.2.1997	14.2.2000	
30.	Keshab Ch.Das	CE(EZ)PWD	Bomdila RWD	22.2.1997	22.2.2000	Retired on 30.4.2006.
31.	Hage Tamin	CE,I&FC,Dept. AP	Daporijo Elect.Divn	14.1.1997	14.1.2000	
32.	Debabrato Roy	CE Power	Roing,I&FC Dept.	18.3.1999	18.3.2002	

  
 Sr. Accounts Officer  
 DA.Cell.

Central

G.I.

Speed Post

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

No. DA Cell/2-46/DDA/Vol.III/2007/86 - 90.

Dated:-  
28/5/07

To

1. Chief Engineer  
PWD, PHE, I&FCD, RWD, Power Department  
Government of Arunachal Pradesh.  
Itanagar.
2. *The C.E. Is to be sent & Prepare a report.*

Sub:- Implications of overstay while on deputation.

Sir,

With reference to this office letter No. DA Cell/2-46/DAA/Vol.III/2007/10-15 dated 5.4.2007 on the subject above, I am to state that the instructions contained therein regarding recovery of the excess pay allowance etc drawn by the Divisional Accountants on deputation during over stayal of depuration periods etc may be kept in abeyance until further orders.

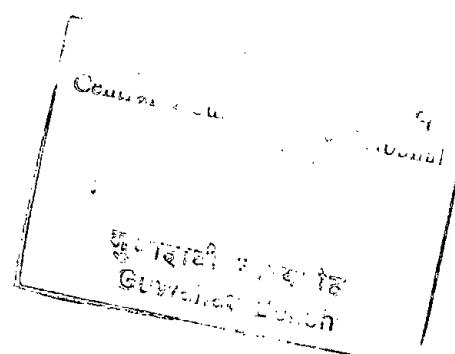
Action taken in this regard may be communicated to this office immediately.

Yours faithfully,

*Atulya*

Dy. Accountant General (Admin)

*Notified  
Gobind Kaur  
Sarkar*



Speed Post

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

No. DA Cell/2-46/DDA/Vol.III/2007

Dated:-

T<sub>0</sub>

Chief Engineer  
PWD, PHE, I&FCD, RWD, Power Department  
Government of Arunachal Pradesh.  
Itanagar.

### Sub:- Implications of overstay while on deputation.

Sir

Sir,  
With reference to this office letter No. DA Cell/2-46/DAA/Vol.III/2007/10-15 dated 5.4.2007 on the subject above, I am to state that the instructions contained therein regarding recovery of the excess pay allowance etc drawn by the Divisional Accountants on deputation during over stayal of depurated periods etc may be kept in abeyance until further orders.

Action taken in this regard may be communicated to this office immediately.

Yours faithfully,

—५८७—

**Dy. Accountant General (Admin)**

Memp No. No. DA Cell/2-46/DDA/Vol III/ 92-155

Dated:- 25.6.2007

Copy forwarded for information and necessary action to :-

## Executive Engineers

2. Persons concerned

St. Account Officer  
D.A. Cell

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH: GUWAHATI

Filed by the a/c.  
Advocate. S. Nalini  
Mengar. 05/02/2008.

132

In the matter of:-

O.A. No. 182/2007

Shri Malay Bhusan Dey and others.

... Applicants.

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicants  
against the written statements  
submitted by the respondent No. 1 and  
2.

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

1. That with regard to the statements made in paragraph 4, 5, 6, 7 and 8 of the written statement, the applicants beg to say that it is fairly admitted by the respondent No. 1 and 2 that the applicants and other similarly situated employees working on deputation basis under the administrative control of the respondent No. 2 have been requested by the State of Arunachal Pradesh to allow the applicants to continue on deputation as emergency Divisional Accountants as stated in paragraph 6 of the written statement. It is further admitted by the respondent No. 1 and 2 in the written statement that Govt. of Arunachal Pradesh also initiated a proposal for transfer of the cadre of Divisional Accountant to the control of the Director of Accounts and Treasuries and pursuant to such proposal subsequently a scheme was forwarded by the Govt. of A.P for taking over the cadre vide letter dated 30.07.2005 which was modified by the C&A.G and returned the same to the State of Arunachal Pradesh for acceptance and comments which is still awaited as admitted in written statement. Moreover, the letter, correspondences of the State of Arunachal Pradesh enclosed in the

written statement of the respondent No. 1 and 2 further confirmed that the Govt. of A.P specifically requested for continuation of the applicant and other deputationists in view of the poor financial condition of the State of Arunachal Pradesh and the respondent No. 1 and 2 also complied with the said request of Respondent No. 1 and 2 and also on consideration of work load of the Division Offices. Therefore the respondent No. 1 and 2 allowed the present applicants to continue on deputation basis as Divisional Accountant till date which would be evident from the respondent No. 2's D.O letter dated 14.03.2005 (Annexure- 6 of O.A). The relevant portion of the letter dated 14.03.05 is quoted below:

