

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A. NO. 99/2009
O.A./TA/NO.....2015
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

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14.7.2015
SECTION OFFICER (JUDL.)

14.7.2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 99 / 2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Sri R. Pratapam

Respondant(s) Union of India & ops.

Advocate for the Applicant(s): Mr. M.K. Nair
Mr. B. Sarma

Advocate for the Respondant(s): 6
CSC.

Notes of the Registrar	Date	Order of the Tribunal
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this application is in form
is filed/C F for Rs. 50/-
depos. PO/BD
No. 399/409093
Dated 28.5.09

Dy. Registrar

28.5.09

8 copies application
with envelopes received
for issue notice to the
Respondent No 1 to 8. Copy
served. Extra charges
for excess Respondents
deposited.

28/5/09

Received 6/7.
@ 28/5/09 for the Applicant.
11/6/09

29.05.2009

Heard Mr.B.Sarma, learned and
Mr.M.K.Boro, learned Addl. Standing
counsel for the Govt. of India and
Mr.R.K.Deb Choudhury, learned counsel for
the State of Arunachal Pradesh and
perused the materials placed on record.

Issue notice to the Respondents
requiring them to file their written
statement by 24.07.2009.

Since the Applicant is going to
retire from service, on attaining of 58 years
of his age on 31.05.2009; we make it clear
that in the event of his success in this case,
he will get full benefits upto 60 years of his
age.

Send copies of this order to the ^{Applicant 2} Respondents in the address given in the
O.A.

(N.D.Dayal)
Member (A)

(M.R.Mohanty)
Vice-Chairman

K. Das

Issue notices send 24.07.2009

Copies of the order dt. 29.5.09 to the Applicant and to the Respondents. This case is received today 20.7.09

20/7/09

Copies of notices along with order dated 29/5/09 send to D/Sec. for issuing to respondents by regd. A/D post.

Free copy of this order handed over to counsel for applicant on 1/6/09. /bb/

D/No - 3859 to 3866

20/7/09. Dt. 20.7.09

Recd. M. R. Mohanty Add. C. Sec. 21/7/09

① Service report awaited.

② No help bills.

23.7.09

Copies of order dated 24/7/09 send to D/Sec. for issuing to respondents by post.

D/No - 9125 to 9132

31/7/09. Dt. 31/7/09
17/8/09

Notice served for Respdt. No. 3 & 4.

17/8/09

None appears for the Applicant nor the Applicant is present. Mr. M.K. Boro, learned Addl. Standing counsel is not in a position to file written statement. On behalf of State of Arunachal Pradesh Mr. R.K. Deb Choudhury prays for more time to file written statement.

Call this matter on 10.09.2009 awaiting written statement from the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

9.7.2009

Memo of appearance
has been filed Mr. R.
K. Deb Choudhury
for Respondents No. 3
4, 5, 6 & 7, at Flag 'A'.
H/9/10/09

No W/S filed
by
9.9.09.

K. Das

Send copies of This
order to the Respondents
in the address given in O.A.

11/9/09

Copies of order
dated 10/9/2009 send
to D/Sec. for issuing
to respondents by
post.

D/No-11,425 to 11,432

Dt = 22-9-2009

18/9/09.

No W/S filed.

23.10.09

Flag 'A' is received from
Govt. of A.P. Seeking
extension of time of 3 weeks
in filing of W/S.

23/10/09

10.09.2009

Mr. B. Sarma, learned counsel for
the Applicant is present. No written
statement has been filed by the
Government of India or by the State of
Arunachal Pradesh. On the prayer of
learned counsel for the Government of
India and Mr. R. K. Deb Choudhury, learned
counsel for the State of Arunachal
Pradesh, call this matter on 26.10.2009
awaiting written statement from the
Respondents.

Send copies of this order to the
Respondents in the address given the
O.A.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/lm

26.10.2009

Mr. R. K. Deb Choudhury, learned
counsel for Respondent Nos. 3 to 7 prays
for time to file reply. Mr. M. K. Boro, learned
Addl. Standing Counsel for Respondents
No. 1 & 2 also prays for time to file reply.

List on 27.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

26.11.2009

Learned counsel appearing for
Respondent Nos. 3 to 7 made a prayer for
four weeks time to file written statement.

List this matter on 30.01.2010.

(Madan Kumar Chaturvedi)
Member (A)

/pb/

Notes of the Registry

Date

Order of the Tribunal

25.11.09

para wise reply
submitted by Respondent Nos 4 & 7
directly by FAX.

25.11.09

W/s filed.

26.11.09

31.12.09

W/s filed by the
Respondent No. 4 & 7
with undertaking to
serve a copy to the Applicant
for the Applicant.

2/1/10

① W/s filed by R. No-
4 & 7.

② NO W/s filed by R. No-
1 to 3 and 5, 6 & 8.

4.1.2010

8.1.2010

W/s filed by the
R. No. 1 & 2. Copy served
to the Applicant.

NO rejoinders filed.

3.2.2010

NO rejoinders filed.

5.1.2010

learned counsel for Respondents states that
reply will be filed during the course of the day. Copy
of the same be handed over to learned counsel for
the Applicant. Rejoinder if any, may be filed by the
Applicant.

List the matter on 4th February, 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

4.2.2010

On the request of learned proxy counsel
of Mr. R. Sarma, learned Assistant Solicitor
General of Assam, case is adjourned to
2.3.2010. In the meantime, rejoinder, if any,
may be filed by Applicant.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

02.03.2010

Mr. S.S. Borua, learned counsel for
Respondents states that Mr. R. Sarma,
Assistant Solicitor General of Assam is
out of station due to some personal
difficulty. We noticed that the matter has
been adjourned repeatedly. In the
circumstances, very reluctantly
adjourned to 08th March 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

08.03.2010

List before Division Bench on 23.3.2010.

(Mukesh Kr. Gupta)

23.03.2010 — This being a Division Bench matter, -
adjourned to 21.04.2010.

W/s filed.

20.4.2010

(Madan Kr. Chaturvedi)
Member (A)

/bb/

21.04.2010

Mr S.N.Bora, learned counsel for Mr R.Sarma, Asstt. Solicitor General appearing for Accountant General prays for adjournment, which request has not been opposed by Mr U.K.Nair, learned counsel for the applicant. Though we would not have adjourn the matter as noticed in order dated 2.3.2010 but in the interest of justice, adjourn the case to 4.5.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

04.5.2010

It is stated by Mr.G.Baishya, learned counsel for Applicant that he has been engaged only Yesterday for Respondent No.2 and therefore, he prays Adjournment. We have already granted three adjournments in February, March & April. In the circumstances, case is adjourned to 19th May 2010. It is made clear that no further adjournment will be granted. Mr. R.K.Deb Choudhury, learned counsel is present for Respondents No.3-7.

List the matter on 19.5.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

W/s filed.

18.5.2010

19.05.2010

Proxy counsel for applicant states that Mr U.K. Nair is indisposed and, therefore, prays for adjournment. In the given circumstances adjourned to 01.06.2010, as agreed by both sides.

RECEIVED 19.05.2010

N/s filed.

31.5.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

Received copy of order dated 01.06.2010.

Prayer for G. Banishree, Res. No. 2

20.06.2010

01.06.2010

Heard learned counsel for the parties. For the reasons recorded separately, O.A. stands disposed of. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

Received J& Order dated

- 11/6/2010, copy received, On-behalf of U.K. Nair, Advocate.

Obt.

Date: 24/6/10

10.8.2010

Indgment/General order
Sent by the J/S
Issuing in vide
1898 to
N/A

16-8-2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No. 99 of 2009

DATE OF DECISION: 01.06.2010

Shri R. Pratapan

.....Applicant(s)

Mr G.Z. Ahmed proxy counsel for Mr U.K. Nair

Advocate(s) for the
Applicant (s)

- Versus -

Union of India and others

Respondent(s)

Mr R.K. Deb Choudhury for respondent Nos.3-7,
Mr G. Baishya for respondent No.2.

Advocate(s) for the
Respondent(s)

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No

Member(J)

.....

a

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.99 of 2009

Date of Order: This the 1st day of June 2010

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

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

.....Applicant

By Advocate Mr G.Z. Ahmed proxy counsel for Mr U.K. Nair.

- versus -

1. Union of India, through the
Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi-110124.
 2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.,
Shillong-793004, Meghalaya.
 3. The State of Arunachal Pradesh, represented by the
Secretary to the Government of Arunachal Pradesh,
Department of Hydro Power,
Itanagar-791111, Arunachal Pradesh.
 4. The Commissioner
Finance Department,
Government of Arunachal Pradesh,
Itanagar-791111, Arunachal Pradesh.
 5. The Chief Engineer
Hydro Power Department,
Government of Arunachal Pradesh,
Itanagar-791111, Arunachal Pradesh.
 6. The Executive Engineer
Ziro, Civil Division,
Department of Hydro Power,
Arunachal Pradesh, Ziro-791120,
Arunachal Pradesh.
- 2

7. The Director of Accounts & Treasuries
Government of Arunachal Pradesh,
Naharlagun-791110.
8. The Accountant General (A&E)
Arunachal Pradesh,
J&K Building, E-Sector,
Itanagar-791111, Arunachal Pradesh.Respondents

By Advocates Mr R.K. Deb Choudhury for
respondent Nos.3-7, Mr G. Baishya for
respondent No.2.

.....

ORDER (ORAL)

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Mr G.Z. Ahmed representing Mr U.K. Nair, learned counsel for applicant states that he has instructions not to press reliefs claimed at vide paras 8.1, 8.2 and 8.3 of O.A. At present he would confine his claim with regard to relief claimed vide para 8.4 namely, direction to respondents to draw his pensionary benefits on the basis of last pay drawn in the cadre of Divisional Accountant.

2. Admitted facts are: applicant was initially appointed as UDC in Public Works Department (PWD for short) in Arunachal Pradesh. Thereafter, vide order dated 27.12.1995, he was selected for the post of Divisional Accountant on deputation basis initially for a period of one year in the Office of Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram. Said deputation period had been extended upto three years. Vide order dated 15.11.1999 (Annexure-3), Government of Arunachal Pradesh had taken a decision to extend the deputation for a further period of two years from the



date of expiry of present respective tenure in the interest of public service. When facts were such, he was repatriated to his present department in State Government, which action had been challenged vide O.A.No.200/2001 decided alongwith connected matters vide order dated 22.06.2001 (Annexure-5). As in the meantime State Government had issued another order dated 12.01.2001, it was observed that nothing was left to be decided by this Tribunal and, therefore, said cases were disposed of vide aforementioned common order. It was observed that if there was change in the situation, it would be open for applicant to approach this Tribunal. Challenge made before the Hon'ble High Court vide W.P.(C) No.3992/2002 had been unsuccessful and vide order dated 16.02.2006 said W.P. was dismissed. Thereafter, a draft Scheme for continuing the Divisional Accountants on deputation basis had been framed and the respondents issued order dated 05.04.2007 (Annexure-12) proposing to make certain recoveries from the applicant, which became subject matter in O.A.No.144/2007. Said O.A. alongwith series of O.A.s had been disposed of vide common order dated 11.04.2008 (Annexure-13) holding that no recovery should be made until he is actually repatriated. Taking an overview of the matter, he was allowed to continue in the post till 31.05.2009, when he retired on attaining age of superannuation i.e. 58 years, as applicable to State Government employees. Prayer made in present O.A. is thus, that his pensionary benefits be calculated based on average emoluments of last ten months pay drawn by him in the capacity of Divisional Accountant while working with the Office of Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram. Learned counsel for applicant contends that he had been paid the benefits of Sixth Central

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Pay Commission while working in said capacity, which needs to be protected.

3. The State Government as well Office of Accountant General, on the other hand, contested the claim laid stating that what is entitled to applicant is the pay scale applicable to State Government employees, post he would have held had he been repatriated or deemed repatriated i.e. on the date of his attaining age of superannuation.

4. We have heard learned counsel for the parties, perused the pleadings and rule position. Rule 33 of CCS (Pension) Rules, 1972 defines the term 'emoluments', which means basic pay as defined in Rule 9 (2) (a) (i) of the Fundamental Rules which a Government servant was receiving immediately before retirement. Note 7 below the explanation to said rules appended thereto, in specific provides that pay drawn by a Government servant while on foreign service shall not be treated as emoluments, but the pay which he would have drawn under the Government had he not been on foreign services shall alone be treated as emoluments. Furthermore, Government of India's decision No.1 on the subject matter of counting of emoluments drawn by officers while on deputation from State to Centre, as reproduced there under, in Swamy's Pension Compilation, 2002 Ed., clinches the issue raised in present O.A. Relevant portion of Government of India, Ministry of Finance O.M.s dated 02.07.1962, 10.01.1974 and M.H.A., Department of Personnel & Administrative Reforms O.M. dated 22.05.1982 is reproduced hereunder:

"(1) Counting of emoluments drawn by officers while on deputation from State to Centre.- When a State Government employee comes on deputation to the Central Government, he is generally granted a deputation special pay in addition to his usual pay. Till lately the question

whether any part of this deputation special pay could be reckoned as 'emoluments' for calculating pension used to be decided by the Central Government with reference to their rules on the subject. Recently this practice was reviewed by the Government of India in consultation with the Comptroller and Auditor-General and the State Governments. It was held that since a State Government employee, while on temporary deputation to the Central Government, did not become subject to the rules and orders of the latter Government, and his pension was otherwise calculated under the rules of the State Government of which he was a permanent employee, the practice of applying Central Government rules to determine the quantum of deputation special pay which should count for pension was incongruous. It has, therefore, been decided that henceforth, in cases of deputation of State Government employees to the Central Government, the question whether any part of the deputation special pay received by such an employee will count for pension will be decided by the State Government concerned with reference to their own rules on the subject. If for proper application of the State Government rules any question arises regarding the exact nature and classification of the deputation special pay, the State Government will consult the Central Government who alone would be aware of the precise reasons for which the additional remuneration was granted. Similarly, when a State Government employee on deputation to the Central Government holds a temporary or officiating appointment on a regular time-scale, the question whether any part of the difference between the pay, which he actually draws while on deputation and that which he would have drawn from the State Government but for his deputation, should count for pension will be decided by the State Government with reference to their pension rules.

The same arrangement will apply in reverse in the case of Central Government employees who are sent on deputation to State Governments."

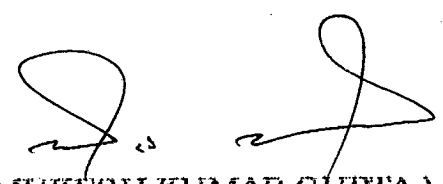
(emphasis supplied)

5. Bare perusal of above O.M., in our considered view would have application on all fours in the facts and circumstances of present case. As per aforesaid O.M., when a State Government employee is on deputation to Central Government and holds a temporary or officiating appointment on a regular time scale, the question whether any part of the difference between the pay, which he actually draws while on deputation and that which he would have drawn from State

Government but for his deputation, should count for pension is to be decided by the State Government with reference to their pension Rules. In the circumstances without making any further observation of said aspect, O.A. is disposed of requiring State of Arunachal Pradesh as well as Office of Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram to regulate applicant's claim strictly based on rule position and decision of the Government of India thereto. Aforesaid exercise shall be carried out within a period of three months from the date of receipt of this order.

6. O.A. is disposed of. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
MEMBER (JUDICIAL)

nkm

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
215
28 MAY 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 77 / 2009

Sri R. Pratapan

..... Applicant.

-Versus-

The Union of India & Ors.

..... Respondents.

SYNOPSIS

The present application is directed against the infringement of the right that has accrued to the applicant for his absorption in the cadre of Divisional Accountant which is presently under the administrative control of the office of the Accountant General and against which the applicant is discharging his duties on deputation basis, in terms of the policy decision jointly adopted by the office of the Comptroller and Auditor General of India and the Government of Arunachal Pradesh in the Department of Accounts and Treasuries and also the judgment and order dated 10.04.2008 passed in O.A. No. 144/2007 and other connected matters. Further grievance of the applicant is with regard to the deprivation that would be meted out to him in the matter of receiving his pension benefits in the event he is made to retire from service on 31.05.2009 on attaining the age of superannuation i.e. 58 years as per the norms applicable to the employees of the Government of Arunachal Pradesh.

The applicant was initially appointed as an UDC in the Public Works Department of the Government of Arunachal Pradesh. In the year 1996, he was selected and appointment on deputation basis as a Divisional Accountant and till date he is continuing as such. In the intervening period between 1996 to 2007, moves were initiated on number of occasions to repatriate the applicant and other similarly situated persons to their parent organization, but for the extraordinary circumstances, exigency of service and the interest of the respondent authorities, the said moves never materialized

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गुवाहाटी न्यायपीठ
Guwahati Bench

and a conscious decision was arrived at jointly by the office of the Comptroller and Auditor General of India and the Government of Arunachal Pradesh not to repatriate the applicant and others similarly placed to their parent organization in view of the fact that the cadre of Divisional Accountant was contemplated to be taken over by the Government of Arunachal Pradesh. Poised thus, the Respondent No. 2 issue an order dated 05.04.2007 directing for recovery of the excess pay and allowances drawn by the applicant and others for overstay on deputation as Divisional Accountants. The said order was impugned before this Hon'ble Tribunal in a series of applications and vide the judgment and order dated 10.04.2008, this Hon'ble Tribunal was pleased to direct the respondent authorities not to recover the alleged excess pay and allowances from the applicants therein. Further direction was to fill up the vacancies of Divisional Accountants and in the event the cadre of Divisional Accountant is taken over by the Government of Arunachal Pradesh, the applicant and similarly placed incumbents be afforded an opportunity to get themselves absorbed as Divisional Accountants. Although, no recovery was made in terms of the abovementioned judgment and order, but the latter part of the directives contained therein have not been complied with till date.

The applicant, in terms of the norms applicable to the employees of the Government of Arunachal Pradesh is slated to proceed on retirement on attaining the age of superannuation i.e., 58 years on 31.05.2009, but the age of superannuation for the cadre of Divisional Accountant is 60 years. There is every likelihood that in the very recent future the cadre of Divisional Accountant would be taken over by the Government of Arunachal Pradesh and in the event the applicant is made to proceed on superannuation on 31.05.2009, he would be deprived of his rightful due of getting absorbed in the cadre of Divisional Accountant whereas other similarly situated persons who would continue in service beyond 31.05.2009 stand a chance for such accommodation; consequently meting out the applicant with hostile discrimination.

Alternatively, in the event the applicant is made to retire from service on 31.05.2009, he stands to suffer irreparable loss and injury inasmuch as the applicant would stand repatriated to his parent organization against the

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गुवाहाटी न्यायपीठ
Guwahati Bench

post from which he proceeded to serve on deputation as a Divisional Accountant, the pay and allowance of which is much lower than the pay and allowance enjoyed by him at present as a Divisional Accountant; consequently adversely affecting his pension interest.

Hence the present application praying for interference from this Hon'ble Tribunal for redress of his genuine and bonafide grievance(s).

Filed by



28/05/2009

Advocate

28 MAY 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH:: GUWAHATI**

ORIGINAL APPLICATION NO. 99 / 2009

Sri R. Pratapan

..... Applicant.

-Versus-

Union of India & Ors.

.....Respondents.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

That the applicant is presently working as Divisional Accountant on deputation basis under the Administrative Control of A.G (A & E), Meghalaya, etc., and he is posted in the office of the Executive Engineer (Civil), Ziro, Civil Division, Department of Hydro Power under the Govt. of Arunachal Pradesh.

- The applicant was initially appointed as an UDC in the Public Works Department of the Government of Arunachal Pradesh.

27.12.1995 - The applicant was pursuant to a process of selection appointed on deputation basis as a Divisional Accountant to serve under the administrative control of the Respondent No. 2.

15.11.1999- Director of Accounts and Treasuries, Government of Arunachal Pradesh requested AG (A&E), Meghalaya, Arunachal Pradesh etc. writes for further 2 years extension of deputation period of Divisional Accountants.

12.01.2000- The Respondent No. 7 requested AG (A&E) Meghalaya, AP etc to take necessary action for transfer of the cadre of Divisional Accountant to the State of Arunachal Pradesh immediately.

- 22.06.01 – This Hon'ble Tribunal in an Original Application filed by the some similarly situated Divisional Accountants extended period of deputation for 2 years as sought by the State of Arunachal Pradesh. The Hon'ble High Court vide judgment dated 16.02.06 upheld the direction of the Learned Tribunal.
- 11.03.2002- Commissioner of Finance, Govt. of Arunachal Pradesh requested respondent no. 2 to allow serving Divisional Accountant on deputation basis to continue.
- 14.03.2005- Respondent no. 2 sought clarification form office of C&AG, New Delhi regarding continuation of Divisional Accountant who are serving on deputation basis.
- 28.02.2005- Respondent no. 2 issued a letter to the Respondent no. 4 intimating confirmation of the Headquarters i.e. Respondent no. 1 on the matter of extension of deputation period of 31 DA (including the present applications).
- 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.
- July, 2005- Govt. of Arunachal Pradesh handed over the scheme to the respondent no. 2.
- 25.11.2005 – Respondent no. 2 informed that office of the C&AG has framed a draft scheme regarding proposed transfer of Divisional Accountants cadre and the same is forwarded for acceptance in terms and conditions of the scheme of Govt. of Arunachal Pradesh.
- 16.01.2007- Respondent no. 2 intimated that Divisional Accountant working on deputation basis will be under the administrative control of

Central Administrative Tribunal
28 MAY 2009
गुवाहाटी बेंच
Guwahati Bench

the respondent no. 2 till finalisation of court cases or till such time Govt. of Arunachal Pradesh has not taken over the cadre.

05.04.2007- Respondent no. 2 issued 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.

08.09.2007 - The Government of Arunachal Pradesh conveyed its approval to the draft scheme forwarded to vide the communication dated 25.11.2005 with certain modifications.

10.04.2008- This Hon'ble Tribunal vide its judgment and order dated 10.04.2008 passed in O.A No. 144 of 2007 and other connected matters directed the respondent authorities not to recover the alleged excess pay and allowance as contemplated vide the order dated 05.04.2007 and directed the respondent authorities to fill up the vacancies in the cadre of Divisional Accountant with further direction that as and when the accounts setup is taken over by the Government of Arunachal Pradesh, the Divisional Accountants serving on deputation basis would be afforded the opportunity to get themselves absorbed as such.

25.11.2008- The pay and allowance of the applicant was fixed in terms of the recommendation of the Sixth Central Pay Commission for the cadre of Divisional Accountant.

20.05.2009 - The office of the Executive Engineer, Hydro Power Division, Ziro, Department of Hydro Power Development, Government of Arunachal Pradesh vide its communication bearing No. ZD/HPD/E-3/2009-10/ 188-92 dated 20.05.2009 had written to the Respondent No. 2 to ascertain whether the applicant should be continued in service beyond 58 years.

Filed By
[Signature]

Delivered
28/05/2009

28 MAY 2009

गुवाहाटी न्यायेपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 99 / 2009

Sri R. Pratapan

..... Applicant.

-Versus-

The Union of India & Ors.

..... Respondents.

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Filed by

Advocate

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 99 / 2009

Filed by the Applicant
through:- Amar Chelg
Advocate
Date: 28/5/09.