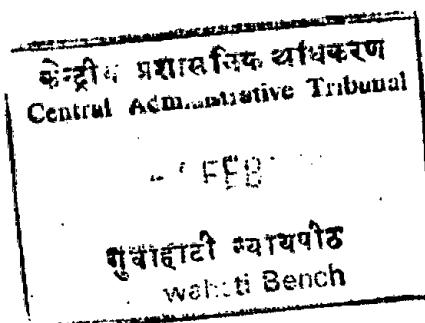
"However, as discussed with you if these deputationists are reverted back based on the Court's orders there will be tremendous problems relating to the closure, finalization and rendition of accounts of the Govt. of Arunachal Pradesh. I also enclose a copy of D.O letter No. DA TRY/2/2002 dated 10.03.2005 received from the Commissioner to the Govt. of Arunachal Pradesh, Finance Department regarding the same subject."

It is ought to be mentioned here that it would be evident from the D.O letter dated 28.03.2005 where from it would be evident that even after the decision of the Division Bench of the Hon'ble Gauhati High Court (Itanagar Bench), the present applicants and others were not repatriated rather it is stated that Headquarter has informed that modalities would be worked out regarding their continuity on deputation in the event of withdrawal of other Court cases. In fact the respondent No. 1 and 2 rather allowed the applicants to continue in the absence of any stay order from the Court till date after the decision of the Itanagar Bench of Hon'ble Gauhati High Court as stated in the D.O letter dated 28.03.2005 (Annexure- 7 of the O.A). The further contention of the respondent No. 1 and 2 that there is no provision under the recruitment rule 1988 for absorption of the applicants and the same is not disputed. But in the instant case the State of Arunachal Pradesh has taken a Cabinet decision to take over the cadre of Divisional Accountants under the administrative control of the State of A.P. As such question of absorption of the

applicants under the respondent No. 1 and 2 do not arise at this stage rather it would be evident from the letter dated 16.01.2007 from the clause 10 of the said letter that deputationists should continue on deputation till such time the State of Arunachal Pradesh has not taken over the cadre. Therefore, it is decision of the respondent No. 2 as evident from the letter dated 16.01.2007 to allow the applicants to continue on deputation till cadre is taken by the Govt. of Arunachal Pradesh. In the instant case the prayer of the applicants that the recovery of alleged over drawl of excess payment and re-fixation of pay in terms of D.O.P.T letter dated 29.11.2006 as communicated under letter dated 05.04.2007 is not sustainable in the eye of law, more particularly when the respondents have allowed the applicants to continue for the interest of the respondents rather in public interest, as such question of recovery and re-fixation in terms of D.O.P.T letter dated 29.11.05 is not sustainable in the instant case of the applicants.

In view of the stand of the respondent No. 2 contained in the D.O letter dated 28.03.05 and letter dated 16.01.2007 and the stand of the respondents State of A.P communicated through written statement filed in O.A. No. 115/05 and letter dated 25.11.05 issued by the A.G (A&E), Meghalaya, A.P etc. Shillong as well as in terms of Cabinet decision of the State of A.P, respondents are not entitled to make any recovery from the pay of the applicant vide letter dated 05.04.2007 on the basis of D.O.P.T letter dated 29.11.2006.

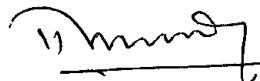
2. That with regard to the statement made in paragraph 9, 10, 11, 12, 13 and 14 the applicants further beg to say that respondents are not entitled to make any recovery from the pay of the applicants, more so in view of the Hon'ble Tribunal's order dated 22.06.2001 passed in O.A. No. 200 (T) to 208 (T) of 2001 (Annexure- 3 of the O.A.) which was further confirmed by the Hon'ble High Court vide order dated 16.02.2006 in W.P (C) No. 3992/2002. Moreover, the respondent No. 1 and 2 are also barred by the law of estoppel to make any recovery or re-fixation in terms of their D.O letter dated 14.03.2005, 28.03.2005 and 16.01.2007 and also in view of the averments stated above the original application deserves to be allowed with cost.



### VERIFICATION

I, Sri Malay Bhushan Dey, son of Shri Brajendra Chandra Dey, aged about 56 years, working as Divisional Accountant, O/o The Executive Engineer, I&FC Department, Tawang, Arunachal Pradesh, applicant No. 1 in the instant Original Application duly authorized by the others to verify the statements made in the rejoinder, do hereby verify that the statements made in Paragraph 1 and 2 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 05<sup>th</sup> day of February 2008.

  
(Malay Bhushan Dey)