BETWEEN:

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

..... Applicant

-AND-

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

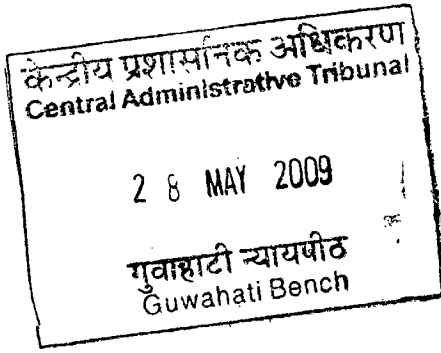
Pin Code - 110024. B.

2. The Accountant General (A&E),
Arunachal Pradesh, Meghalaya, Mizoram
etc. Shillong 793004, Meghalaya. B.

3. The State of Arunachal Pradesh,
Represented by the Secretary to the
Government of Arunachal Pradesh,
Department of Hydro Power, Itanagar- 791111,
Arunachal Pradesh. B.

4. The Commissioner, Finance
Department Government of Arunachal
Pradesh, Itanagar- 791111, Arunachal
Pradesh. B.

R. Pratapan.

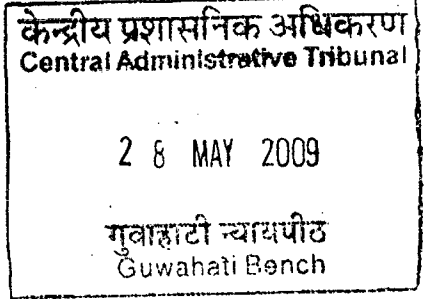


5. The Chief Engineer, Hydro Power Development Department, Government of Arunachal Pradesh, Itanagar- 791111, Arunachal Pradesh.
 6. The Executive Engineer, Ziro, Civil Division, Department of Hydro Power, Arunachal Pradesh, Ziro- 791120, Arunachal Pradesh.
 7. The Director of Accounts & Treasuries, Government of Arunachal Pradesh, Naharlagun-791110.
 8. The Accountant General (A&E) Arunachal Pradesh, J2 K. Building, E- Sector Itanagar - 791111, Arunachal Pradesh.
- Respondents

1. PARTICULARS OF THE ORDER (S) AGAINST WHICH THIS APPLICATION IS MADE:

The present application is not directed against any particular order(s), but is directed against the infringement of the right that has accrued to the applicant for his absorption in the cadre of Divisional Accountant which is presently under the administrative control of the office of the Accountant General and against which the applicant is discharging his duties on deputation basis, in terms of the policy decision jointly adopted by the office of the Comptroller and Auditor General of India and the Government of Arunachal Pradesh in the Department of Accounts and Treasuries and also the judgment and order dated 10.04.2008 passed in O.A. No. 144/2007 and other connected matters. Further grievance of the applicant is with regard to the deprivation that would be meted out to him in the matter receiving his pension benefits in the event he is made to retire from service on 31.05.2009 on attaining the age of superannuation i.e. 58 years as per the norms applicable to the employees of the Government of Arunachal Pradesh.

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2. **JURISDICTION OF THE TRIBUNAL:**

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

3. **LIMITATION:**

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

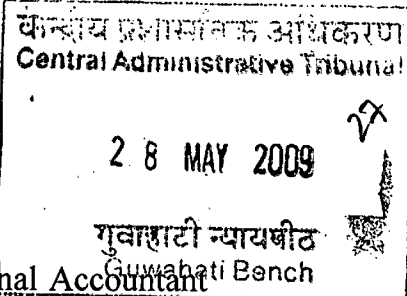
4. **FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India by birth and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and the laws framed thereunder. The applicant is presently working as a Divisional Accountant on deputation basis under the Administrative Control of A.G (A & E), Meghalaya, etc. Shillong and he is posted in the office of the Executive Engineer (Civil), Ziro Civil Division, Department of Hydro Power under the Government of Arunachal Pradesh.

4.2 That the applicant states that pursuant to a process of selection, he was initially appointed as a UDC in the Public Works Department, Government of Arunachal Pradesh. The applicant during the tenure of his service under the Government of Arunachal Pradesh discharged the duties and responsibilities entrusted to him honestly and sincerely and to the satisfaction of all concerned and never was there any occasion of being dissatisfied with the performance of his duties and responsibilities on the part of the State respondents.

4.3 That the applicant states that the Indian Audit and Accounts Department (Divisional Accountant) Rules, 1998 governs the method of recruitment and selection to the cadre of Divisional Account which is under the administrative control of the office of the Accountant General. The said Rules

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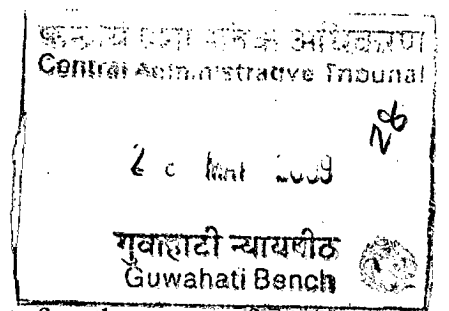
prescribe for filling up of the vacancies in the cadre of Divisional Accountant interalia, on deputation basis. The Rules further prescribe that the period of deputation as Divisional Accountant, ordinarily may not exceed 3 years, which period is further extendable under extraordinary circumstance as has been read down by the Hon'ble Tribunal vide its judgment and order dated 10.04.2008 passed in O.A. No. 144/2007 and other connected matters.

A copy of the Recruitment Rules is annexed as Annexure - 1.

4.4 That the applicant states that the respondent No. 2 i.e., the Accountant General (A&E), Arunachal Pradesh etc., in the year 1995 invited applications from the willing employees of the State of Arunachal Pradesh to serve as Divisional Accountant on deputation basis in various works departments under the administrative control of the AG (A & E) Meghalaya, Shillong. Pursuant to the said advertisement, the applicant who serving the State of Arunachal Pradesh at that point in time, applied for his appointment on deputation basis to the cadre of Divisional Accountant and the respondent No. 2 after due selection and necessary scrutiny appointment him on deputation basis in the cadre of Divisional Accountant vide a memo bearing No. DA Cell/2-49/94-95/2097/2407 dated 27.12.1995, in terms of which he joined as such in the month of January, 1996. Since the date of his initial appointment on deputation basis as Divisional Accountant, the applicant is continuing as such till this very date and presently his discharging his duties as a Divisional Accountant in the office of the Executive Engineer, Ziro, Civil Division, Department of Hydro Power under the State of Arunachal Pradesh.

It is pertinent to mention here that on his appointment as a Divisional Accountant vide the appointment order dated 27.12.1995, he was given the option of retaining his scale of pay enjoyed under the State Government, in which event he was entitled to receive other allowances in addition to the scale of pay or to opt for the scale of pay attached to the post of Divisional Accountant. The applicant opted for the scale of pay attached to the post of Divisional Accountant and he is receiving his pay and allowance at the

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said rate, which is sanctioned by the Central Government for the post of Divisional Accountant.

A copy of the appointment order dated 27.12.1995 is annexed as Annexure – 2.

4.5 That the applicant states that he was brought over on deputation to serve as a Divisional Accountant under the administrative control of the Accountant General (A&E) Meghalaya, Shillong from the services of the State of Arunachal Pradesh in the year 1996. It may be stated here 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 applicant. It is also categorically stated that the applicant is still continuing as Divisional Accountant on deputation basis as above mentioned.

4.6 That the applicant states that while he was working as such, on deputation basis, the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh had written to the respondent No. 2 and 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 Government of Arunachal Pradesh for sometime to take over the Accounts Cadres of the works departments totaling 91 number of posts from the existing combined cadre being controlled by the AG (A & E), Meghalaya etc. Shillong and that the Government of Arunachal Pradesh has decided to take over the said cadre under the direct control of the Director of Accounts and Treasuries 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 Arunachal Pradesh would be examined for their further continuation even after the completion of their 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. Apart from that the Government of Arunachal Pradesh vide an order dated 15.11.99 extended the period of deputation of the Divisional

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Accountants after expiry of their respective tenure in the interest of public service.

A Copy of the letter dated 15.11.99 and 12.01.00 are annexed as Annexure- 3 & 4 respectively.

4.7 That the applicant states that in the meanwhile the State Cabinet, Government of Arunachal Pradesh formally approved the decision to take over the administrative control of the entire accounts set up from the office of the Accountant General (A&E), Meghalaya, Shillong on 02.12.2001 and the said fact was 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 applicant and other similarly situated Divisional Accountants who had completed 3 years period on deputation, with instruction to the concerned Chief Engineer, Executive Engineer for issuing necessary relieving order.

In the aforesaid circumstances, the applicant as well as the other similarly situated persons approached this Learned Tribunal as well as the Hon'ble High Court against the orders of repatriation, more particularly in view of the decision taken by the Government of Arunachal Pradesh for taking over the entire Accounts Cadre under the control of the Accountant General (A & E), Shillong.

In view of the letter dated 12.01.2000 issued by the Government of Arunachal Pradesh and also the approval granted by the State Cabinet for such taking over of the entire accounts set up, the Divisional Accountants serving under the control of the Accountant General were legitimately expecting that there would be fair chance on their part to get absorbed in the existing vacant posts of Divisional Accountant in view of the fact that they had acquired long practical experience in the relevant field and with this view of expectation, the along with other similarly persons approached the learned Tribunal/ Hon'ble High Court praying for direction upon the respondents to consider their case for absorption in the cadre of Divisional Accountant in the

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light of the decision communicated by the Government of Arunachal Pradesh vide letter dated 12.01.2000.

It is pertinent to mention here that the Original Application being O.A No. 200/2001 preferred by the applicant was allowed and the order of repatriation was interfered with by this Hon'ble Tribunal vide an order dated 22.06.01. The said order was carried on appeal by the respondent authorities before the Hon'ble Gauhati High Court and the Hon'ble High Court vide its order dated 16.02.06 declined to interfere with the order dated 22.06.01 passed by this Hon'ble Tribunal. Further, the Original Applications preferred by some of the similarly situated Divisional Accountants namely Rathindra Kr. Deb and Moloy Bhusan Dey and 7 others praying for a direction upon the respondents to allow them to continue on deputation basis till the process of taking over of entire Accounts set up by the Government of Arunachal Pradesh from the administrative control of the respondent No. 2 is completed and with a further prayer for absorption in the light of the Government of Arunachal Pradesh'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 Arunachal Pradesh 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.

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 annexed as **Annexure- 5 & 6** respectively.

4.8 That the applicant states that some of the writ petitions that were preferred by similarly situated Divisional Accountants namely Sri Bimal

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Biswas, Tushar Kanti Baruah, etc., were withdrawn in view of the fact that the Government of Arunachal Pradesh 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 Government of Arunachal Pradesh 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 the same, wherein provision has been made for regular absorption of the applicant and others 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 Arunachal Pradesh, 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 borne by the Government of Arunachal Pradesh from the State Exchequer, therefore request was made to allow the serving Divisional Accountants 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 public service and same would provide succor to the poor financial condition of the State prevailing at the present time. Even after expiry of 2 years period, the Government of Arunachal Pradesh, more particularly, Commissioner of 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 Arunachal Pradesh, 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 Government 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

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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 Government of Arunachal Pradesh had requested respondent No. 2 for extension of period of deputation of the present applicant and others due to poor financial condition of the State of Arunachal Pradesh. Therefore the present applicants cannot be held responsible for extension of the deputation period from time to time. More over 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, no fault can be attributed on the part of the Divisional Accountants for their continuation on deputation.

Copy of the Govt. letter dated 11.03.2002 is enclosed herewith and marked as Annexure -7.

4.9 That the applicant states that the respondent No. 2 vide DO 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 advise as to whether the Divisional Accountants should be reverted back as the judgment has come nearly after 4 years on 10.02.05 in case of the 12 Divisional Accounts who had preferred writ applications before the Itanagar Bench of the Hon'ble Gauhati High Court. 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 H.Q 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 Government of Arunachal Pradesh 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

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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 that 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 deputationists, the HQ has informed that the modalities would 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 Government of Arunachal Pradesh that the Divisional Accountants serving on deputation would 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 Divisional Accountants to their parent department, there will be a tremendous problem relating to the closure, finalization and rendition of accounts of the Government of Arunachal Pradesh. Therefore the applicant and other affected persons cannot be held responsible for continuation on deputation basis even after the expiry of normal tenure, rather they have been retained on deputation after the expiry of the normal deputation period on the request of the State of Arunachal Pradesh in public interest and for the exigency of service.

4.10 That the applicant states that the Director of Accounts and Treasuries had vide its communication bearing No. DA/TRY-27/2000/1060-63 dated 30.07.2005 formally communicated to the office of the Respondent No. 2 the proposed scheme for taking over the administrative control of the cadre of Divisional Accountant by the Government of Arunachal Pradesh, which was forwarded to the office of the Comptroller and Auditor General of India. In response thereof the said office prepared a draft scheme vide the office letter bearing No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 and forwarded the same to the Government of Arunachal Pradesh for approval and comments.

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Guwahati Bench

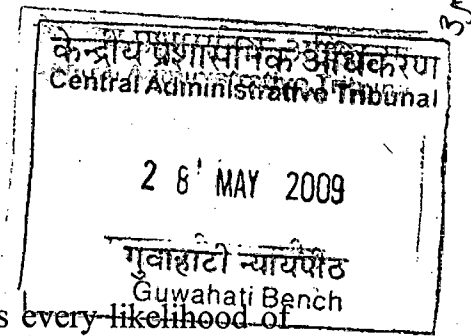
The Government of Arunachal Pradesh vide its letter bearing No. DA/TRY/15/99/1921 dated 08.09.2007 conveyed its decision to formally take over the cadre of Divisional Accountant and other allied cadres from the administrative control of the office of the Respondent No. 2 with request for certain modification of the scheme forwarded to it.

Copies of the forwarding letters dated 30.07.2005, 25.11.2005 and 08.09.2007 along with the draft schemes are annexed as **Annexure – 8, 9 & 10** respectively.

4.11 That the applicant states that consequent upon the process initiated vide the Annexure 8, 9 & 10 schemes, the respondent No. 2 vide letter bearing circular No. DA Cell/81 dated 16.01.2007 invited options for permanent allocation of the office of choice to the employees holding the post of Divisional Accountant/ Divisional Accounts officer, Grade I and Grade II, Sr. Divisional Accounts officer serving in the state of Arunachal Pradesh, Tripura and Manipur, which was 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 Arunachal Pradesh 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.”

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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.

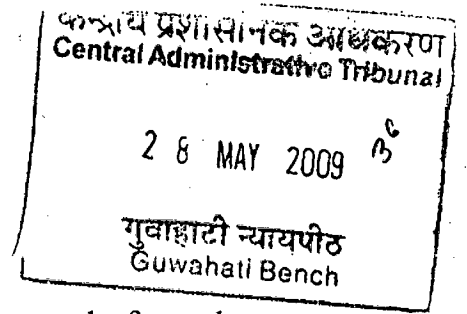
A copy of the office letter dated 16.01.2007 is annexed as **Annexure – 11.**

4.12. That the applicant states that while they were continuing as Divisional Accountant on deputation basis, the respondent no. 2 vide an order dated 05.04.2007 bearing letter No. DA Cell/2-46/DDA/Vol III/2007/10-15 directed to make recovery of the excess salary paid to the applicant due to alleged overstay on deputation as Divisional Accountant after expiry of the specific period of deputation. Such decision of the respondent No. 2 was not maintainable in view of the Government of Arunachal Pradesh letters dated 15.11.1999, 12.01.2000, 11.03.2002, 14.03.2005 and the communication dated 28.03.2005 issued by the respondent No. 2, is in the interest of the State. Further, the continuance of the applicant and others on deputation as Divisional Accountant was because of the decision taken in that behalf by the respondent No. 1, 2 and the State of Arunachal Pradesh for the exigency of service and the extraordinary circumstances which compelled the said respondents to continue the applicant and others on deputation as Divisional Accountants. It was solely for the interest of the said respondents that the Divisional Accountants were continued on deputation basis and the applicant and others had no role to play in decision taken for their continuance on deputation.

A copy of the order dated 05.04.07 is annexed as **Annexure – 12.**

4.13 That the applicant states that the order dated 05.04.2007 having the effect of adversely affecting their service conditions, the applicant and similarly situated incumbents approached this Hon'ble Tribunal seeking redressal of their grievances against the said order dated 05.04.2007. This Hon'ble Tribunal upon hearing the parties to the said applications was pleased vide its common judgment and order dated 10.04.2008 to dispose of the said

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Original Applications holding that the recovery sought to be made from the salary of the applicant and others to be illegal and directed the respondent authorities not to make any recovery to that effect. It was categorically held by this Hon'ble Tribunal that there was no question of overstayal on deputation by the applicant and others and that period of deputation was extendable beyond 3 years under extraordinary circumstances and that it was only for the extraordinary circumstances as has been sated in the preceding paragraphs herein above, the applicants in the said Original Applications were continued beyond the normal period of 3 years on deputation. Further, it was also directed by this Hon'ble Tribunal that the existing vacancies of Divisional Accountants should be immediately filled up and in the event the State of Arunachal Pradesh takes over the cadre of Divisional Accountant, then the applicant and others were required to be given the chance to face the test proposed for absorption in the cadre taken over by the State Government.

A copy of the judgment and order dated 10.04.2008 is annexed as **Annexure - 13.**

4.14 That the applicant states that the direction of this Hon'ble Tribunal has not been fully complied with by the respondent authorities till date. Although the recovery sought to be made vide the order dated 05.04.2007 was not effected, the other directions regarding filling up of the vacancies and affording the applicant and other similarly situated incumbents the opportunity to appear in the proposed test to secure absorption for them in the cadre of Divisional Accountant have not been complied with. The applicant and the other similar incumbents are still continuing on deputation basis as Divisional Accountants under the administrative control of the Respondent No.2.

4.15 That the applicant states that the age of superannuation for the employees of the State of Arunachal Pradesh is 58 years and on that basis the date of retirement from service on attaining the age of superannuation is 31.05.2009 in case of the applicant. The age of superannuation for the Divisional Accountants is 60 years and all other incumbents continuing on deputation basis are still continuing in service. There is every likelihood in the very recent future that the exercise towards transfer of the cadre of Divisional

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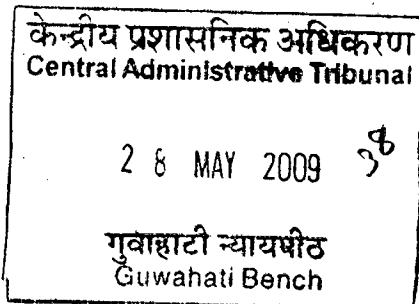
Accountants to the State of Arunachal Pradesh would be given effect to and in that event the applicant stands to suffer irreparable loss and injury inasmuch as in the event he is required to proceed on superannuation on 31.05.2009, he would loose on the chance to get permanently absorbed in the cadre of Divisional Accountant, which benefit could be very well availed by the other similarly placed Divisional Accountant serving on deputation consequently permitting their continuance upto the age of 60 years. In such an event the applicant would be meted out with hostile discrimination vis-à-vis his other co-employees serving as Divisional Accountants on deputation basis.

4.16 That the applicant states that although he came on deputation to the cadre of Divisional Accountant from the service of the State of Arunachal Pradesh, the post against which he is supposed to have a right by way of lien in the State Government has long been permanently filled up by regular incumbents. In the event he would have continued in the service of the State Government, the posts/cadres to which he could have been promoted to, no vacancy exists therein owing to filling up of the said posts by regular incumbents. The lien, if any, the applicant had in the service of the State Government stood terminated on the filling up of the vacancies on permanent basis against which the applicant could have been accommodated. In such an event the applicant has no avenue to return to his parent service and for all intent and purpose he is a regular incumbent in the cadre of Divisional Accountant and is required to be absorbed against the same.

4.17 That the applicant states that the fact that he is considered to be a regular incumbent in the cadre of Divisional Accountant is very well established from the fact that the recommendation of the Sixth Central Pay Commission which is applicable to the employees of the Central Government has been implemented in case of the applicant and other similarly placed Divisional Accountants and vide an order bearing No. DA Cell/PF/846 dated 25.11.2008 his pay and allowances has been fixed in the cadre of Divisional Accountant.

A copy of the order dated 25.11.2008 is annexed as Annexure – 14.

R. Prathapan.



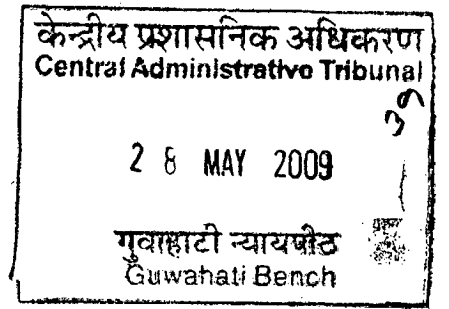
4.18 That the applicant states that the Government of India has adopted a policy decision granting the benefit of absorption in service to incumbents who had been serving on deputation basis in a Central Government Department for a continuous period of years either from another Central Government Department or from the services of the State Governments. In terms of the said policy decision also the applicant is entitled to be absorbed in service as a Divisional Accountant. The applicant due to the urgency in filing this application could not annex the said policy decision to present application, but the same would be produced before this Hon'ble Tribunal for perusal at the time of final hearing of the case.

It is pertinent to mention here that the Recruitment Rules holding the field may not prescribe for absorption of incumbents serving on deputation basis, but it is still open for the concerned Government either to formulate policy decision or to take a conscious decision to absorb incumbents serving on deputation basis in the borrowing department and such policy decision/conscious decisions have always been upheld by the Hon'ble Courts throughout the country.

4.19 That the applicant states that considering the peculiar facts and circumstances of his case, the office of the Executive Engineer, Hydro Power Division, Ziro, Department of Hydro Power Development, Government of Arunachal Pradesh had already vide its communication bearing No. ZD/HPD/E-3/2009-10/ 188-92 dated 20.05.2009 written to the Respondent No. 2 to ascertain whether the applicant should be continue in service beyond 58 years in terms of the judgment and order dated 10.04.2008 passed by this Hon'ble Tribunal in O.A. No. 144/2007 and other connected matters directing to maintain status quo as regards continuance of the applicant as Divisional Accountant pending implementation of the directives contained in the said judgment and order, but no response has been received from the said office till date.

A copy of the communication dated 20.05.2009 is annexed as Annexure – 15.

R. Prathapan.

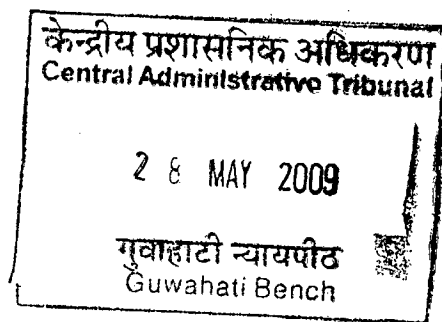


4.20 That the applicant states that the respondent authorities having utilized the most valuable part of his service career as a Divisional Accountant and that to for their own interest cannot now at the fag end of his service career deprive him of the service benefits attached to the said post. The respondent authorities during the entire service period of the applicant as a Divisional Accountant had ample opportunity to repatriate him to his parent department, but they choose not to do so for their own interest and in the process of serving their interest, a situation has arisen now where the applicant is faced with the situation of being adversely affected in so far as his service conditions are concerned. Such a situation has solely arisen due to lackadaisical attitude of the respondent authorities in resolving the entire issue of continuing the applicant and others on deputation as Divisional Accountants in its true perspective and now they are estopped from trying to escape liability for the situation in which the applicant has landed into.

4.21 That the applicant states that in the event he is made to retire from service on 31.05.2009, his service condition would be adversely affected inasmuch as he would be for all purpose and intent considered to have been repatriated from the cadre of Divisional Accountant and his pension benefits would be accounted for against the post from which he went to serve on deputation in the cadre of Divisional Accountant. The co-employees and also the juniors of the applicant in the erstwhile employment under State Government have already been promoted to the next higher cadre/grades in service and receiving their pay and allowances at a much higher scale and stage than what the applicant was receiving against the post from where he had proceeded to serve on deputation.

In view of the facts and circumstances narrated herein above, in the alternative, it is submitted before this Hon'ble Tribunal that, in the event the applicant is required to proceed on superannuation on 31.05.2009, the respondent authorities be directed to calculate his pension benefits on the basis of the pay and allowances that has been fixed and which he is presently receiving in terms of the recommendation of the Sixth Central Pay Commission.

R. Prathapan



4.22 That in the facts and circumstances of the case, the applicant prays for an interim direction, failing which, he stands to suffer irreparable loss and injury.

4.23 That in the event Your Lordships' is pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicant inasmuch as he is yet to be released from service and would be continuing in service till 31.05.2009 i.e., the date of proceeding on superannuation as per norms applicable to State Government employees and in all probability Your Lordships' may be pleased to allow this application inasmuch as the age of retirement from service for the cadre of Divisional Accountant is 60 years and for all intent and purpose the applicant is considered to be a regular incumbent in the said cadre.

4.24 That the applicant states that inaction and the wanton attitude of the respondent authorities have violated the principles of Natural Justice, Administrative Fair Play and the set of Rules and procedures established by law in not extending to the applicant his "just dues" of legitimate claim and thereby infringes upon the mandate of Articles 14, 16(1), 39(a) & 309 of the Constitution of India.

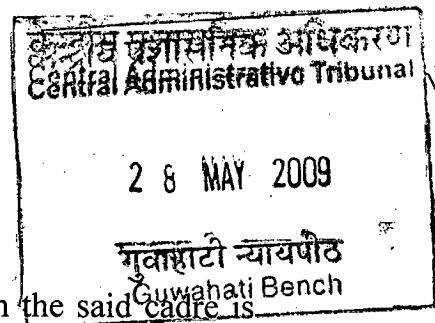
4.25 That the applicant states that he has no other appropriate, equally efficacious alternative remedy available to him and the remedy sought for herein when granted would be just, adequate, proper and effective.

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

5. GROUND(S) FOR RELIEF (S) WITH LEGAL PROVISIONS:

5.1 For that, the action on the part of the respondent in not arriving at a decision to allow the applicant to continue in service till he attains the age of 60 years or till the time the State of Arunachal Pradesh formally takes over the

R. Prathapan



cadre of Divisional Accountant facilitating his absorption in the said cadre is bad in law as well as in facts.

5.2 For that, in the event the applicant is required to proceed on superannuation on 31.05.2009 on attaining the age of 58 years, he would be deprived of his rightful due of getting absorbed in the cadre of Divisional Accountant.

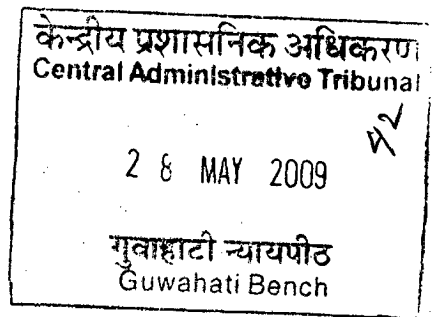
5.3 For that, in the event the applicant is required to proceed on superannuation on 31.05.2009 on attaining the age of 58 years, he would be deprived of his rightful due of enjoying his pension benefits in terms of the scale of enjoyed by him as a Divisional Accountant.

5.4 For that, in the event the applicant is required to proceed on superannuation on 31.05.2009 on attaining the age of 58 years, he would notionally stand repatriated to his parent organization against the post from which he was deputed to serve as a Divisional Accountant consequently meting him out with hostile discrimination inasmuch as the co-employees and also the juniors of the applicant in his erstwhile place of employment have been promoted to further higher grades and receiving their pay and allowances at a much higher stage.

5.5 For that, no post in the cadre from which the applicant proceeded on deputation to serve as a Divisional Accountant and also the in the higher cadres to which the applicant could have been promoted had he been in the service of the State Government, no vacancy exists as on date and the same were filled up long back on regular basis, consequently terminating the lien which he enjoyed in the State service. As such, for all intent and purpose he is now a regular incumbent in the cadre of Divisional Accountant.

5.6 For that, the recommendation of the Sixth Central Pay Commission has been implemented and given effect to in case of the applicant, which benefit is enjoyable by a regular incumbent in the cadre of Divisional Accountant and therefore, he is required to be granted the service benefits attached to the said cadre.

R. Prathapan



5.7 For that the Central Government had adopted a policy decision to grant the benefit of absorption to incumbents serving on deputation and having completed 5 years of service on deputation in a Central Government Department from another Central Government Department or from the services of the State Government's to a Central Government Department and in terms of the said policy decision, the applicant is required to be absorbed in service as a Divisional Accountant.

5.8 For that, in the event the applicant is required to proceed on retirement on 1.05.2009 on attaining the age of superannuation, his pension benefit are required to be calculated on the basis of the last pay drawn by him as a Divisional Accountant.

5.9 For that, the action/inaction of the respondent authorities in failing to arrive at a decision in the matter is unsustainable in the eye law and liable to be interfered with by this Hon'ble Tribunal by granting appropriate relief(s) to the applicant.

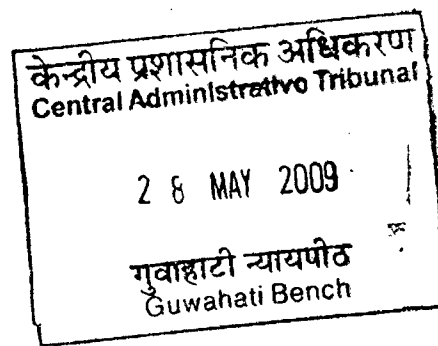
6. **DETAILS OF REMEDIES EXHAUSTED:**

That the applicant declares that he has 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 applicant further declares that he has 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.

R. Prathapan.



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 To direct the respondent authorities to absorb the applicant in the post/cadre of Divisional Accountant.

8.2 To direct the respondent authorities to allow the applicant to continue in service as a Divisional Accountant till he attains the age of 60 years, which is the age of retirement applicable to cadre of Divisional Accountant.

8.3 To direct the State of Arunachal Pradesh to take to its logical conclusion the process initiated for taking over the cadre of Divisional Accountant.

8.4 Alternatively in the event the applicant is required to proceed on retirement on 31.05.2009, his pension benefits should be calculated on the basis of the last pay drawn by him in the cadre of Divisional Accountant. ✓

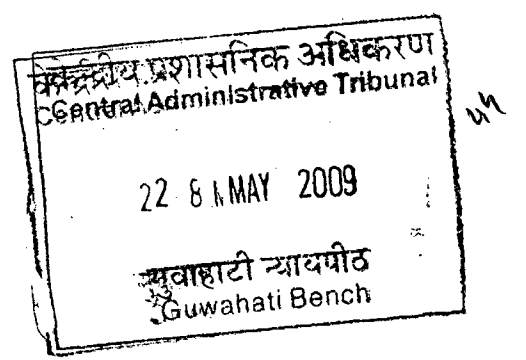
8.5 Costs of the application.

8.6 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: -

R. Prathapan.



9.1 That the Hon'ble Tribunal be pleased to direct the respondent authorities to allow the applicant to continue in service till he attains the age of 60 years or till the time the State of Arunachal Pradesh takes over the cadre of Divisional Accountant.

9.2 Alternatively, to direct the respondent authorities to calculate his pension benefits on the basis of the last pay drawn by him in the cadre of Divisional Accountant.

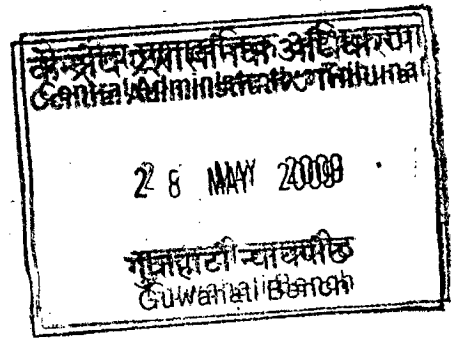
10.

11. **PARTICULARS OF THE I.P.O**

- i) I.P.O No. : 39D 409093
- ii) Date of issue : 28.08.2009
- iii) Issued from : Guwahati.
- iv) Payable at : GPO, Guwahati

12. **LIST OF ENCLOSURES** : As given in the index.

R. Prathapan.



VERIFICATION

I, Shri R.Prathapan, aged about 59 years, son of Late V.Raghavan, Resident of Ziro in the State of Arunachal Pradesh, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1,2,3,4,(1,2,5,9,14,15,16,18,20 ~~and 25~~) & 5 to 12 are true to my knowledge; those made in paragraphs 4 (3,4,6,7,8,10,11,12,13,17,19) are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed and material facts of the case.

And I sign this verification on this the 25th day of May, 2009.

R. Prathapan.
DEPONENT

(Department of Expenditure)

New Delhi, the 24th September, 1988.

105.A. 749 - In exercise of the powers conferred by clause (5) of article 146 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.

1. 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 3 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, ~~including a marriage with a person who is a minor~~

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.

3. 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 persons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

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

SCHEDULE

Name of post	No. of post	Classification Scale of pay	Whether selecti- on post or non- selecti- on post	Whether benefit of added years of service ac- missible under rule 39 of the Central Civil Ser- vice (Pen- sion) Rules 1972
	26 vacancies			

Conto p. 2.

Serialized to be 1140

Alfred

Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

2.	3.	4.	5.	6.
Accountant	2504*(1989) General *Subject to variation dependent on work-load.	Rs.1400-40-1600-50-Service Group 'C' -2600 Non-Caste-tted Ministerial	Not applicable	No

7.	8.	9.	10.
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 promotees.	Period of probation, if any.

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

12 8 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.	11.	In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made.	12.
--	-----	---	-----

Direct Recruitment.

As stated in column 11

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

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

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

State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.

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

147
48

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

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

13.

14.

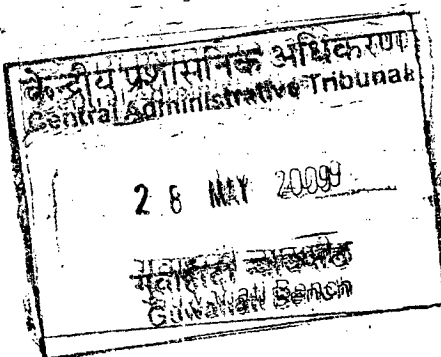
Group 'C' Departmental Promotion Committee (for confirmations) consisting of :-

Not applicable

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

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

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



28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

EO No.DA Cell/ 207

Dated:

27.12.95

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

R. Prathapan, U.S.C. at present working

in the Office of the Supplg Engr, Jang Civil Circle Pur
is posted on deputation as Divisional Accountant

in the office of the Impthal Executive Engineer
Impthal Generation and Distribution Division
(Electrical), Imphal Manipur

2. Shri R. Prathapan should
join the aforesaid post of Divisional Accountant on deputation
within 15 days from the date of issue of this order, failing
which his posting on deputation is liable to be cancelled
without any further communication and the position may be ~~filled~~
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 R. Prathapan
will be for a duration of 1 (one)
year only from the date of joining in the Office of the

Executive Engineer, Impthal Generation &
Distribution Division (Electrical), Imphal Manipur

4. The Pay and deputation (duty) allowances in respect of
Shri R. Prathapan

will be governed by the Government of India, Ministry of
Finance, Public Grievances and Pension (Department of Personnel
and Training) letter No.2/12/87-Estt (Pay.II) dtd.29.4.1988

contd..P/2...

Certified to be true Copy

Advocate

Advocate

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

- 2 -

and as amended and modified from time to time. While on deputation, Shri R. Prathapan 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 R. Prathapan

_____, 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 R. Prathapan shall be treated as final and ~~it~~ cannot be altered/changed later under any circumstance whatsoever.

5. The Dearness Allowance, CCA, Children Education ~~Allowance~~, Allowance, T.A., LTC, Leave, Pension, etc will be governed by the Govt. of India, Ministry of Finance OM No. F1(6) E-IV(A)/62 dtd. 7.12.1962 (Incorporated as Annexure to Govt. of India decision No. 1 in Appendix 31 of Choudhury's C.S.R Volume IV(13th Edition) and as amended and modified from time to time.)

6. Shri R. Prathapan 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 R. Prathapan (on deputation) is entrusted additional charges, appointed or transferred to a Post/Station other than that cited in this Establishment Officer.

Sd/-
Sr. Accounts Officer,
i/c DA Cell.

12 8 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

- 3 -

Memo No. DA Cell/2-49/94-95/277-1 Dated: 12/5/09

Copy forwarded for information and necessary action to

1) The Accountant General (A&B), Manipur, Imphal.

2) The Accountant General (A&B), Tripura, Agartala.

3) The Chief Engineer, (E&T) Jorhat, Assam.

He is requested to release Shri R. Balakrishnan

immediately with the direction to report for duty to his place

of posting on deputation under intimation to this office.

REGISTERED: 5) The Executive Engineer, Subda Engineer

Along Civil Circle, Along, Garo Road, Jorhat.

He is requested to release

immediately Shri R. Balakrishnan, U.R.C.

with the direction to report for duty to his place of posting

on deputation under intimate to this office.

REGISTERED: 6) The Executive Engineer, Jorhat Generation

2 Distribution Division (Electrical) Jorhat.

He is requested to

intimate the date of joining of Shri R. Balakrishnan

REGISTERED: 7) Shri R. Balakrishnan, U.R.C.

o/o the Subda Engineer

Along Civil Circle, Along, Garo Road, Jorhat.

8. E.O. File

9. S.C. File

10. P.C. File

11. File of the deputationist.

12. The Chief Engineer (Electrical)
Manipur, Jorhat

Sr. Accounts Officer,
i/c DA Cell.

EC

-29-

ANNEXURE-3

GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS & TREASURIES : NAWARLACON
(THROUGH FAX/SPEED POST)

NO. DA/TRY/15/99

Dated Nawarlagun the 15th Nov'99

केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी बेंच
Guwahati Bench

To,

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

SUB :-

Recruitment/ positing 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 correspondence under reference the state Govt. as well as this Directorate were never consulted while recruiting and posting of DAOs/DAs, though these posts were borned 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 depts 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 esteem office.

Yours faithfully,

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

Ref No. 0360 244281

Copy to :-

1.

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

Contd. P/2

Verified to be true Copy



Advocate

12 8 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

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

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

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.

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

Office copy.

Sd/-

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

- 31 -

Gram : ARUNACCOUNTS

Phone : 214281 (O)

272637

ANNEXURE-4

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries
Naharlagun-791 110

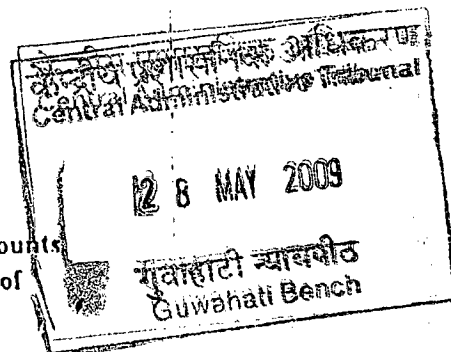
Dated, the 12th Jan. 2000

No. DA/TRY/15/99

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.

Certified to be true Copy

Advocate

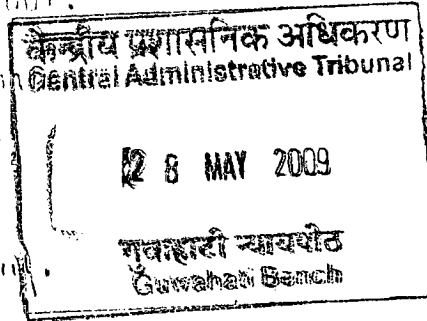
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI

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 H.R.K. TRIVEDI, JUDGE CHAIRMAN

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



✓ O.A.No.200/2001(T) (In C.R.6037/99):

R. Prathapan

Applicant.

By Advocate Mr.U.K.Sharma & Mr.P.K.Tiwari.

- Vs -

State of Arunachal Pradesh & Ors. Respondents.

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

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

Shri Habung Lalin

Applicant.

By Advocate Mr. Tagla Michl

- Vs -

Union of India & Ors. Respondents.

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

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

Sri Keshab Chandra Das

Applicant.

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

- Vs -

State of Arunachal Pradesh & Ors. Respondents.

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

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

Gamboli Hagey

Applicant.

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

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.

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

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

Shri Rathindra Kumar Das

Applicant.

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

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.

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

Certified to be true Copy

(Signature)

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI

Original Application Nos. From 200(T) to 203(T) of 2001.

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

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

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

R. Prathapan

By Advocate Mr.B.K.Sharma & Mr.P.K.Tilari. Applicant.

- 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

By Advocate Mr. Tagla Michl Applicant.

- Vs -

Union of India & Ors.

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

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

Sri Keshab Chandro Das

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

- Vs -

State of Arunachal Pradesh & Ors.

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

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

Gambohi Hagey

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

- 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 Deb

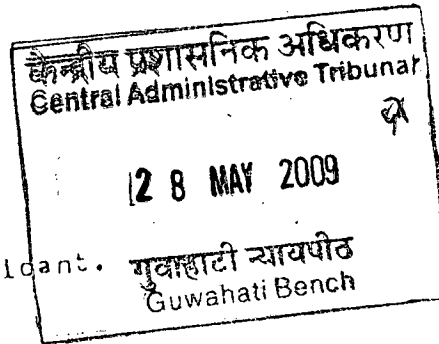
By Advocate Mr.Amitava Roy & Mr.S.Dutta Applicant.

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.

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

Contd.. 2



✓ O.A. 205/2001(T) (In W.P.(c) 376/2000) :
Shri Utpal Mahanta
By Advocate Mr.A.Roy & Mr.S.Dutta

Applicant. गुवाहाटी न्यायपीठ
Guwahati Bench

- 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) :
Hago Mubi Tala
By Advocate Mr.A.Roy, Mr.M.Chanda & Mr.S.Dutta

Applicant.

- Vs -

Union of India & Ors.
Mr.A.Deb Roy, Sr.C.G.S.C.

Respondents.

✓ O.A. 207/2001(T) (In W.P.(c) 876/2000) :
Malay Bhushan Dey
By Advocate Mr.U.C.Das & Mr.S.Dutta

Applicant.

- Vs -

Union of India & Ors.
Mr.A.Deb Roy, Sr.C.G.S.C.

Respondents.

O.A. No. 208/2001(T) (In W.P.(c) 375/2000) :
Shri Hago Tamin
By Advocate Mr.A.Roy, Mr.M.Chanda & Mr.S.Dutta.

Applicant.

- Vs -

The State of Arunachal Pradesh & Ors. Respondents.
Mr.A.Deb Roy, Sr.C.G.S.C.

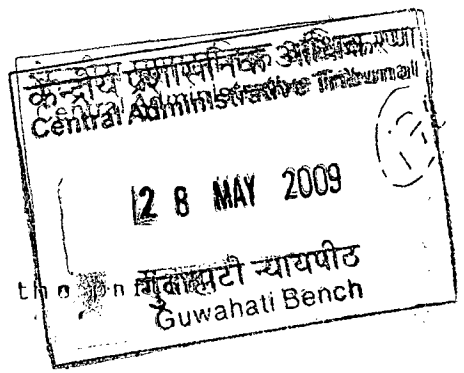
O R D E R

R.R.K. ILLIVEDI J.(V.C.) :

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 respondents have no objection.

3. The applicants of the present O.A.s 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, ^{under a} 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 requirement 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 Depts 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."

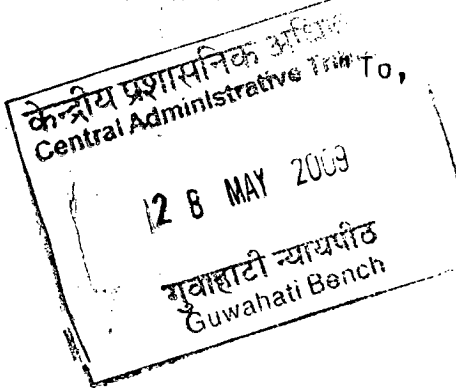
Thus, the period of expiry stands extended by order dated 15th Nov '99 from the date of expiry. In the meantime the State of Arunachal Pradesh has taken a decision to absorb the

contd.. 4

22.6.01

12

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:

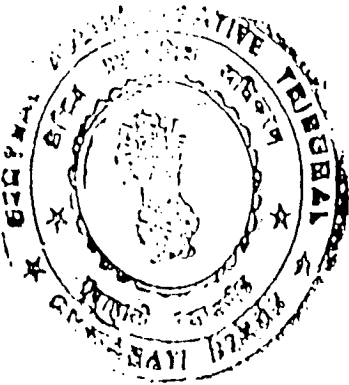


The Accountant General(A&E)
Arunachal Pradesh, Meghalaya, etc.,
Shillong-793 001.

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,
NAHARLAGUN.

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

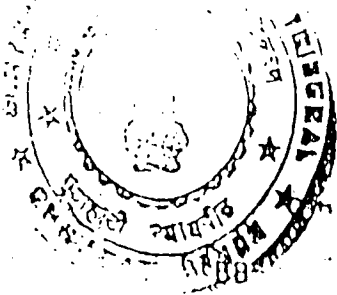
- 5 -

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 ^{suspended} ~~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.

SO/VICE CHAIRMAN
SO/ MEMBER (Adm)

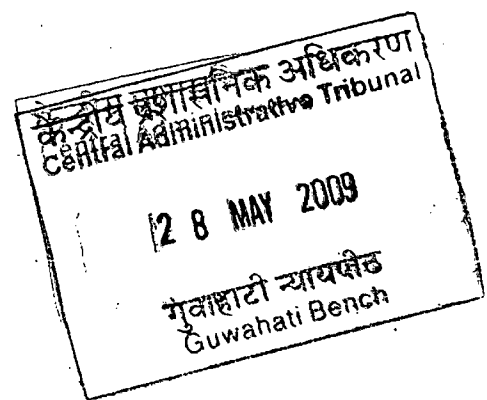


TRUE COPY

प्रतिलिपि

Section Officer (J)
सहायक न्यायाधीश (प्रशासनिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी न्यायपीठ, गुवाहाटी

17/11/2009



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 Lalin
S/o Shri Habung Tasso
A-Sector, Naharlagun
Dist. - Papumparo
Arunachal Pradesh.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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 Gamboh Hagey,
S/o Shri H.N. Bhat,
Divisional Accountant,
O/o the Executive Engineer,
R.W.D. Ziro, Arunachal Pradesh.
DIST. LOWER SUBANSIRI.
5. Shri Rathindra Kumar Deb,
S/o Late Ramani Mohan Deb,
Divisional Accountant,
O/o the Executive Engineer,
I & FCD, Tezu, Arunachal Pradesh.
DIST. LADIT
6. Shri Utpal Mahanta,
S/o Shri Krishna Kanti Mahanta
Divisional Accountant,
O/o the Executive Engineer,
Daporijo PHE Division,
Arunachal Pradesh.
DIST. UPPER SUBANSIRI.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
28 MAY 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

7. Shri Hage Mubi Tada,
S/o Shri Hage Mubi,
Divisional Accountant,
O/o the Executive Engineer,
Papumpara, 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 SUBANSERI.

..... Respondents.

The humble petition of the Petitioner above-named

10. Central Administrative Tribunal
Guwahati Bench, Guwahati.
11. State of Arunachal Pradesh.
Honnagar, represented by
the Chief Secretary
Govt. of Arunachal Pradesh
Honnagar.

Implored vide HC dt 16.8.05 as R.No.10411.

19.8.05

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			WP(C) No. 3992/2002
			BEFORE HON'BLE THE CHIEF JUSTICE MR BS REDDY HON'BLE MR JUSTICE T NANDAKUMAR SINGH 16-02-2006 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. The writ petition shall accordingly stand dismissed.

Sd/- T. Nandakumar Singh
Judge

Sd/- B. S. Reddy
Chief Justice

Kieranz Ram Das
16/3/07

Sl No. 71861

10.3.07

Rs. 100/-

-43-

GOVT OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS & TREASURIES
NAHARLAGUN

ANNEXURE 7

NO. DA/TRY/15/99

Dated Naharlagun the 11th March '02

To,

The Accountant General (A&E)
Mehabaya, Arunachal Pradesh etc.
Dihum.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Subj:- 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.

Dated Naharlagun the 11th March '02.

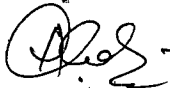
Memo No. DA/TRY/15/99/

Copy to :-

- 1) The Chief Engineer, PWD (W/Z, W/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.

Certified to be true Copy



Advocate

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

- 44 - ANNEXURE 8
12/12/05
SP 86541648
GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE DIRECTORATE OF ACCOUNTS & TREASURIES
NAHARLAGUN - 791110

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

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.

Encls : As stated above.

Yours faithfully

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

Dated 30 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)

Certified to be true Copy

Advocate

- 45 -

8

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.

केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

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

Divisional Accountants on Deputation

2.1

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

2.2

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

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

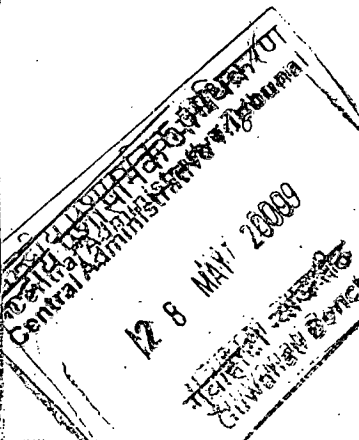
The state government through Arunachal Pradesh Public Service Commission shall fill up all the vacancies of Divisional Accountants of works divisions.

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)



28 MAY 2009

78

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 new State Bench government from time to time. In case of existing / working Divisional Accountants, upper age limit is relaxable upto 52 years.

5.3 Education Qualification:

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

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

5.4 Appointing Authority:-

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

5.5 Probation and Training:-

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

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

6 Transfer & Posting:-

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

7 Transfer of record:-

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

Sd/-

(Tabom Bam),

Principal Secretary (Finance)

Govt. of Arunachal Pradesh

Itanagar.

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ANNEXURE

9

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Registered Post

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

Dated:- 25.11.2005

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

To

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

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

Sir,

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

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

Encls:- As stated above.

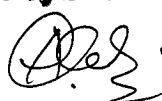
Yours faithfully,



(A.K.Das)

Dy.Accountant General (Admn)

Certified to be true Copy



Advocate

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.	Sub-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 Maipur / Tripura.

केन्द्र प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Not received

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 8 MAY 2009

रजिस्ट्रार जनरल
Guwahati Bench

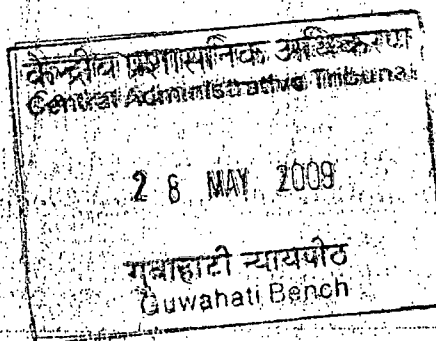
Directorate of Accounts
Govt. of A.P.

(II) 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 Engineers 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 Accounts 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.

(e) 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.



Director of Accounts & Treasuries
Arunachal Pradesh Govt.

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.

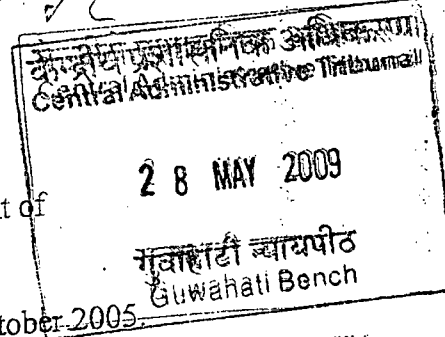
OFFICE OF THE ACCOUNTANT GENERAL (A&E),
MEGHALAYA, ARUNACHAL PRADESH & MIZORAM
SHILLONG-793 001

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 3rd 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.)

Certified to be true Copy

Advocate

GOVT. OF ARUNACHAL PRADESH
FINANCE DEPARTMENT
ITANAGAR

NO. DA/TRY/15/99/1921

Dated Naharlagun, the

8th September

To,

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

3 August 2007
Central Administrative Tribunal

28 MAY 2009

গুৱাহাটী বেন্চ
Guwahati Bench

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.

Contd. next page

Joint Director
Directorate of Accounts & Treasuries

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2

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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 scheme

Yours faithfully,

K.K. Sharma

(K.K. Sharma)

Development Commissioner (Finance)

Govt. of Arunachal Pradesh,

Itanagar

o/c

Attested

Joint Director
Accounts &
P. Niman

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/Sr. 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

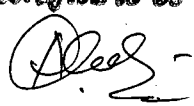
2. The Sanctioned Strength will be determined for the States of Manipur, Tripura and Arunachal Pradesh on the basis of number of existing Divisions for which post of DAs/DAOs/Sr.DAOs have been sanctioned for these States.

Contd..2

Office of the Chief Examiner
10.9.90 9/2/07

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Certified to be true Cop)

Advocate

12 8 MAY 2009

Contd. 2

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

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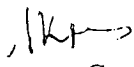
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28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

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


Dy. Accountant General (Admn)

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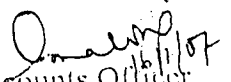
Memo No. DA Cell/BOC/2006-2007/927-937

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.


Sr. Accounts Officer
I/c DA.Cell.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

25 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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 _____

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

To

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

26 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub:- Implications of overstay 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 overstay 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 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 overstay shall not count against service for the purpose of pension and that any increment due during the period of unauthorised overstay shall be deferred, with cumulative effect till the date on which officer rejoins his parent cadre.

Certified to be true Copy



Advocate

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केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

12 8 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

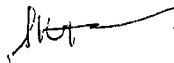
These will equally apply to all deputationist including State Govt. Officer/All India Services Officers joining Central Govt. Post on deputation and to officers proceeding on deputation to state govt. /autonomous & statutory institutions/foreign bodies etc.

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.

Encl:- As stated above.

Yours faithfully,



Dy. Accountant General (Admin)

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.



Dy. Accountant General (A)

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केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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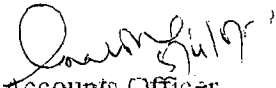
Memo No, DA Cell/2-46/DDA/Vol.III/2007/17-81 Dated:- 5.4.2007

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,


Sr. Accounts Officer
I/c DA Cell.

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

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

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

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

O.A. 112/2007

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

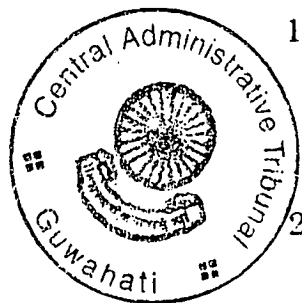
28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Applicant in O.A. 112/2007

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

Vs.



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

Certified to be true Copy


Advocate

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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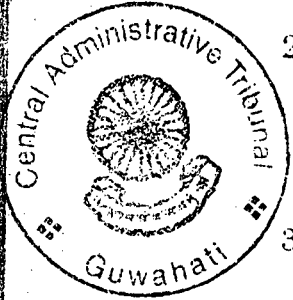
गुवाहाटी न्यायपीठ
Guwahati Bench

Respondents in O.A. 122/2007

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

O.A.130/2007

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



[Handwritten signature]

6. Sri Bimal Biswas
Divisional Accountant
O/o the Executive Engineer
R.W.D., Tezu, Arunachal Pradesh.
7. Sri Debobrata 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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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).

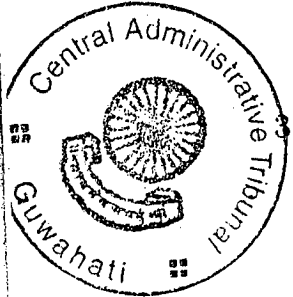
By Advocates S/Shri M.Chanda, S.Nath & U.Dutta.

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.

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

4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer, Public Works Department
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer, Rural Works Department
Government of Arunachal Pradesh



Itanagar.

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

8. The Chief Engineer
PWD (Water Resource)
Government of Tripura
Agartala - 799 001.

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Respondents in O.A. 130/2007.

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

O.A.134/2007

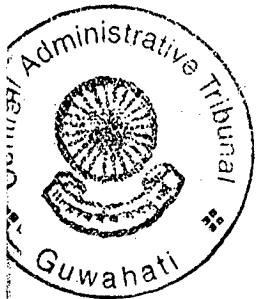
1. Sri Takong Taboh
Son of Late Tapong Taboh
Divisional Accountant
O/o of the Executive Engineer
Public Health Engineering Division
Yingkiong, Dist: Upper Siang
Arunachal Pradesh.

2. Shri Radhesyam Das
Son of Late Ramesh Ch. Das
Divisional Accountant
O/o of the Executive Engineer
R.W.Division, Pasighat
Dist: East Siang
Arunachal Pradesh.

3. Sri Vijaya Kumaran Nair
Son of Sri Govindan Nair
Divisional Accountant
O/o of the Electrical Division under
The Executive Engineer
Department of Power, Bomdila,
Dist. West Kameng,
Arunachal Pradesh.

Applicants in O.A.134/2007

(All the Applicants are working on deputation basis under the
administrative control of A.G.(A&E), Meghalaya, Arunachal
Pradesh, Tripura, Manipur etc. (Respondent No.2).
7



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

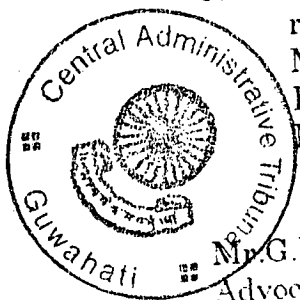
Vs.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

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Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

O.A.143/2007

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

Applicant in O.A.143/2007

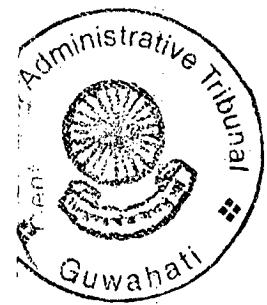
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

Vs.

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

Respondents in O.A.143/2007

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



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✓ O.A. 144/2007

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

Applicant in O.A.144/2007

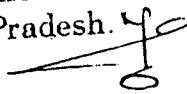
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

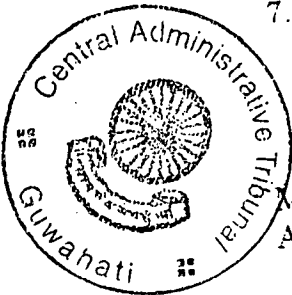
Vs.

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

Respondents in O.A.144/2007

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





O.A.159/2007

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Central Administrative Tribunal

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Guwahati Bench

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

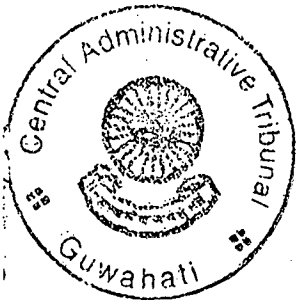
Applicant in O.A.159/2007

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

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

Vs.

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



28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

Sri Upendra Chandra Debnath
Divisional Accountant
O/o the Executive Engineer
R.W.D. Tawang
Tawang, Arunachal Pradesh.

Applicants in O.A.182/2007



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

Vs.

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

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

केन्द्रीय प्रशासनिक अ
Central Administrative Trib

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

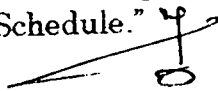
ORDER

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."





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Guwahati Bench

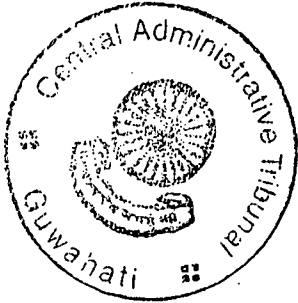
Note:1 The direct recruits will be selected on the basis of an entrance examination conducted by an authority specified by the Comptroller and Auditor General of India. During the period of probation, they should qualify in the prescribed Departmental Examination.

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

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

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

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

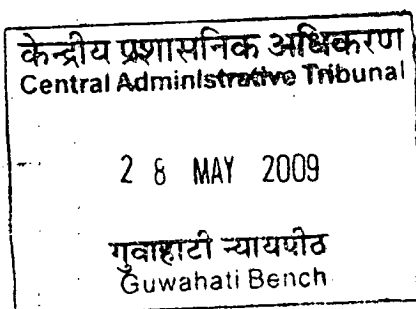


4. While the Applicants are continuing as Divisional Accountants, on deputation basis, the State Government of Arunachal Pradesh resolved to take over the entire Divisional Accountant etc. posts from the control of the Government of India (Accountant General/CAG) and, accordingly, proposals were placed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

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

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

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



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

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

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

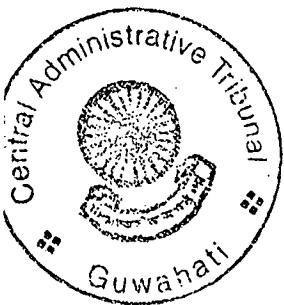
28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

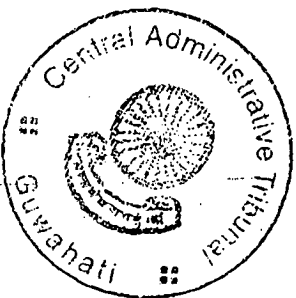
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as there are no prohibition to that effect in the recruitment Rules of 1988. That should be done pending finalization of the issue relating to handing over & taking over of the Divisional Accountant etc. Cadre from Central Government Organisation to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

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

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

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



TRUE COPY

प्रतिलिपि

अनुभाग अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

Guwahati Bench

गुवाहाटी/Guwahati-5

Sd/-

Manoranjan Mohanty

Vice Chairman

Sd/-

Khushiram

Member (A)

REGISTERED INSURED POST FOR R.500/-

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA
SHILLONG- 793 004.

कन्द्रीय प्रशासनिक अधिक
Central Administrative Tribu

No. DA Cell/PE/846

Dated:- 25.11.2008

28 MAY 2009

To,

The Ex. Engineer

Zero Division, Dept. of Hydro Power
Diso

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub:- Implementation of Sixth Central Pay Commission recommendations- Fixation of Pay & Allowances in respect of Shri

R. Prathapan, Sr. on Deposition

Sir,

In inviting a reference to your letter No. 2D/HPO/E-37/2006-07/923-24
Dated 10/10/2008, I am to forward herewith the Service Book of Shri
R. Prathapan Sr. DAODAO-LDA along
with 2(two) copies of Fixation Statement w.e.f. 1.1.2006 with reference to
Sixth Pay Commission.

Consequent on fixation of pay as recommended by the Sixth Central
Pay Commission w.e.f. 1.1.2006, the pay of
Shri R. Prathapan, DA on Depn., Sr. DAO has been fixed at
the stage of Rs. 15150/- + Rs. 4200/- in the revised
scale of pay Rs.9300-34800/-

The allowances admissible as recommended by the Sixth Pay
Commission admissible to the employees are follows.

1. Special (Duty) Allowance vide O.M. 11(5)/2008-E-II(B) dated 29.8.2008 of GOI's Ministry of Finance, Deptt. of Expenditure and subsequent clarification issued vide the C&AG of India vide letter No.1216-6PC/GE-II/135-20 dated 23.9.2008.
2. Special Compensatory (Remote Locality) Allowances -- Revision of rates vide O.M.No. 3(1)/2008-E-II(B) GOI, Ministry of Finance, Deptt. of Expdr. Dated 29.8.2008. It may please be noted that in case any other Special Compensatory Allowances (s) are also admissible at a particular place, the Central Govt. Employees working there will have the option to choose the the allowances which benefits them the most. The remote locality allowances will be admissible as specified in the (Annexure of Deptt. of Expenditure O.M. No. 3 (1)/2008-E-II(B) dated 29.8.2008 areas eligible for grant of Special Compensatory (Remote Locality). These orders be strictly followed while granting the allowances.

Exd

27/11/08

H/H/O/A

Copy of fixation
statement may be
sent to C.E
while in loc allowance

27/11/08

Advocate

11.7.8
12/08

Corriged to be true copy

Advocate

3. Special Compensatory (Hills area) O.M. No. 4(2)/2008-E-II(B) dated 29.8.2008 are eligible for grant of Special Compensatory (Hill area Allowances) revision of rates. It may also be noted that in places where more than one Special Compensatory Allowance is admissible, the Central Govt. employees posted in such stations will have the option to choose the allowance which benefits them the most.
4. Grant of Transport Allowance to Central Govt. employees vide O.M. No. 21(2)/2008-E-II(B) GOI's Ministry of Finance Deptt. of Expdr. Dated 29.8.2008
5. Revised rates relating to grant of Dearness Allowances to Central Govt. servants w.e.f. 1.1.2006 to 1.7.2008 vide O.M. No. 1(3)/2008-E-II(B) GOI, Ministry of Finance, Deptt. of Expdr. Dated 29.8.2008
6. Grant of House Rent Allowances (HRA) and Compensatory (City) Allowance (CCA) vide O.M. No. (13)/2008-E-II(B) GOI, Ministry of Finance, Deptt. of Expdr. Dated 29.8.2008

All the Allowances are admissible w.e.f. 1.9.2007 only. However, Dearness Allowance will be made as sanction from time to time w.e.f. 1.1.2006 vide O.M. No. 1(3)/2008-E-II(B) dated 29.8.2008 GOI, Ministry of Finance Department of Expenditure.

The Arrears pay may be disbursed in two instalment of 40% during the current year and the remaining 60% will be paid in the next financial year.

It may kindly be ensured, that the copy of the due and drawn statement and the payment made may be forwarded to this office of records

of this office.

Necessary entries in the service book with proper attestation may please be made under your ends.

The receipt of the service Books may kindly be acknowledged.

Encls: S/B & copies of letter enclosed. (S.B. in 4 Parts)

Authority:- AG's order dated 17.11.2006 at P/27N of File No. DA Cell/2-4/96-98/RPS.

Yours faithfully,

[Signature]
Br. Accounts Officer/DA Cell.

Memo No. DA Cell/TF/
Copy forwarded to Shri

R. P. Gupta *DA in Deptt.*
the Encls. File Division, Deptt. of H.R. & P.

Br. Accounts Officer/DA Cell.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

36

Annex-II

107
केंद्रिय प्रशासनिक
Central Administrative

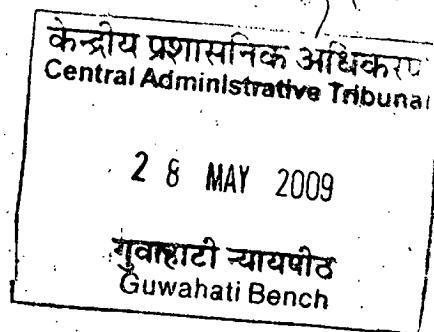
28 MAY 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

Statement of fixation of pay under Central Civil Service (Revised Pay) Rules 2008

1. Name of the Government Servant : Shri R. Prathapan.
2. Designation of the post in which pay is to be fixed as on January 1, 2006 : Divisional Accountant on deputation.
3. Status (substantive/officiating) : Officiating
4. Pre-revised scale(s) of pay applicable for the post [In case more than one scale of pay is applicable for the post and these have been merged in pursuance of the recommendation of the Sixth CPC in a single revised scale, the scale of pay in which the employee was actually drawing his pay should be specified] : Rs. 5500 - 175 - 9000/-
5. Existing emoluments as on January 1, 2006 :
 - (a) Basic pay (including stagnation increments, if any) : Rs. 7250/-
 - (b) Dearness Pay : Rs. 3625/-
 - (c) Dearness Allowance applicable at AICPI average 536 (1982 = 100) : Rs. 2610/-
 - (d) Total existing emoluments [(a) to (c)] : Rs. 13,485/- ~~Rs. 13,490/-~~ (Rundoff)
6. Revised pay band and grade pay corresponding to the pre-revised scale shown at Sl No.4 above. (In the case of HAG+ and above the appropriate scale may be mentioned) : PB-2
Rs. 9300 - 34800 + Rs. 7200/-
7. Pay in the revised pay band/scale in which pay is to be fixed as per the fitment table attached at Annex-I : Rs. 13,490/-
8. Grade pay to be applied in terms of Rule 4 of CCS(RP) Rules, 2008 : Rs. 4200/-
9. Stopped up pay with reference to the : -

revised pay of Junior, if applicable [Notes 7 and 10 below Rule 7(1) of CCS (RP) Rules, 2008]. Name and pay of the Junior also to be indicated distinctly.



10. Revised pay with reference to the Substantive Pay in cases where the pay fixed in the officiating post is lower than the pay fixed in the substantive post if applicable [Sub Rule (2) of Rule 7]

11. Personal Pay, if any [Notes 6 and 8 below Rule 7(1)]

12. Revised emoluments after fixation

(a) Pay in the Revised Pay Band/ Pay Scale

Rs. 18,490/-

(b) Grade Pay

Rs. 4200/-

(c) Special Pay, if admissible (Sub Rule 1(C) of Rule 7)

(d) Personal Pay, if admissible

(e) Non-Practising Allowance, if admissible [Sub Rule 1(D) of Rule 7]

13. Date of next increment (Rules 9 & 10) and pay after grant of increment

1.4.2006

Date of Increment

Pay after Increment

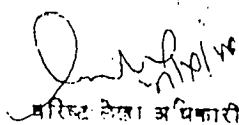
1.4.2006 = Rs. 14030 + Rs. 4200 = Rs. 18,230/-
1.4.2007 = Rs. 14580 + Rs. 4200 = Rs. 18,780/-
1.4.2008 = Rs. 15150 + Rs. 4200 = Rs. 19,350/-

Pay in the Pay Band/Scale	Grade Pay (wherever applicable)
Rs. 15150/-	Rs. 4200/-

14. Any other relevant information

Date:
Office

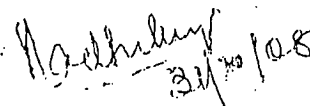
Signature & Designation of Head of



Deputy Accountant General

महाप्रशासनिक सेवा, गुवाहाटी न्यायपीठ
Dir. P. S. Guwahati Bench (J & E)

पेता नं. 1/2/2008/3000
Meghalaya sec. 1/2/2008/3000



उप महाप्रशासक (प्रशासन)
Deputy Accountant General (J & E)
महाप्रशासनिक सेवा, गुवाहाटी न्यायपीठ
Office of the Accountant General (J & E)
अकाउंट्स, इलाहाबाद शिबिर
Meghalaya sec. 1/2/2008/3000

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ANNEXURE

15

Tel.No.03788/224519

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE EXECUTIVE ENGINEER: HYDRO POWER DIVISION, ZIRO

DEPARTMENT OF HYDRO POWER DEVELOPMENT: ZIRO: A.P. Central Administrative Tribunal

NO.ZD/HPD/E-3/2009-10/

To

Dtd.

28 MAY 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

The Accountant General(A&E)

(D.A.Cell,) Meghalaya Etc.,
Shillong-793 004.

Sub :- Services of Shri R.Prathapan, Divisional Accountant on deputation.
Sir,

It is to inform that Shri R.Prathapan, who have been posted as Divisional Accountant on deputation and joined in Ziro Civil Division on 06.08.1997 and continuing in the same post. As per service records, the incumbent was continuing in the post of Divisional Accountant w.e.f. 29.01.1996.

The Central Administrative Tribunal, Guwahati Bench vide their order dated 11.04.2008, it is ordered that the present Divisional Accountant on deputation continue to maintain the statusquo. Since the incumbent is belongs to State Government Services of Arunachal Pradesh and as per service records the superannuation of Shri R.Prathapan is on 31.05.2009, while considering 58 years of age.

Therefore, it is requested to intimate whether Shri R.Prathapan, Divisional Accountant should continue to maintain the status of Divisional Accountant beyond the age of 58 years; as per CAT's order,

A line of confirmation in this matter is requested at the earliest.

Yours faithfully

(Er.Karom Perme)

Executive Engineer,
Hydro Power Division, Ziro

Department of Hydro Power Development

NO.ZD/HPD/E-3/2009-10/188-92

Dtd.20/5/09

Copy to:-

- 1) The Chief Engineer, Deptt.of Hydro Power Dev.,Itanagar for favour of kind information please.
- 2) The Director of Accounts & Treasuries, Govt.of A.P., Naharlagun for favour of kind information please.
- 3) The Superintending Engineer, Itanagar Circle, Deptt.of HPD, Itanagar for favour of kind information please.
- ✓ 4) Shri R.Prathapan, Divisional Accountant, Ziro Civil Division, Ziro.

(Er.Karom Perme)

Executive Engineer,
Hydro Power Division, Ziro

Department of Hydro Power Development

Confirmed to be true Copy

(Signature)

Advocate

83

By TAX

1507

24 NOV 2009

**GOVERNMENT OF ARUNACHAL PRADESH
FINANCE DEPARTMENT
ITANAGAR**

**Guwahati Bench
গুৱাহাটী ন্যাযপীঠ**

No. DA/TRY/11/2005

Dated Naharlagun, the November, 2009

To

✓ The Section Officer (J),
Central Administrative Tribunal,
Guwahati Bench
Guwahati-5.

**Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय**

24 NOV 2009

**Guwahati Bench
গুৱাহাটী ন্যাযপীঠ**

Sub:- O.A No.99 of 2009 - Parawise reply of respondent No. 4 & 7.

Ref:- Your Memo No. 9128 dtd 31.7.09 and Memo No.11,428 dtd. 22.9.09.

Sir

With references to your letter (Memo) on the aforesaid O.A No. 99 of 2009 Shri R.Pratapam-versus- Union of India and others, I am to furnish the parawise replies for your needful action please.

Kindly acknowledge the receipt of the same.

Yours faithfully,

Enclo:- As stated.

(C.M. Mongmaw),
Director of Accounts & Treasuries &
Ex- Officio Deputy Secretary (Finance),
Govt. of Arunachal Pradesh,
Naharlagun.

No. DA/TRY/11/2005

Dated Naharlagun, the November, 2009

Copy to:-

1. The Under Secretary (Finance), Govt. of Arunachal Pradesh, Itanagar w.r.t his U.O. No. FIN/E-II/11/2009/578 dated 27.8.2009.
2. Office copy.

(C.M. Mongmaw),
Director of Accounts & Treasuries &
Ex- Officio Deputy Secretary (Finance),
Govt. of Arunachal Pradesh,
Naharlagun.

SO (J)
N.S.
24.11.09

- 84 -

Replies to the notice of the Central Administrative Tribunal, Guwahati Bench, Guwahati to show cause as to why the Original Application No. 99/09/3862 dated 22.7.2009 should not be admitted.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Para 1:-

The stand of the state Govt. on the question of age of superannuation of the cadre of Divisional Accountants had been very clearly announced in its modified draft scheme of transfer at **Clause 4(II) Age of Superannuation** which was forwarded to the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc., Shillong under its letter No. DA/TRY/15/99/1921 dated 8th September, 2007 (Copy enclosed as **Annexure-V** for reference) for acceptance.

The concerned **clause 4 (II)** is reproduced below:-

"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 Accountant General, Shillong on regular basis before issue of this order. Others will retire under the superannuation policy of State Govt."

From the above, it is very clear that the Divisional Accountant, who was not appointed on regular basis by the Accountant General, Shillong shall retire under the superannuation policy of the state Govt.

As per the existing superannuation policy of the Govt. of Arunachal Pradesh, its employee superannuates on attaining the age of 58 years but not at 60 years of age.

The applicant, being a state Govt. employee before being appointed as Divisional Accountant on deputation basis (not on regular basis) by the Accountant General, Shillong was, therefore, continuously a state Govt. employee for all purposes and as such he retired at the age of 58 years.

Para 2 }
to } No comment being records and facts.
Para 3 }

Para 4:-

Sub-para 4.1 }
to } No comment being records and facts.
Sub-para 4.4 }

Sub-para 4.5 :- No comment being records and facts.

Sub-para 4.6 :- The Govt. of Arunachal Pradesh decided to take over the cadre of Divisional Accountants and till its decision is conveyed, the Accountant General was requested to consider extension of deputation of those Divisional

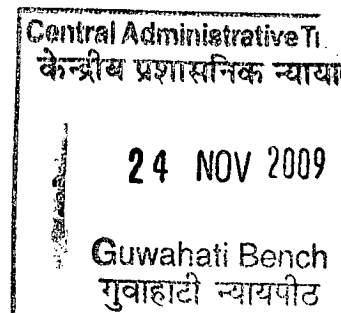
Contd...P/2

- 85 -

- 2 -

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Accountants for a further period of 2(two) years from the date of expiry of their respective tenure of deputation in the interest of public service. Subsequently, in another Govt. Letter No. DA/TRY/15/99 dtd. 11th March, 2002 (copy enclosed as Annexure-I for reference) to the Accountant General (A&E), Arunachal Pradesh etc., Shillong, it was further stated that after taking over of the cadre of Divisional Accountants by the State Govt., fresh recruitment of the Divisional Accountants will be made through the Arunachal Pradesh Public Service Commission. Therefore, the Divisional Accountants those who are appointed by the Accountant General on deputation basis from the state service of the 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 a chance to qualify in the Divisional Test / Exam which will be conducted by the state Govt. through the authorized officer of the state Govt. after the cadre is taken over from the Accountant General.



Sub-para 4.7:- The State cabinet in its meeting held on 28th November, 2001 approved the proposal/scheme to take over the administrative Control of the Cadre of Divisional Accountant from the administrative Control of the A.G. (A&E), Meghalaya, Arunachal Pradesh, Shillong. The Copy of Cabinet approval is placed as Annexure-II for reference. Accordingly, the approved scheme for taking over of the D.A Cadre was conveyed to the A.G. (A&E), A.P., Shillong vide No. DA/TRY/27/2000/1060-68 dated 31-07-05 (copy enclosed as Annexure-III for reference).

In reply, the A.G. (A&E), A.P., Shillong conveyed to the Govt. of A.P. a draft scheme framed by the Comptroller and Auditor- General of India for transfer of the D.A Cadre to the Arunachal Pradesh Govt. vide A.G's letter No. DA/Cell-I-I/2000-01/1509 dtd. 25/11/05 (copy enclosed as Annexure-IV for reference). In response, the Govt. of A.P. conveyed its acceptance in September/2007 to take over the cadre of the D.A. with modification in certain clauses of the draft scheme of transfer framed by the C.A.G. of India vide Govt's letter No. DA/TRY/15/99/1921 dtd. 08th Sept/2007 (copy enclosed as Annexure-V for reference). The approval on the draft scheme of transfer framed by the C.A.G. with little modification by the State Govt. is still not received back from the A.G. /C.A.G.

No comment on other sub-paras.

Sub-para 4.8
to
Sub-para 4.13

} No comment.

Contd D/3

Sub-para 4.14:- In the Common Order of 11-4-2008 (copy enclosed as Annexure-VI for reference) issued by the Hon'ble CAT, the A.G/C.A.G/Central Govt. have been directed to proceed promptly to recruit D.A against the vacant posts of D.A of the state of Arunachal Pradesh and while doing so, in all fairness of things, they should associate the State Govt. as the posts are funded by the State Govt. Once the recruitment is done jointly by the Central and the State Govt., there shall be no problem to repatriate the Applicants from their deputation. In the event of the State Govt. takes over the cadre of the D.A., then the Applicants (even if repatriated) need be given a chance to face the test for being absorbed in the cadre of Divisional Accountants.

For implementation of the Hon'ble CAT's Common Order of 11-4-2008, the Director of Accounts and Treasuries, on behalf of the State Govt., has been reminding the Accountant General, Shillong more than once (copy of our reminder letters No DA/TRY/15/99 dtd.25/06/2008, even no. dated 25/08/2008 and dated 17/11/2008 enclosed as Annexure-VII, Annexure-VIII & Annexure-IX for reference). But till to-day, no reply / confirmation whatsoever, is received from the Accountant General.

Sub-para 4.15
to
Sub-para 4.16 } No comment.

Sub-para 4.17:- Although Govt. of Arunachal Pradesh has implemented the 6th CPC partially but has not extended the existing superannuation age from 58 years to 60 years which is available to the Central Govt. employees.

Sub-para 4.18
to
Sub-para 4.22 } No comment.

Sub-para 4.23:- Unless the applicant is appointed in the cadre of D.A. on regular basis by the Accountant General Shillong, he is liable to be governed by state Govt. superannuation policy i.e to retire at the age of 58 years.

Sub-para 4.24
to
Sub-para 4.26 } No comment.

Para 5:-

Sub-para 5.1
to
Sub-para 5.9 } No comment.

Para 6
to
Para 9 } No comment.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्याया
24 NOV 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

(C.M. Mongmaw)

Director of Accounts & Treasuries &
Ex- Officio Deputy Secretary (Finance),
Govt. of Arunachal Pradesh,
Naharlagun.

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Annexure-1

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.

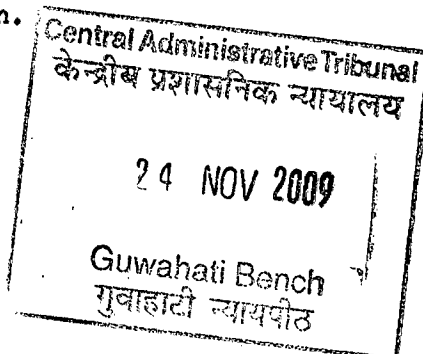
Yours faithfully,

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

Memo No. DA/TRY/15/99/
Copy to :-

Dated Naharlagun the 11th March '02.

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



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Annexure-

(24/9)

Extract of the decision taken in the
Meeting held on 28th Nov.2001 at 3.F
below:

prod

(at Along, ...)

Item No.3.

Regarding proposal to take over the administrative control
cadre of Senior Divisional Account Officers/ Divisional
Accounts Officers/ Divisional Accountant belonging to P
RND, PHE, IFCD, Power Department of Arunachal Pradesh in
the administrative control of the AG(A&E) Meghalaya,
Arunachal Pradesh, Shillong.

Central Administrative Trib
केन्द्रीय प्रशासनिक न्याया

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

The Cabinet approved the proposal.

Action: Secretary

It is requested that the action taken in the ma
by the department may kindly be intimated to this end f
appraisal of the cabinet.

(DR. R.D. Srivastava
Joint Secretary (Cabin
Govt. of Arunachal Pr
Itanagar.

Secy(Finance)

Comm(F)

P. K. K. K. K.

g 5/10/01

b 3/12

FS

3 6/12/01

C.F. 1237
24.9/2009DRT
24.9/2009

Please put up
draft order along with
Scheme duly approved by
Govt. which has been approved
the Law Dept.

Supdt (P.S.)

Manila
12/12/01

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.

Encl: As stated above.

Yours faithfully

(C.M. Mongmaw),

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

Dated July 2005.

Memo. NO. DA/TRY-27/2000

Copy to :-

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

1/c

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

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायाधीश

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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2.51

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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/ECB/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.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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(413) 114
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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.

Central Administrative Tribunal
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24 NOV 2009

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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.

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 Accountant in the 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)

5.2

Age Limit for "Direct Recruitment":

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

5.3

Education Qualification:

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

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

5.4

Appointing Authority:-

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

5.5

Probation and Training:-

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

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

6.

Transfer & Posting:-

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

7.

Transfer of record:-

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

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

Central Administrative Tribx

केन्द्रीय प्रशासनिक न्यायाल

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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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. Longmaw,
Director of Accounts and Treasuries,
Government of Arunachal Pradesh,
Naharlagun - 791 110,
Arunachal Pradesh.

Central Administrative
केन्द्रीय प्रशासनिक न्याय

24 NOV 2005

Guwahati Bench
गुवाहाटी न्यायपीठ

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.

Enolo:- As stated above.

Yours faithfully,

(A.K. Das)

Dy. Accountant General (Admn)

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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 Maipur / Tripura.

✓ not received.

Central Administrative Tribunal
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24/11/09
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(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.

24 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

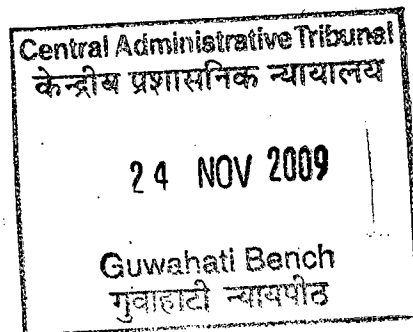
- 96 -

(VIII) **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 Engineers 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 Accounts 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.

(e) **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.



97 - ANNEXURE VII 254

GOVT. OF ARUNACHAL PRADESH
FINANCE DEPARTMENT
ITANAGAR

NO. DA/TRY/15/99/1921

Dated Naharlagun, the 8th September 2007, August 2007.

To,

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

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 NOV 2009

Gwahati Bench
गुवाहाटी बेंच

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.

Contd. next page

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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.

Encl: 1 copy scheme

Yours faithfully,

K.K. Sharma

(K.K. Sharma)

Development Commissioner (Finance)

Govt. of Arunachal Pradesh,

Itanagar

Central Administrative

केन्द्रीय प्रशासनिक

24 NOV 20

Guwahati Ben

गुवाहाटी न्यायपी

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Annexure-VI

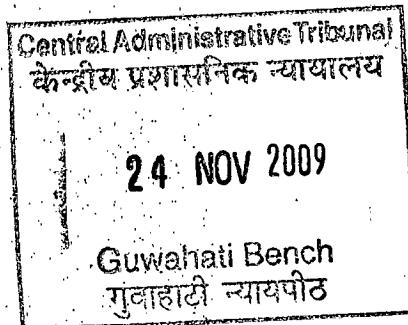
Lobsang Tenzin
Standing Counsel,
Central Administrative Tribunal
Government of Arunachal Pradesh
GAUHATI HIGH COURT.
Ph # 94355-58669

Ref. No. DA/CAT-08

Dated 9th May, 08

To,

1. The Chief Secretary,
Government of Arunachal Pradesh, Itanagar.
2. The Commissioner, Finance Department,
Government of Arunachal Pradesh, Itanagar.
3. The Director of Accounts & Treasuries,
Government of Arunachal Pradesh, Naharlagun.



- In re:**
1. O.A No.112/ 07 (Pradip Kr Paul).
 2. O.A No.130/ 07 (Tashi Namgye).
 3. O.A No.134/ 07 (Takong Taboh).
 4. O.A No.143/ 07 (M.V.K.Nair).
 5. O.A No.144/ 07 (R.Pratapn).
 6. O.A No.159/ 07 (Santanu Ghosh)
 7. O.A No.182/ 07 (M.B.Bhusan Dey).

Sir/s,

The above referred Original Applications were filed before the Gauhati Ben of the Central Administrative Tribunal by the applicants who are holding the post Divisional Accountant (Deputationist) in various departments of the State Arunachal Pradesh. The aforementioned Original Applications have been disposed of by common order dated 11th April, 2008.

Please find herewith a copy of the common order dated 11.04.08 passed aforementioned cases.

Yours sincerely,

Lobsang Tenzin
 (Lobsang Tenzin)

SC, CAT, Guwahati

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 20/03/08

Supdt (GE)
H. at 10/08

BY FAX

No.G.12011/062009-FW

CENTRAL ADMINISTRATIVE TRIBUNAL
(FINANCE WING)

B-2, W-4, Conzon Road Barracks,
Kasturba Gandhi Marg,
New Delhi - 110 001.

Dated 11th November, 2009.

To

The Deputy Registrar,
Central Administrative Tribunal,

Guwahati Branch

Guwahati

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CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Original Application Nos. 112, 130, 134, 143,
144, 159 & 182 of 2007Date of Order: This, the 11th day of April, 2008HON'BLE MR. MANORNAJAN MOHANTY, VICE-CHAIRMAN
HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER.O.A. 112/2007

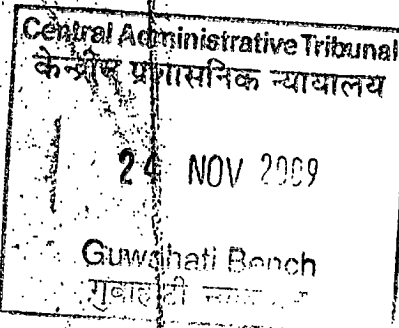
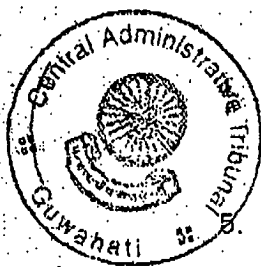
1. Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o The Executive Engineer
Resource Division
Panchamukh, P.O. Agartala
West Tripura-799 003.

Applicant in O.A. 112/2007

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

Vs.

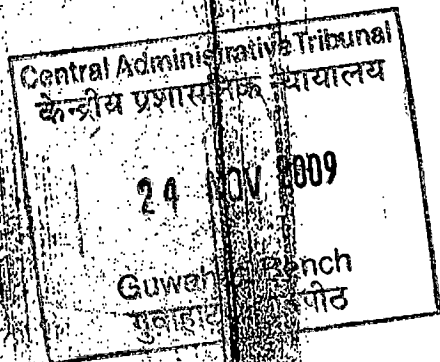
1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793 003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh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



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

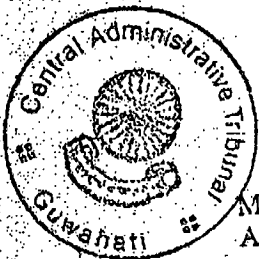
Vs.

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.

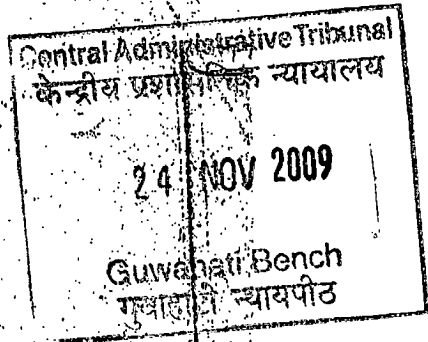


Respondents in O.A.134/2007

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



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O.A.144/2007

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

Applicant in O.A.144/2007

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

Vs.

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

Respondents in O.A.144/2007

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



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

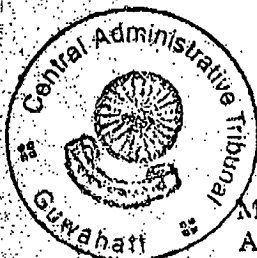
Vs.

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.

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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.

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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.

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

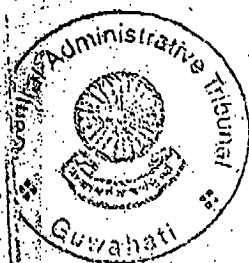
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Poyer, Itanagar.

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.



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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 - 781 110.

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Respondents in O.A. 130/2007.

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

O.A. 134/2007

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

Applicants in O.A. 134/2007

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

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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.

Sri Upendra Chandra Debnath
Divisional Accountant
O/o the Executive Engineer
R.W.D. Tawang
Tawang, Arunachal Pradesh.

Applicants in O.A.182/2007

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

Vs.

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

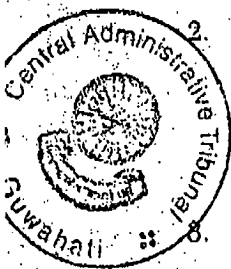
Central Administrative Tribunal

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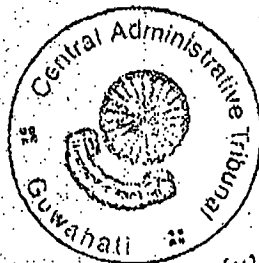
गुवाहाटी न्यायपीठ



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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.



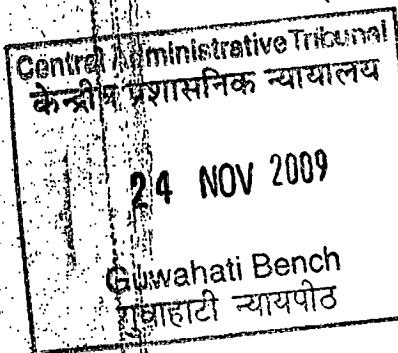
(i) Accountants [Rs.1200-2040] and Senior Accountants [Rs.1400-2600] [belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen] who have passed the Departmental Examination for Accountant/Senior Accountant including 2 years experience in Works Section or

(ii) State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.

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

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

Tripura.



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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.O.)

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 "

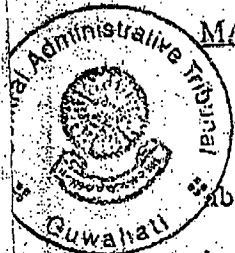
"3. Method of recruitment, age limit, qualifications, etc. The
method of recruitment, age limit, qualifications and other
matters relating to the said post shall be as specified in columns
5 to 14 of the said Schedule."

[Signature]

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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.

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

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

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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.

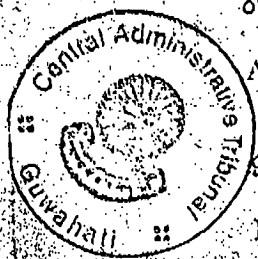
8. At the above juncture, the Applicants, who are continuing as Divisional Accountants beyond the 3 years of their deputation, were asked not to get their deputation allowances/higher pay meant for Divisional Accountants. Hence, these Original Applications have been filed under Section 19 of the Administrative 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.

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

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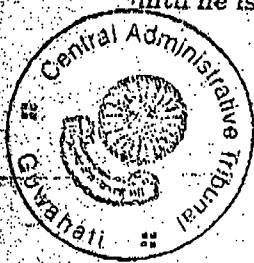
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as there are no prohibition to that effect in the recruitment Rules of 1988. That should be done pending finalization of the issue relating to handing over & taking over of the Divisional Accountant etc. Cadre from Central Government Organisation to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

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

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

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

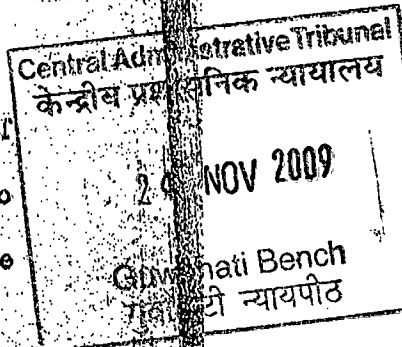


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प्रतिलिपि

अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5

Sd/-
Manoranjan Mahanty
Vice Chairman
Sd/-
Khushiram
Member (A)



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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.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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URGENT
REGISTERED POST

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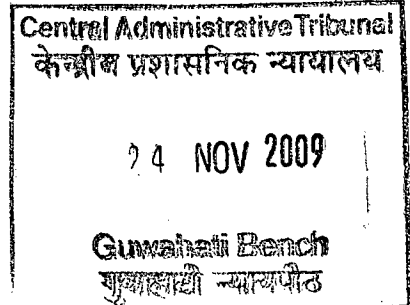
GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

No.APDA/L&A/HBA-277/94

Dated Naharlagun, the 24th June 2008.

To

The Accountant General (A&E),
 Meghalaya, Arunachal Pradesh etc.,
 Shillong-793001



Sub:- **Recruitment Rules, 1988 in respect of Divisional Accountants**
born under the establishment of the Govt. of Arunachal Pradesh.

Sir,

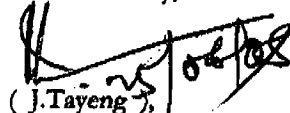
While enclosing herewith a copy of the common judgment passed by the Hon'ble Central Administrative Tribunal, Guwahati on 11.4.2008 in case No. OA No. 112/07, 130/07, 134/07, 143/07, 144/07, 159/07 and 182/07, I am directed to request you to refer to the order No. 11 of the judgment. In the said order No., it has been ordered by the Hon'ble Central Administrative Tribunal that the A.G/CAG/Central Govt. should promptly proceed to recruit Divisional Accountants for the posts (61) lying vacant in the state of Arunachal Pradesh as per the Recruitment Rule of 1988 for Divisional Accountants and while doing so, the state Govt. of Arunachal Pradesh should be associated in the recruitment process as the Divisional Accountants posts are funded by the state Govt.

In view of above, your esteemed office is requested to kindly forward a **certified copy of the Recruitment Rule of 1988 including amendment if any** in respect of the Divisional Accountants of the state of Arunachal Pradesh to enable us to offer our Govt. comments for your further necessary action.

Since the Divisional Accountants posts are lying vacant for a pretty long time and thereby affecting the smooth functioning of the field Divisions of this Govt., your early reply is highly solicited.

Encl:- As stated.

Yours faithfully,


 (J. Tayeng)

Joint Director of Accounts & Treasuries,
 For Director of Accounts & Treasuries,
 Govt. of Arunachal Pradesh,
 Naharlagun.

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Annexure-VII

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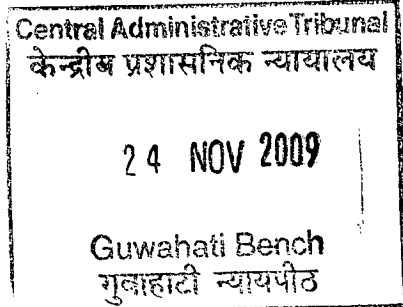
GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

No. DA/TRY/15/99

Dated Naharlagun, the 25th August' 2008.

To

The Accountant General (A&E),
Meghalaya, Arunachal Pradesh etc.,
Shillong-793001.



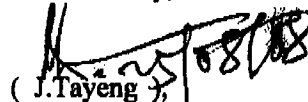
Sub:- **Recruitment Rules, 1988 in respect of Divisional Accountant born under the establishment of the Govt. of Arunachal Pradesh.**

Ref:- **Our letter No. APDA/L&A/HBA-277/94 dated 25.6.2008 enclosing the copy of the common order passed by the Hon'ble CAT, Guwahati in respect of Divisional Accountants on deputation.**

Sir,

With reference to the above, I am directed to request you again kindly to expedite the forwarding of a certified copy of Recruitment Rule of 1988 including amendment if any in respect of Divisional Accountant of the state of Arunachal Pradesh to enable us to offer our Govt. comments for your further necessary action. The matter is already over delayed. Hence early reply/ follow up action by your esteemed office shall be highly welcomed.

Yours faithfully,



(J. Tayeng),
Joint Director of Accounts & Treasuries,
For Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

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Annexure IX

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GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

No. DA/TRY/15/99

Dated Naharlagun, the 17th November 2008.

To

The Accountant General (A&E),
Arunachal Pradesh etc.
Shillong-793001

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Sub:- Filling up of the post of Divisional Accountants- regarding.
Ref:- Our Letter No.APDA/L&A/SIBA/277/94 dated 25/6/2008 and
also Hon'ble CAT's order dated 11.1.2008.

Sir,

With reference to above I am directed to state that a considerable length of time has passed since the pronouncement of the order of the Hon'ble CAT, Guwahati on 11-1-2008 in connection with the Original Application Nos. 112, 130, 134, 143, 144, 159 and 182 of 2007. More than 60% of the posts of the Divisional Accountant Cadre borne under various works departments of the Govt. of Arunachal Pradesh appear to be now lying vacant. As your good office is also very much aware that keeping the posts vacant for a long time not only hampers the works and compiling of accounts of working Divisions but also has bearing on the state budget while giving continuation against those lying vacant posts for a pretty long time.

Therefore, it is once again requested kindly to convey a few words of confirmation as regard to implementation of the Hon'ble CAT's order to enable us to apprise the State Government.

Yours faithfully,

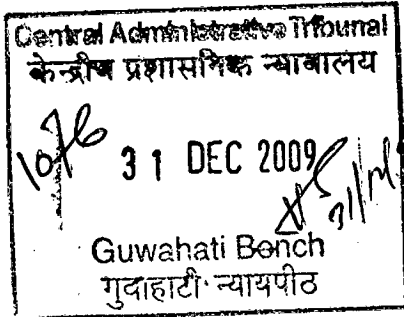
(C. M. Mongmay),

Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

5/11/08
18-11-08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

IN THE MATTER OF :

O.A. No. 99 of 2009

R. Pratapan

... Applicant

-Vs-

Union of India & Ors. ... Respondents

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT NOS. 4 AND 7 :

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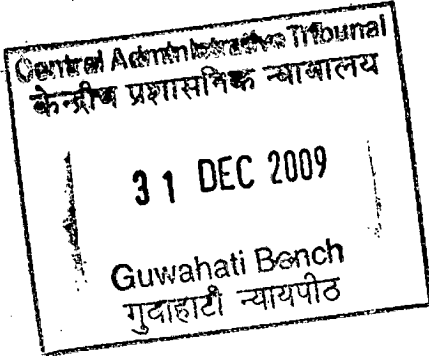
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Filed by :

Ranjit Kumar Dev Choudhury
Advocate.
31/12/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI



IN THE MATTER OF :

O.A. No. 99 of 2009

R. Pratapan

... Applicant

-Vs-

Union of India & Ors. ... Respondents

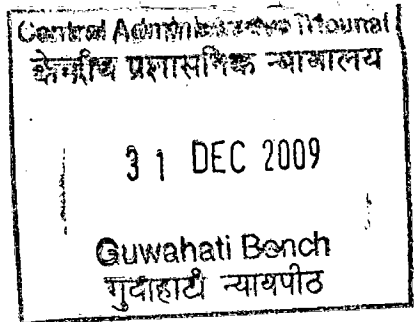
WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT NOS. 4

AND 7 :

I, Sri Jayanta Kumar Bhattacharya, aged about 50 years, son of late Anil Kumar Bhattacharya, resident of Naharlagun, Arunachal Pradesh, do hereby solemnly affirm and verify as follows :

1. That I am presently working as the Finance and Accounts Officer, Directorate of Accounts and Treasuries, Government of Arunachal Pradesh, Naharlagun and I have been duly authorized by the respondent nos. 4 and 7 to file this written statement. I am well conversant with the facts and circumstances of the case and as such competent to file this written statement.
2. That save and except the statements specifically admitted herein below, all other statements made in the Original Application are denied.
3. That with reference to paragraph no. 1 of the Original Application, it is stated that as per the existing superannuation policy of the Government of Arunachal Pradesh, its employees superannuate on attaining 58 years. The applicant being a State Government employee before being appointed as a Divisional Accountant on deputation [not on regular basis]

Jayanta Kumar Bhattacharya



by the Accountant General, Shillong was therefore, a State government Employee for all purposes and as such, he retired at the age of 58 years.

Further, it is stated that age of superannuation of the cadre of Divisional Accountant has been very clearly announced by the State Government in its modified draft scheme of transfer at Clause 4(II), which was forwarded to the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc., Shillong under its letter No.DA/TRY/15/99/1921 dated 08.09.2007. The relevant portion of Clause 4(II) is quoted below :

"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 the Accountant General, Shillong, on regular basis before the issue of this order. Others will retire under the superannuation policy of the State Govt."

It is clear from the above that the Divisional Accountants who were not appointed on regular basis by the Accountant General, Shillong shall retire as per the superannuation policy of the State Government.

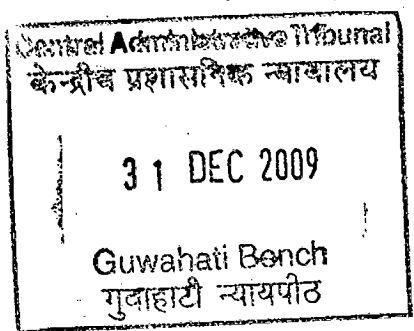
Annexure- 1 is a copy of the above letter dated 08.09.2007.

4. That with reference to paragraph nos. 2 and 3 of the Original Application, the answering respondents have no comment to offer.

5 That with reference to paragraph nos. 4.1 to 4.5 of the Original Application, the answering respondents have no comment to offer as the same are the applicants own assertions, but do not admit anything which is not borne on record.

6. That with reference to paragraph nos. 4.6 of the Original Application, the answering respondents have no comment to offer as the same are matters of record. It is, however, stated that, subsequently, the Government of Arunachal Pradesh by its letter No.DA/TRY/15/99, dated 11.03.2002 requested the Accountant General (A&E), Meghalaya, Arunachal Pradesh etc., not to make any fresh recruitment to the post of Divisional Accountants against the works divisions of the State of Arunachal Pradesh in continuation to its letter dated 15.11.1999. It was further stated that fresh recruitment of Divisional Accountants will be made

Signature for Bhattacharya



through the Arunachal Pradesh Public Service Commission. Therefore, the Divisional Accountants who were appointed by the Accountant General on deputation basis from the state service of Arunachal Pradesh, may be allowed to continue as "Emergency Divisional Accountants" for the time being as a working arrangement. However, for their absorption on regular basis, they will be given a 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 cadre.

Annexure- 2 is a copy of the above letter dated 11.03.2002.

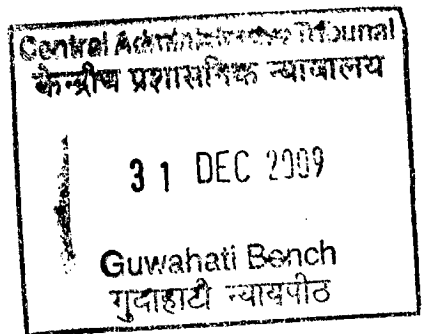
7. That with reference to paragraph nos. 4.7 of the Original Application, it is stated that the State Cabinet in its meeting held on 28.11.2001 had approved the proposal/scheme to take over the administrative control of the cadre of Divisional Accountant from the Accountant General (A&E), Shillong. Accordingly, the proposed scheme for taking over the administrative control of the cadre of Divisional Accountants was conveyed to the Accountant General (A&E), Shillong by the Director of Accounts and Treasuries, Government of Arunachal Pradesh vide his letter No.DA/TRY/27/2000/1060-68 dated 31.07.2005.

In reply, the Accountant General (A&E) by its letter No. DA/Cell-I-I/2000-01/1509 dated 25.11.2005 conveyed to the Government of Arunachal Pradesh, a draft scheme framed by the Comptroller and Auditor General of India for transfer of Divisional Accountants cadre to the Government of Arunachal Pradesh.

In response to the above letter dated 25.11.2005, the Government of Arunachal Pradesh by its letter No. DA/TRY/15/99/1921 dated 08.09.2007 (Annexure- 1 above) conveyed its acceptance to take over the cadre of the Divisional Accountants with modification in certain clauses of the draft scheme of transfer framed by the Comptroller and Auditor General of India. However, the approval on the draft scheme is still not received back from the A.G./C.A.G.

Annexure- 3 is a copy of the extract of the above decision dated 28.11.2001 of the State Cabinet.

Jyanta Kr Bhattacharya



Annexure- 4 is a copy of the above letter dated 31.07.2005.

Annexure- 5 is a copy of the above letter dated 25.11.2005.

8. That with reference to paragraph nos. 4.8 to 4.13 of the Original Application, the answering respondents have no comment to offer.

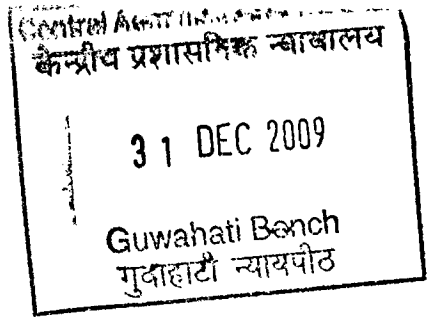
9. That with reference to paragraph no. 4.14 of the Original Application, it is stated that by the common judgment and order dated 11.04.2008 passed by this Hon'ble Tribunal in O.A. No. 112/2007 and others, it was directed that, "the Accountant General/CAG/central Government should promptly proceed to 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".

It was observed that, "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 therein from their deputation." It was further observed that, "In the event the State Government takes over the cadre of Divisional Accountants, then the applicants (even if repatriated) need to 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."

For implementation of the above judgment and order dated 11.04.2008 passed by this Hon'ble Tribunal, the Director of Accounts and Treasuries, on behalf of the Government of Arunachal Pradesh has given reminders to the Accountant General (A&E), Shillong vide his letter No.APDA/L&A/HBA-277 dated 25.06.2008, No.DA/TRY/15/99 dated 25.08.2008 and No.DA/TRY/15/99 dated 25.08.2008 17.11.2008. However, no reply/confirmation has been received from the office of the Accountant General till date.

Annexure- 6 is a copy of the above judgment and order dated 11.04.2008 passed in O.A. No.112/07 and others.

For signature of Balakrishna



Annexure- 7 is a copy of the above letter dated 25.06.2008.

Annexure- 8 is a copy of the above letter dated 25.08.2008.

Annexure- 9 is a copy of the above letter dated 17.11.2008.

10. That with reference to paragraph nos. 4.15 and 4.16 of the Original Application, the answering respondents have no comment to offer.

11. That with reference to paragraph nos. 4.17 of the Original Application, it is stated that although the Government of Arunachal Pradesh has partially implemented the recommendations of the Sixth Central Pay Commission, however, it has not extended the existing age of superannuation of its employees from 58 years to 60 years which is applicable to the Central Government employees.

12. That with reference to paragraph nos. 4.18 to 4.22 of the Original Application, the answering respondents have no comment to offer.

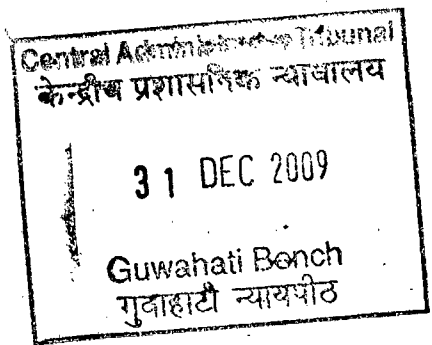
13. That with reference to paragraph nos. 4.23 of the Original Application, it is submitted that unless the applicant is appointed in the cadre of Divisional Accountant on regular basis by the Accountant General (A&E), Shillong, he is liable to be governed by the State Government superannuation policy, i.e., to retire at the age of 58 years.

14. That with reference to paragraph nos. 4.24 to 4.26 of the Original Application, the answering respondents have no comment to offer.

15. That with reference to paragraph nos. 5, 8 and 9 of the Original Application, it is submitted that in view of the facts and circumstances stated herein above in the preceding paragraphs, the applicant is not entitled to the reliefs sought and the Original Application is liable to be dismissed.

... verification

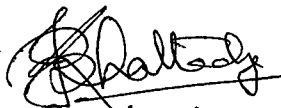
Jayanta B. Bhattacharya



VERIFICATION

I, Sri Jayanta Kumar Bhattacharya, aged about 50 years, son of late Anil Kumar Bhattacharya, resident of Naharlagun, Arunachal Pradesh, do hereby solemnly affirm and verify that the statements made in paragraph nos. 1, 2, 4, 5, 8, 10, 11, 12 are true to my knowledge; those made in paragraph nos. 3, 6, 7, 9 being matters of record are true to my information derived there from.

And I sign this verification on this the 26 th day of December, 2009 at Guwahati.


Signature
(Jayanta Kr Bhattacharya)

GOVT. OF ARUNACHAL PRADESH
FINANCE DEPARTMENT
ITANAGAR

25/

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NO. DA/TRY/15/99/1921

Dated Naharlagun, the 8th September 2007 August'2007.

To,

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

Central Accounts & Finance
केन्द्रीय प्रशासनिक खाते

31 DEC 2009

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गुवाहाटी बेंच

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.

Contd. next page

Attested
by
Associate.

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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.

Joint Director
Directorate of Revenue
Enclo : 1 copy scheme

Yours faithfully,

K.K. Sharma

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

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Annexure-2
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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.

Dated Naharlagun the 11th March '02.

Memo No. DA/TRY/15/99/
Copy to :-

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

Accepted
for
Advocate.

-10-

-126-

-2-

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



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

Extract of the decision taken in the Meeting held on 28th Nov. 2001 at 3.F below:

produced
(at Along, ...)

* Item No. 3.

Regarding proposal to take over the administrative control cadre of Senior Divisional Account Officers/ Divisional Accounts Officers/ Divisional Accountant belonging to PWD, RWD, PHE, IFCD, Power Department of Arunachal Pradesh from the administrative control of the AG (A&E) Meghalaya, Arunachal Pradesh, Shillong.

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The Cabinet approved the proposal.

Action: Secretary (F)

It is requested that the action taken in the matter by the department may kindly be intimated to this end for appraisal of the cabinet.

(DR. R.D. Srivastava)
Joint Secretary (Cabinet)
Govt. of Arunachal Pradesh
Itanagar.

Secy (Finance)

Comm (F)

Res. Kind Perusal.

Attested
by
Signature

FS

6/12/07

DBT

Please put up draft order along with Scheme duly approved by the Govt. which has been approved by the Law Dept.

Sydt (F)

Signature
12/12/2009

SF-03
5/12/07

C.F. 1237
24.5/12/07

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

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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.

Encls : As stated above.

Yours faithfully

(C.M. Mongmaw),

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

Dated July '2005.

Memo. NO. DA/TRY-27/2000

Copy to :-

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

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

4/5
20/1
Attended
H
Advocate.

- 87 - - 13 - - 129 - (412)

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.

Central Accounts Division

केन्द्रीय प्रशासनिक खाता

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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, 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.

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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/-

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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.

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 anybody 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.

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)

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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 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 & Postings:-

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.

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W. G.

Registered Post

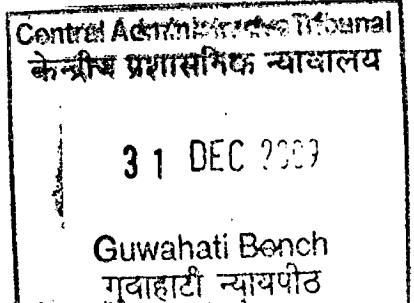
OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA, ETC.,
SHILLONG :: 793001.

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.

Encls:- As stated above.

Yours faithfully,

Al-3
(A.K.Das)

Dy. Accountant General (Admin)

Attested
By
Bloome.

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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 Rule, 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 Maipur / Tripura.

✓ not received.

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(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.

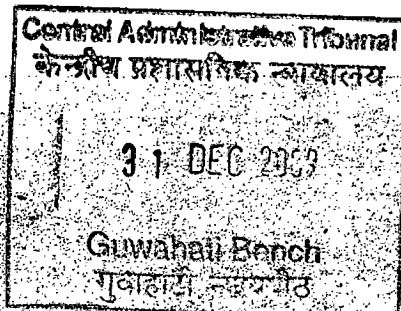
(III) **Seniority under State Govt.-** The inter-se seniority of Divisional Accountants / Divisional Accounts Officers taken over to the cadre of State Govt. shall continue to be the same as existing on the date of taking over the cadre by the State Govt.

(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.

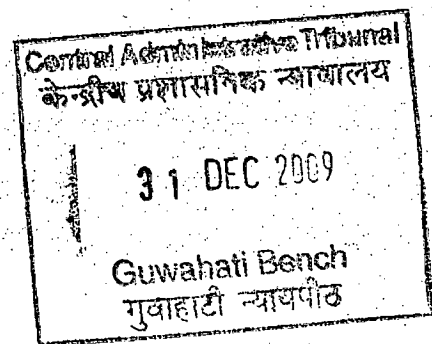


(VIII) **Disciplinary Authority-** Subsequent to the transfer of the cadre to the state Govt. the Director of Accounts and Treasuries, Arunachal Pradesh Govt. shall be the disciplinary authority in respect of Divisional Accountants / Divisional Accounts Officers.

(IX) **Reporting and Reviewing Officers-** The Executive Engineers 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 Accounts 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.

(e) **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.



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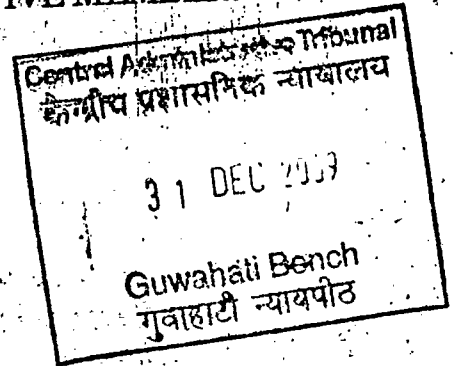
CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

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

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

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

O.A. 112/2007



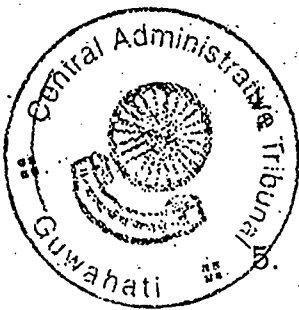
1. Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o The Executive Engineer
Resource Division
Panchamukh, P.O: Agartala
West Tripura-799 003.

Applicant in O.A. 112/2007

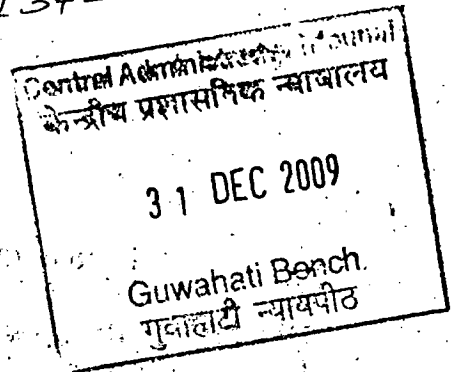
By Advocates Mr. M. Chanda, Mr. S. Nath & Mrs. U. Dutta

Vs.

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



Attested
by
Advocate.



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

Respondents in O.A. 122/2007

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

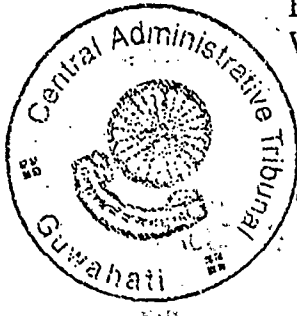
O.A.130/2007

1. Sri Tashi Namgye
Divisional Accountant
O/o the Executive Engineer
PWD, Seppa, Arunachal Pradesh.
2. Shri R.K.Deb
Divisional Accountant
O/o the Executive Engineer
I&FCD, Tezu, Arunachal Pradesh
3. Sri S.K.Dam
Divisional Accountant
O/o the Executive Engineer
Seppa Electrical Division
Arunachal Pradesh.
- 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.



Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
31 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

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



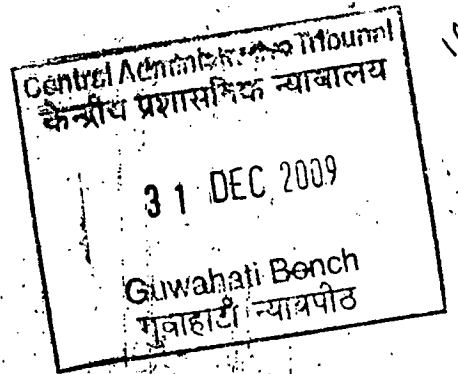
Applicants in O.A.130/2007

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

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

Vs.

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



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

Respondents in O.A. 130/2007.

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

O.A. 134/2007

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

Applicants in O.A. 134/2007

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

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

Vs.

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



Respondents in O.A.134/2007

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

31 DEC 2007

Guwahati Bench
High Court of Assam

O.A.143/2007

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

Applicant in O.A.143/2007

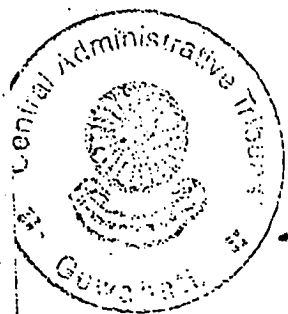
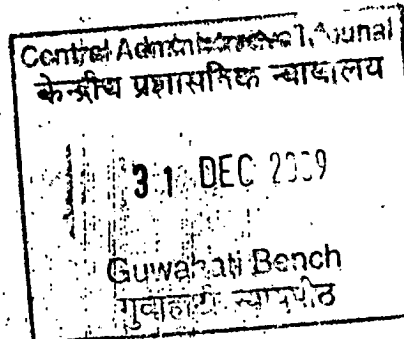
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty.

Vs.

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

Respondents in O.A.143/2007

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



Central Administrative Tribunal
31 DEC 2009
Guwahati Bench

O.A.144/2007

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

Applicant in O.A.144/2007

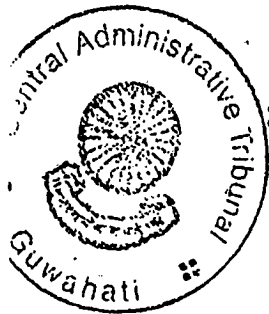
By Advocates S/Shri U.K.Nair, B.Sarma, A.Chetry & B.Chakraborty

Vs.

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

Respondents in O.A.144/2007

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



31 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়ালয়

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O.A.159/2007

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

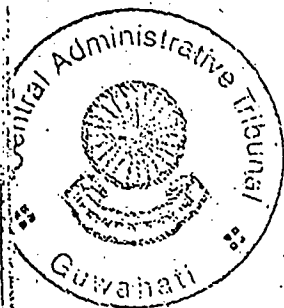
Applicant in O.A.159/2007

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

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

Vs.

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



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

Respondents in O.A. 159/2007

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

O.A.182/2007

1. Sri Malay Bhusan Dey
Divisional Accountant
O/o the Executive Engineer
I&FC Department, Tawang
Tawang, Arunachal Pradesh.

2. Shri Nikhil Ranjan Nath
Divisional Accountant
O/o the Executive Engineer
P.H.E., Tawang
Tawang, Arunachal Pradesh.

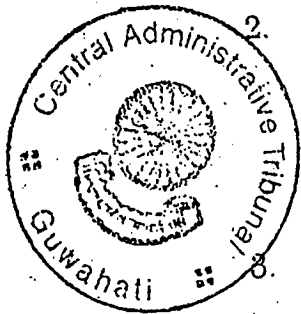
Sri Upendra Chandra Debnath
Divisional Accountant
O/o the Executive Engineer
R.W.D. Tawang
Tawang, Arunachal Pradesh.

Applicants in O.A.182/2007

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

Vs.

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

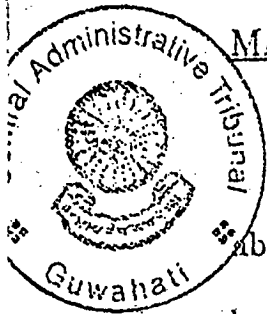


4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.
5. The Chief Engineer
Public Health Engineering Department
Government of Arunachal Pradesh
Itanagar.
6. The Chief Engineer
Rural Works Department
Government of Arunachal Pradesh
Itanagar.
7. The Chief Engineer, I&FCD
Government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

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

ORDER

MANORANJAN MOHANTY, (V.C)



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

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

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

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

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

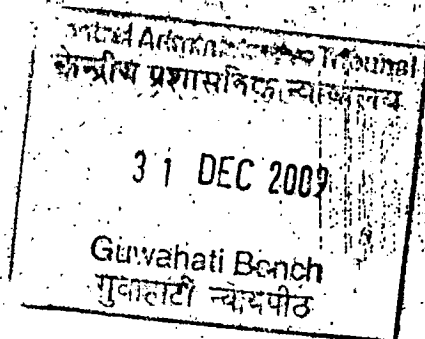
[i] Accountants [Rs.1200-2040] and Senior Accountants [Rs.1400-2600] [belonging to the Accounts and Entitlement Office in whose jurisdiction the vacancies have arisen] who have passed the Departmental Examination for Accountants and have 5 years regular service as Accountant/Senior Accountant including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

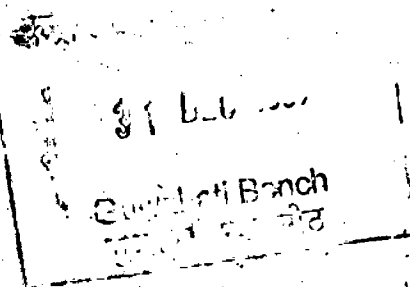
[ii] State Public Works Clerks holding posts equivalent to or comparable with that of Accountant/Senior Accountant on a regular basis for 5 years including 2 years experience in Public Works Accounts.

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

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

Tripura.





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

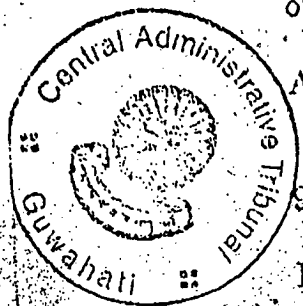
5. In the said proposal it has been proposed that, upon taking over the posts of Divisional Accountant etc., the incumbents of those Divisional Accountant posts (who are continuing on deputation basis) would face a test (to be conducted by the State Government of Arunachal Pradesh) to be finally absorbed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

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

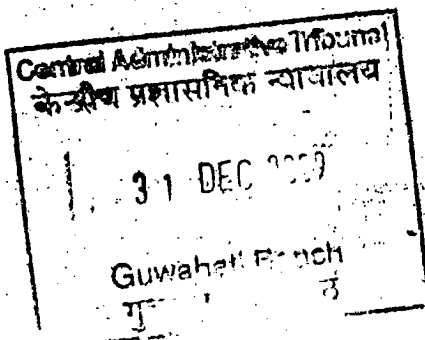
7. Since the posts of Divisional Accountants are born in the establishment of the State Government (although recruitment, appointment, posting and control are with the Accountant

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

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



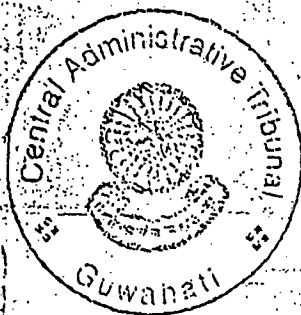
9. Under the Recruitment Rules of 1988, the deputationist Divisional Accountants are available to continue even beyond 3 years of their deputation period, of course, in extra ordinary circumstances. As it appears, the Central Government Organisation, while awaiting the question of finality of the point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



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

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

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

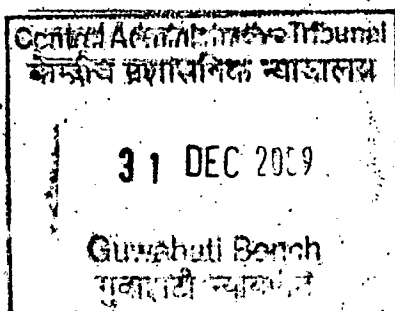
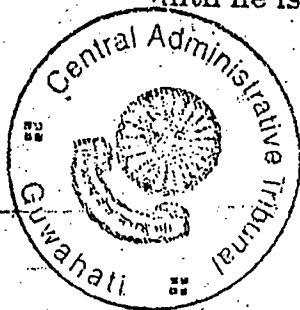


as there are no prohibition to that effect in the recruitment rules of 1988. That should be done pending finalization of the issue relating to handing over & taking over of the Divisional Accountant etc. Cadre from Central Government Organisation to State Government.

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

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

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



TRUE COPY

प्रतिलिपि

अनुभाग अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

Guwahati Bench

गुवाहाटी/Guwahati-5

Sd/-

Manoranjan Mohanty

Vice Chairman

Sd/-

Khushiram

Member (A)

**URGENT
REGISTERED POST**

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

No.APDA/L&A/HBA-277/94

Dated Naharlagun, the 24th June'2008.

To

The Accountant General (A&E),
Meghalaya, Arunachal Pradesh etc.,
Shillong-793001

Sub:-

**Recruitment Rules, 1988 in respect of Divisional Accountants
born under the establishment of the Govt. of Arunachal Pradesh.**

Sir,

While enclosing herewith a copy of the common judgment passed by the Hon'ble Central Administrative Tribunal, Guwahati on 11.4.2008 in case No. OA No. 112/07, 130/07, 134/07, 143/07, 144/07, 159/07 and 182/07, I am directed to request you to refer to the order No. 11 of the judgment. In the said order No., it has been ordered by the Hon'ble Central Administrative Tribunal that the A.G/CAG/Central Govt. should promptly proceed to recruit Divisional Accountants for the posts (61) lying vacant in the state of Arunachal Pradesh as per the Recruitment Rule of 1988 for Divisional Accountants and while doing so, the state Govt. of Arunachal Pradesh should be associated in the recruitment process as the Divisional Accountants posts are funded by the state Govt.

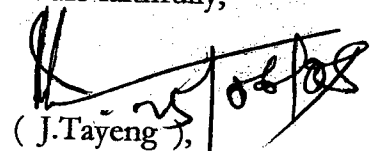
In view of above, your esteemed office is requested to kindly forward a certified copy of the Recruitment Rule of 1988 including amendment if any in respect of the Divisional Accountants of the state of Arunachal Pradesh to enable us to offer our Govt. comments for your further necessary action.

Since the Divisional Accountants posts are lying vacant for a pretty long time and thereby affecting the smooth functioning of the field Divisions of this Govt., your early reply is highly solicited.

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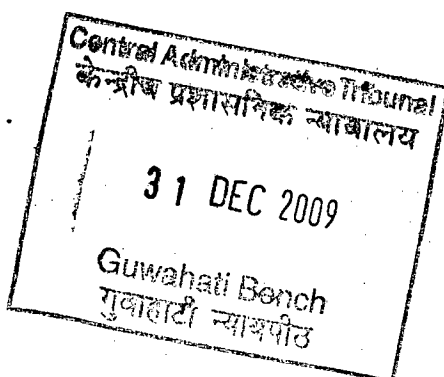
As stated.

Yours faithfully,


(J. Tayeng),

Joint Director of Accounts & Treasuries,
For Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

Attested
by
Advocate.



GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

No. DA/TRY/15/99

Dated Naharlagun, the 25th August'2008.

To

The Accountant General (A&E),
Meghalaya, Arunachal Pradesh etc.,
Shillong-793001.

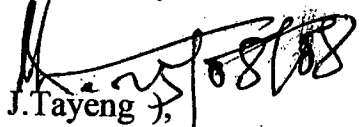
Sub:- Recruitment Rules, 1988 in respect of Divisional Accountant born under the establishment of the Govt. of Arunachal Pradesh.

Ref:- Our letter No. APDA/L&A/HBA-277/94 dated 25.6.2008 enclosing the copy of the common order passed by the Hon'ble CAT, Guwahati in respect of Divisional Accountants on deputation.

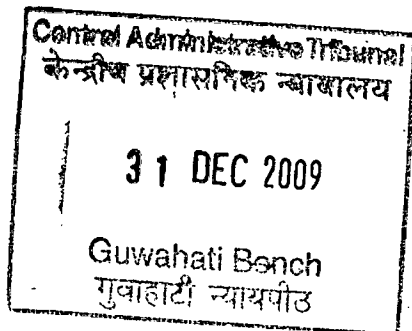
Sir,


With reference to the above, I am directed to request you again kindly to expedite the forwarding of a certified copy of Recruitment Rule of 1988 including amendment if any in respect of Divisional Accountant of the state of Arunachal Pradesh to enable us to offer our Govt. comments for your further necessary action. The matter is already over delayed. Hence early reply/ follow up action by your esteemed office shall be highly welcomed.

Yours faithfully,


(J. Tayeng),

Joint Director of Accounts & Treasuries,
For Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.



Attested

Attested.

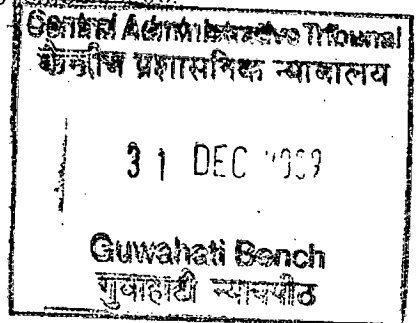
GOVT. OF ARUNACHAL PRADESH
DIRECTORATE OF ACCOUNTS AND TREASURIES
NAHARLAGUN

No. DA/TRY/15/99

Dated Naharlagun, the 17th November 2008

To

The Accountant General (A&E),
Arunachal Pradesh etc.
Shillong-793001



Sub:- Filling up of the post of Divisional Accountants- regarding.
Ref:- Our Letter No.APDA/L&A/HBA/277/94 dated 25/6/2008 and
also Hon'ble CAT's order dated 11.4.2008.

Sir,

With reference to above, I am directed to state that a considerable length of time has passed since the pronouncement of the order of the Hon'ble CAT, Guwahati on 11-4-2008 in connection with the Original Application Nos. 112, 130, 134, 143, 144, 159 and 182 of 2007. More than 60% of the posts of the Divisional Accountant Cadre borne under various works departments of the Govt. of Arunachal Pradesh appear to be now lying vacant. As your good office is also very much aware that keeping the posts vacant for a long time not only hampers the works and compiling of accounts of working Divisions but also has bearing on the state budget while giving continuation against those lying vacant posts for a pretty long time.

Therefore, it is once again requested kindly to convey a few words of confirmation as regard to implementation of the Hon'ble CAT's order to enable us to apprise the State Government.

Yours faithfully,

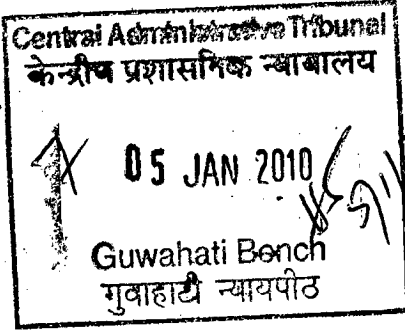
(C.M. Mongmay),
Director of Accounts & Treasuries,
Govt. of Arunachal Pradesh,
Naharlagun.

Attested
by
Advocate.

31/11/08
18-11-08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH,
GUWAHATI

ORIGINAL APPLICATION NO. 99/ 2009



SHRI R. PRATAPAN

..... APPLICANT

-Vs-

THE UNION OF INDIA & OTHERS

..... RESPONDENTS

-AND-

IN THE MATTER OF:

Written Statement submitted on behalf of the
Respondents No. 1 and 2.

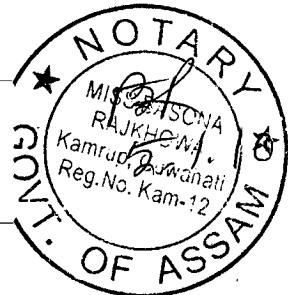
THE ANSWERING RESPONDENTS AFORESAID

MOST RESPECTFULLY SHEWETH:

1. That with regard to statements made in paragraphs 1 to 3 of the Original Application as filed by the applicant, the answering 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 as filed by the applicant, the Respondents humbly submit that the statements contained therein are not absolutely correct and as such the same are denied by the answering respondents. It is specifically submitted by the answering respondents that the Applicant was always an employee of the Government of Arunachal Pradesh and he was appointed in his present holding post on deputation basis only and that too for a specified period only.
3. That with regard to statements made in paragraphs 4.2, 4.3, 4.4 and 4.5 of the Original Application as filed by the Applicant, the answering Respondent humbly submit that the Applicant was always a regular employee of the Government of Arunachal Pradesh. It is submitted by the answering respondents that since there were vacancies in the cadre of Divisional Accountants administered by Respondent No. 2 and since direct recruitment as provided in the "Recruitment Rules, 1988 for Divisional Accountants" to fill up the said vacant posts of DA through the Staff Selection Commission takes time, the Respondent No. 2 from time to time used to call for applications from the experienced staff of Public Works, P H E, R W D, I & FC, Electricity Department serving under the State Governments of Tripura, Arunachal Pradesh and Manipur and who were willing to serve as Divisional Accountants

Filed by -
Randeep Sharma
Advocate
5.01.10.

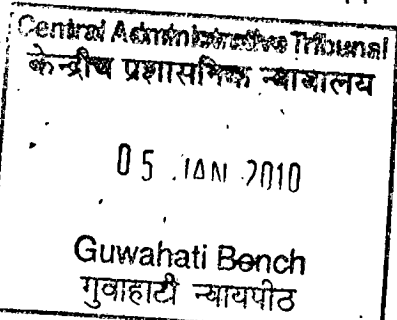
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on deputation basis in the States of Tripura, Arunachal Pradesh and Manipur. Accordingly, as per the said process, the Applicant too [who had himself opted for the same], was selected and posted as Divisional Accountant on deputation basis under the administrative control of Respondent No.2. The letter of Respondent No.2, while appointing the Applicant as Divisional Accountant on deputation categorically stated as follows:

- a) that the period of deputation was initially for one year and
- b) that the Applicant was liable to work as a Divisional Accountant on deputation basis in any of the three States of Tripura, Arunachal Pradesh and Manipur.

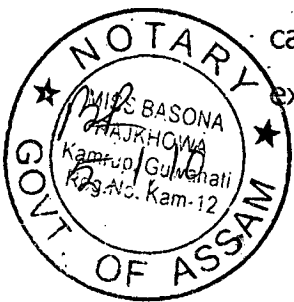
The answering respondents further states that As per the general practice the aforesaid initial one year period of deputation of such persons who were so deputized was usually extended for a maximum upto three years and in no case it was extended beyond three years. However, in the instant case the Applicant is still continuing in his deputation.



The copies of the Recruitment Rules 1988 and the appointment letter dated 27.12.1995 are annexed hereto and are marked as - Annexure I and II respectively.

4. That with regard to statements made in paragraphs 4.6 of the Original Application, the Respondent No. 2 humbly submit that in the year 1999 it was notified and intimated by the State Government of Arunachal Pradesh to the answering respondents vide GOAP's letter No. DA/TRY/15/99/9029 dated 15.11.1999 that as the issue of recruitment and posting of Divisional Accountants to the vacant Divisions in PWD of the states which were manned by Deputationist was under active consideration of the State Govt. the recruitment and posting of DAOs/DAs in working Divisions of PWD would not be done at this stage. Thus, in view of the said fact, all the Chief Engineers, of the following departments viz. PWD, RWD, PHED, I&FC and Power were directed to give continuation to the serving DAs who were on deputation for a further periods of 2 years on expiry of their respective deputation terms. However, the Respondent No.2 vide letter No. DA Cell/2-46/92-93/1698 dated 7.1.2000 did not accept the proposal of the State Government and objected to the same by way of stating that as per the Recruitment Rules published in the Gazette of India dated 24.9.2.1988, the period of deputation cannot be extended beyond three years, hence, the request for granting extension of the deputation tenures of the deputationist beyond the three

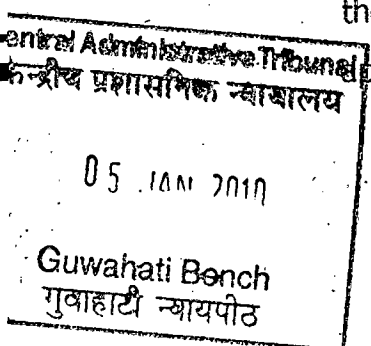
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years period and that too for a further period of two years could not and cannot be acceded to. (Copy of the).

That thereafter, in the year 2000 the Govt. of Arunachal Pradesh vide letter No. DA/TRY/15/99 dated 12.1.2000 stated and informed the respondents that it was under active consideration of the Govt. to take over the Cadre of the DAOs/DAs from the existing combined cadre controlled by the Respondent No.2 and that the formal notification in this regard would be communicated by the State Govt. in due course. However, till date no such notification has been issued by the Govt. of Arunachal Pradesh.

In this connection it is pertinent to point out herein out here that as per the existing rules governing such recruitments the 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.



The copies of the Letter dated 07.01.2000 and Letter dated 12.01.2000 are annexed hereto and are marked as Annexures-III and IV respectively.

5. That with regard to statements made in paragraphs 4.7 and 4.8 of the Original Application as filed by the Applicant, the answering Respondent No. 2 humbly submits that the Government of Arunachal Pradesh vide letter their No. DA /TRY/15/99 dated 12.01.2000 (Appexdix-IV) had, informed Respondent No.2 that the matter regarding takeover of cadre of Divisional Accountant was under active consideration. Thereafter, the State Govt. of Arunachal Pradesh has till date has not intimated the answering respondents about any further moves that has been taken and/or initiated by it to take over the cadre of Divisional Accountants in the State of Arunachal Pradesh.

That the answering respondents begs to submit that after more than two years, the Commissioner (Finance), Govt. of Arunachal Pradesh vide his letter No. DA/TRY/99 dated 11.3.2002 had requested the office of the Respondent No.2 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 Government of Arunachal Pradesh through the authorized officer of the State Govt. after taking over of the administrative control of the cadre of Divisional Accountants/Divisional



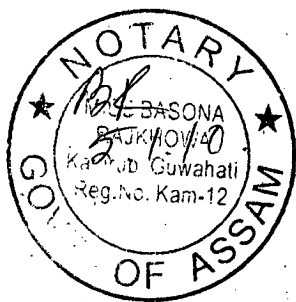
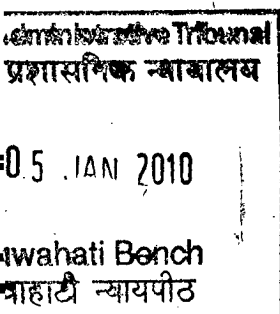
Accounts officer/Senior Divisional Accounts Officer of works Divisions belonging to PWD/PHE/IFCD/RWD and power Department of Arunachal Pradesh.

However, it is pertinent to mention herein that subsequent to the issuance of the aforesaid letter dated 11.3.2002 a period of more than 7 years had already elapsed and the State Government of Arunachal Pradesh has till date not initiated any further move to take over the cadre of Divisional Accountants in the State from the Administrative control of the Accountant General (A&E).

In this context it may also be mentioned herein that on earlier occasions the Applicant herein, while he was working as UDC in the Office of the Executive Engineer, Capital 'A' Division, PWD, Arunachal Pradesh, Itanagar had on 15.11.1989 joined on deputation the post of a Divisional Accountant on the same terms and conditions as is contained in his present deputation post, and thereafter on Completion of his deputation period the Applicant herein had been repatriated back to his parent department on 22.2.1993. Thereafter, the Applicant was again appointed on deputation basis in the month of December 1995. The Applicant on accepting the terms and conditions had joined in the post on 29.1.1996. On completion of deputation period, the repatriation order to his parent department was issued to the Applicant. However, the Applicant, instead of reporting back to his parent department filed a petition in Guwahati High Court which was transferred to CAT, Guwahati against the repatriation order. The Hon'ble Central Administrative Tribunal vide its order dated 22.6.2001 passed an order to the effect that as the State Govt. of Arunachal Pradesh had taken a decision to absorb the Applicant in the State cadre by order dated 12.1.2000, nothing is left to be decided by the Hon'ble Tribunal. Thereafter, the Respondent No.2 filed a Writ Petition before the Hon'ble Gauhati High Court challenging the impugned judgment of the learned Tribunal vide WP(C) No. 3992/2002.

Further, it is a settled proposition of law that a deputationist can be repatriated to his parent post/parent cadre/parent department on expiry of period of deputation and does not have any statutory right to be absorbed in the deputation post.

6. That with regard to statements made in paragraph 4.9 of the Original Application as filed by the Applicant, the Respondent No.2 humbly begs to state that the question of the absorption of 31 employees of the State Govt. of Arunachal Pradesh, working as Divisional Accountants on deputation in the



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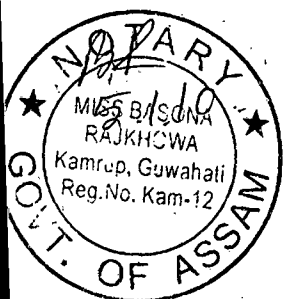
Divisional Accountants Cadre was under consideration by the office of Comptroller and Auditor General of India as per the request of the State Government of Arunachal Pradesh. However, subsequently, the Comptroller and Auditor General of India (Respondent No.1) had confirmed vide P.O. letter No. 425 NGE (APP)/10-2005 dated 6.7.2005 that the question of absorbing the Divisional Accountant had been examined, but it was not found possible as the Recruitment Rules of Divisional Accountants do not provide for such absorption.

The copy of the letter dated 6.7.2005 issued by the office of Comptroller and Auditor General of India is annexed hereto and is marked as Annexure -V.

7. That with regard to statements made in paragraph 4.10 of the Original Application as filed by the Applicant, the Respondent No.2 humbly submits that more than seven years had already elapsed but the State Government of Arunachal Pradesh has still not initiated any further move to take over the cadre of Divisional Accountants in the State from the Administrative control of the Accountant General (A&E) Meghalaya.

In this context it is pertinent to mention herein that after four years since the date of deputation of the applicant, the Director of Accounts and Treasuries, Govt. of Arunachal Pradesh vide letter No. DA/TRY/27/2000/1060-63 dated 30.7.2005 has forwarded a fresh scheme to the Comptroller and Auditor General of India. i.e. the answering respondent No.1 herein, for a decision. By the said scheme it has been stated that the Govt. of Arunachal Pradesh had decided to take over administrative control of the cadre of Divisional Accountants/Divisional Accounts Officer/Sr. Divisional Accounts Officer from the Accountant General (A&E) Meghalaya etc., Shillong.

The Comptroller and Auditor General of India i.e. the answering respondent No.1 herein, on receipt of the said scheme had in turn prepared a modified scheme based on the State Government's proposal. The modified scheme as prepared by the Comptroller and Auditor General of India was thereafter forwarded to the State Govt. of Arunachal Pradesh under covering letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 for acceptance/comments. However, as the State Government of Arunachal Pradesh failed to respond to the said request of the respondent No.1 as was made by its letter dated 25.11.05, the respondent No.1 vide its letters bearing No. DA Cell/1-1/2000-2001/28 dated 28.4.2006 and letter dated 8.6.2006 and 19.6.2006 repeatedly kept on reminding the the State Govt. of



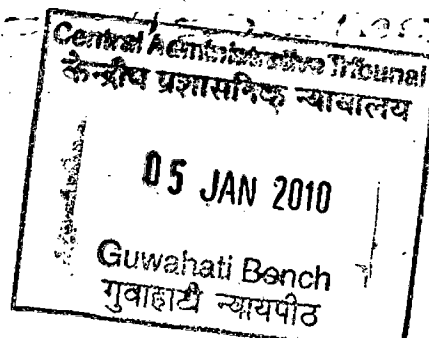
Arunachal Pradesh, to take the necessary action upon the Scheme so framed by the respondent No.1 by way of communication its acceptance/comments upon the same.

It is further submitted by the answering respondents that the post of Divisional Accountant to which Applicant was appointed on deputation basis is a Civil Post under the Union of India. And that being so, the handing over of the Divisional Accountants cadre from the administrative control Accountant General cannot take place without consent of the Comptroller and Auditor General of India.

A copy of the Letter dated 30.7.2005 is annexed hereto and the same is marked as Annexure -VI.

8. That with regards to the statements as has been made in para 4.11 of the Application as filed by the applicant, the answering Respondents begs to submits that consequent upon the decision of the C &AG of India to separate the cadre of Divisional Accountant/Divisional Accounts Officer Grade -I & II/ Sr. Divisional Accounts Officer in the State of Arunachal Pradesh, Tripura and Manipur w.e.f. 1.5.2007, all regular DAs/DAOs/Sr.DAOs under the administrative control of the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong are required to exercise their respective individual options for seeking permanent allocation to the office of their choice in the prescribed form as has been circulated vide Circular No. DA Cell/81 dated 16.1.2007.

In this context it is apposite to mention herein a bare perusal of the aforesaid circular will clearly reveal that the aforesaid options had been called ***ONLY from the regular employees under the administrative control of A.G. (A &E) Meghalaya, etc and NOT from the deputationist,*** which clearly shows that deputationist are not governed by Central Civil Service Rules in all respect, though the deputationist are entitled to draw Central Govt. Pay scale (as amended from time to time), since they have opted to draw the Central Pay scale without deputation (duty) allowance. Hence the claim of the Applicant that he is a Central Govt. Employee can not be accepted and the fact remains that he is still an employee of the State Government of Arunachal Pradesh.



9. That with regards to the statement as has been made in paragraphs 4.12, 4.13 and 4.14 of the Application as filed by the applicant, the Respondent humbly begs to submits that in compliance to the Govt. of India, Ministry of Personnel, Public Grievance and Pension's Office Memorandum No. A 14017/30/2006-Estt. (RR) dated 29.11.2006, the recovery orders of excess drawal of pay and allowances on over stay of deputation periods were issued to the various deputationist including the applicant vide letter No. DA Cell/2-46/ DDA/Vol.III/2007/10-15 dated 5.4.2007, as because even after their deputation term/period had expired long back they had denied joining their parent department inspite of the same.

The answering respondents begs to state that subsequent to the issuance and receipt of the aforesaid letter the Applicant had move to the Hon'ble Tribunal vide OA No.144/2007 against the said office order. The Hon'ble Tribunal while disposing off the same had vide its order dated 11.4.2008 highlighted many other problems related to the Divisional Accountant's cadre, among which inter-alia includes specific directions not to recover the excess pay & allowance drawn by the deputationist that is the applicant herein, and the said direction as was issued by the Hon'ble Tribunal has already been implemented.

That apart it is pertinent to place on record the fact that the aforesaid order of the Hon'ble Tribunal dated 11.4.2008 has already been forwarded to the HQ's office for advise on the matter. In this context it may further be mentioned herein that handing over of cadre to the State Govt. of Arunachal Pradesh is a complex matter as this also involve the regular Divisional Accountants (at present only DAO- I & Sr. DAOs posted at Arunachal Pradesh) who were posted to Arunachal Pradesh on bifurcation of common cadre under the AG Meghalaya. Moreover, the handing over of the cadre of Divisional Accountant from the Administrative control of the A.G. cannot take place without consent of the C & AG of India as this is a Central Civil Post under the Union of India.

A copy of the letter dated 05.04.2007 is annexed hereto and the same is marked as Annexure-VII

10. That with regards to the statement as has been made in para 4.15 of the Application, the Respondent humbly submits that the Government of Arunachal Pradesh had unilaterally mooted the idea to take over the Divisional Accountant's Cadre from the administrative control of the A.G., (A&E), Meghalaya, without even consulting either the answering respondent

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No. 1 or 2. Accordingly, the Government of Arunachal Pradesh in the said manner forwarded a scheme for taking over the cadre vide letter No.DA/TRY-27/2000/1060-63 dated 30.7.2005. wherein in the para 2.2 of the said letter under reference, it has clearly mentioned that -----

"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 agreement, 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 A.G.(A&E) Meghalaya, Arunachal Pradesh etc., Shillong for which they will be given three chances to qualify in the Divisional Test examination. The said Scheme further provides that if anybody fails to qualify in the Divisional test then he or she shall be reverted to his parent department as and when qualified hand become available." -----

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This aforesaid fact clearly indicates that as per the scheme so framed by the State Government of Arunachal Pradesh the existing Divisional Accountant on deputation shall have to qualify themselves in the Divisional Test examination within two years from the taking over of the cadre and nowhere it has been mentioned that in the event of taking over the cadre the existing deputationist will be given two years extension of service to qualify themselves in the Test to become regular Divisional Accountant under the State Government.

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The said scheme so framed by the State Government of Arunachal Pradesh and forwarded to the answering respondent No.2 was in turn forwarded to HQ's office for a decision as because the same also involved the fate of the regular Divisional Accountants i.e. DAOs and Sr.DAO who have been permanently posted to the various States after bifurcation of the common cadre. In this context it is apposite to place on record the fact that at present no regular D.As are working in the State of Arunachal Pradesh.

On receipt of the said scheme so framed by the State Government of Arunachal Pradesh, the Comptroller and Auditor General of India had in turn prepared a modified scheme based on the state government's proposal after taking into account the service conditions, rules and regulation and pay & allowances etc in relation to the regular Divisional Accountant posted in Arunachal Pradesh. In para 4 (II) of the said modified scheme as has been prepared by the Comptroller and Auditor General of India it has clearly been envisaged that ---

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"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 Accountant/Divisional Accounts Officers transferred to the State Service will be as is ordered by the Central Govt. from time to time for their employees." ----

Therefore, it is clear from the aforesaid contents that in the event of transfer of cadre, the retirement age of regular DAs/DAOs will be 60 years instead of existing 58 years as is applicable to the employees of the State Govt. employees. This modified scheme was forwarded to the State Government of Arunachal Pradesh under covering letter No. DA Cell/1-1/2000-2001/1509 dated 25.11.2005 for acceptance/comments. The State Government of Arunachal Pradesh was constantly reminded from time to time for its response to the scheme. However, after a lapse of 2 (two) years from the receipt of the said modified scheme the State Government of Arunachal Pradesh instead of conveying its acceptance or comments upon the said scheme as prepared by the Comptroller and Auditor General of India the State Govt. of Arunachal Pradesh put forwarded another modified scheme of its own and forwarded the same to the answering respondents vide covering letter No. DA/TRY/15/99/1921 dated 8.9.2007. In the said newly modified scheme in the para 4 (II) thereof in respect of the age of superannuation it has been stated therein that ----

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"the existing age of superannuation of 60 years as applicable in Central Govt. services will be applicable to the Cadre as a special dispensation for those who are appointed by A.G. Shillong on regular basis before issue of this order. Others will retire under the superannuation policy of State Govt."

Therefore, it is abundantly clear that the State Govt. of Arunachal Pradesh has decided that the Divisional Accountant who were appointed on deputation basis will retire on 58 years as per retirement policy of the State Govt. The said modified scheme dated 8.9.2007 has since been forwarded to the Comptroller and Auditor General of India by the answering respondent

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No.2 vide letter No. DA Cell/1-1/2000-2001/569 dated 28.9.2007 and the decision of the Comptroller & Auditor General of India with regard to the same is still awaited.

The copies of the Letters dated 25.11.05 and 28.09.07 are annexed hereto and are marked as Annexure -VIII and IX.

11. That with regards to the statement as has been made in para 4.16 of the Application as filed by the Applicant, the answering Respondents humbly begs to submits that the Applicant was and still is a regular employee of the Government of Arunachal Pradesh holding a lien in his parent department of the State Government. Further, the Applicant's lien cannot be terminated by the Govt. of Arunachal Pradesh as per Rule 14-A (a) and (d) of Fundamental Rules part-I. The relevant extract of the aforementioned Rules reads as follows:

The Rule 14-A(a) says " except as provided in Rule 13 and clause (d) of this rule, a Government servant's lien on a post may, in no circumstances, be terminated, if the result will be to leave him without a lien upon a regular post."

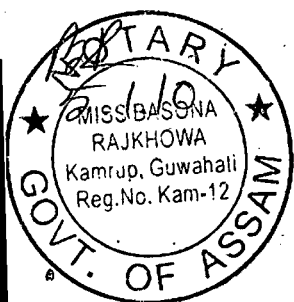
Rule 14-A (d) says "A Government Servant's lien on a post shall stand terminated on his acquiring a lien on another post (whether under the Central Government or a State Government) out side the cadre on which he is borne".

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In the instant case the Applicant was appointed as Divisional Accountant on deputation basis for a certain period only under the A.G.(A&E) Meghalaya. Further it may be mentioned that on 1st occasion the Applicant was repatriated back to his parent department on expiry of deputation terms and the Applicant abided by the order had reported back to his parent department on 22.2.1993.

A copy of the order dated 22.2.1993 is annexed hereto and the same is marked as Annexure- X

12. That with regards to the statement as has been made in para 4.17 of the Application as filed by the Applicant, the answering Respondents humbly begs to submit that no doubt on the recommendation of the 6th Central Pay Commission the pay of the Applicant was fixed in the cadre of DA from the date of his appointment to the deputation post, it is pertinent to mention herein that the Applicant himself has chosen to draw said the central Govt.



pay without deputation duty allowance. That apart it is submitted by the answering respondents that the mere fact that Applicant's pay & allowance had been fixed as per central govt. pay & allowance as per recommendation of central pay commission from time to time does not make him regular incumbent in the cadre of DA under the administrative control of the A.G.(A&E) Meghalaya.

13. That with regards to the statement as has been made in para 4.18 of the Application as filed by the applicant, the answering Respondents humbly submits that the Respondent No.2 has no knowledge about the decision of the Government of India for granting the benefits of absorption in service to incumbents who had been serving on deputation basis in a Central Government department for a continuous period either from another Central Govt. Department or from the State Govt.

14. That with regards to the statement as has been made in para 4.19 of the Application as filed by the Applicant, the answering Respondents humbly submits that in response to the letter No. ZD/HPD/E-3/2009-10/188-92 dated 20.5.2009, the decision of the office was communicated through Speed Post vide this office letter No.DA Cell/2-46/2007-08/Vol.IV/104 dated 25.5.2009 to the Executive Engineer, Hydro Power Division, Ziro, Department of Hydro Power Development, Govt. of Arunachal Pradesh. Subsequent to this a reminder too was also issued vide office letter No. DA Cell/Court Case/RP/261 dated 30.7.2009 with a request to intimate the respondent No. 2 whether the Applicant has retired from service on 31.5.2009 on attaining his age of superannuation.

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A copies of the letters dated 25.05.2009 and 30.07.05 are annexed hereto and the same are marked as Annexures - XI and XII respectively.

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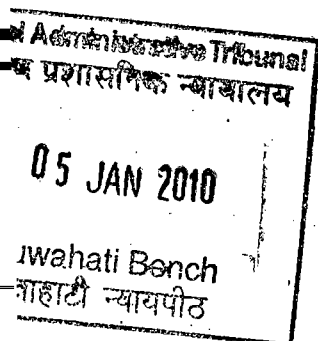
15. That with regards to the statement as has been made in paragraph 4.20 of the Application as filed by the applicant, the answering Respondents humbly begs to submits that the Applicant was always a regular employee of the Government of Arunachal Pradesh who had been appointed only on deputation basis as a Divisional Accountant under the administrative control of the Respondent No.2 and that too for a specific period only. Thus, on expiry of the said deputation period repatriation order was issued to the Applicant. However, inspite of the issuance of the repatriation order the applicant continued in the deputation post by taking advantage of some

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decisions of Govt. of AP as well as various court cases which are still pending and which involves welfare of regular DAs (DAOs/Sr.DAOs) posted in Arunachal Pradesh.

It may be noted that after separation of combined cadre of DAs the Applicant was holding a lien in his parent department of the State Government of Arunachal Pradesh. As a state government employee, the Applicant was due to retire on superannuation on 31.5.2009 on attaining the age of 58 years which is the superannuating age for all the state govt. employees of Govt. of Arunachal Pradesh and the same is duly notified Vide Notification No.FIN/E/47/87 (PT) dated 16.2.1989 and the same had been made by way of adopting the Central Government rules and regulation including Fundamental Rules and Supplementary Rules as well as Central Civil Service (Pension) Rules, CCS (Leave) Rules etc which govern the service conditions of employees of Government of Arunachal Pradesh. Thus, the age of superannuation for all employees of the State Government of Arunachal Pradesh continues to be 58 (Fifty Eight) years as may be ascertained from the Notification No.FIN/E-47/97 dated 5.1.1999. This is also confirmed by the Director of Accounts and Treasuries, Government of Arunachal Pradesh vide his D.O. letter No.DA/Try/18/2002 dated 6.6.2006. Thus this is being the undisputed service status of the Applicant, he is, like every other employee of the Government of Arunachal Pradesh, to retire on attaining 58 years of age.

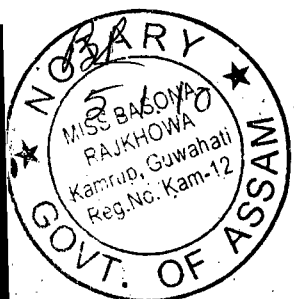
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Furthermore, in earlier occasion also a number of cases were filed by the various Deputationists from the State Government of Arunachal Pradesh for extension of their respective services till they attaining the age of 60 years instead of them retiring on attainment of 58 years. The final order as has been passed by this Hon'ble Tribunal in one such case which was numbered as OA No.103/2006 and which had been filed by one Shri L. Appal Swami, D.A. vide Order dated 2.3.2007 is enclosed for ready-reference.

The Copies of the Letter dated 6.6.2006 and the Order of This Hon'ble Tribunal dated 2.3.2007 passed in OA No.103/2006 are annexed hereto and the same are marked as Annexures -XIII and XIV respectively.

16. That with regards to the statement as has been made in para 4.21 of the Application as filed by the applicant, the answering Respondents humbly begs to submits that the Applicant who was a regular employee of the Government of Arunachal Pradesh was appointed as Divisional Accountant on deputation basis only and that too for a limited period. Thus, in the event of the Applicant's retirement on 31.5.2009 i.e. on his attainment of 58 years, his pay



and allowance is to be fixed by the Govt. of Arunachal Pradesh by taking into consideration the post he was holding within the State Government prior to joining the deputation post.

17. That with regards to the statement as has been made in para 4.22 of the Application as filed by the applicants, the answering Respondents refrains from making any comments upon the same.
18. That with regards to the statement as has been made in para 4.23 of the Application as filed by the applicant, the answering respondents humbly begs to submit that Applicant was a regular employee of Govt. of Arunachal Pradesh who came to deputation post under Central Govt. organization.
19. That with regards to the statement made in paragraphs 4.24, 4.25. and 4.26 of the Application as filed by the applicants, the answering Respondents refrains from making any comments upon the same.

Grounds for relief(s) with legal provisions:

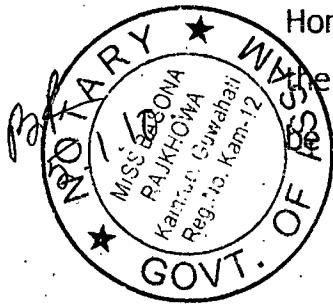
20. With reference to the statements as has been made in Paragraphs 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 5.8, 8.1, 8.2, 8.3, 8.4, 8.5 and para 8. 6 of the Application as filed by the applicant, the answering Respondents humbly begs to submit that although the Government of Arunachal Pradesh had adopted all rules and regulations for all purposes including FR & SR, CCS Pension Rules, CCS leave Rules, etc which are applicable to its employees regulation and which is similar to central govt. employees,. However the point to be noted and considered is that the amendment/change that has been made in FR 56(a) [i.e. enhancement of the retirement age of 58 years to 60 years] by the central Government has not been adopted till date by the Government of Arunachal Pradesh and that being so the said amendment with regard to the enhancement of the age of superannuation cannot be made applicable to the employees of Govt. of Arunachal Pradesh until and unless the Government of Arunachal Pradesh adopts the same. Thus, in view of the said fact, the Applicant is not entitled to get any relief as has been prayed for by him in the instant Application so filed by him.
21. That with regard to the statement as made in Para 9 of the Application as filed by the applicant, the answering Respondents refrains from making any comment upon the same.

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22. In view of the aforesaid facts and circumstances of the case as has been narrated herein above, the answering Respondents most respectfully and humbly pray that the present appealation as has been filed by the Applicant be dismissed with costs in favour of the Respondents, and further the interim order dated 29.5.2009 that had been passed by this Hon'ble Tribunal in the instant application be vacated and the order dated 25.5.2009 passed by the respondent No.2 be allowed to be implemented

In the premises aforesaid it is respectfully prayed that In view of the aforesaid facts and circumstances of the case as has been narrated herein above, the answering Respondents most respectfully and humbly pray that the present appealation as has been filed by the Applicant be dismissed with costs in favour of the Respondents, and further the interim order dated 29.5.2009 that had been passed by this Hon'ble Tribunal in the instant application be vacated and the order dated 25.5.2009 passed by the respondent No.2 be allowed to be implemented.



Verification.

Solemnly affirmed before me. 5.1.10.

Deposant Nawal Kishore
Dy. Accountant General
O/o the Accountant General
Arunachal Pradesh
Itanagar-791111

I, Sri V. M. V. Nawal Kishore, Deputy Accountant General (Admn), Office of the Accountant General, Arunachal Pradesh do hereby solemnly affirm and declare that the statements made herein above in the written statements are true to my knowledge, belief and information and I sign the verification on the 5th day of January, 2010 at Guwahati.

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DEPONENT

VMV Nawal Kishore
Dy. Accountant General
O/o the Accountant General
Arunachal Pradesh
Itanagar-791111



(Department of Expenditure)

New Delhi, the 8th September, 1988.

ANNEXURE I

G.S.R. 749 - In exercise of the powers conferred by clause (5) of article 345 of the Constitution, and after consultation with the Comptroller and Auditor General of India, the President hereby makes the following rules to regulate the method of recruitment to the post of Divisional Accountant under the cadre control of the Accounts and Entitlement Offices of the Indian Audit and Accounts Department, namely :-

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

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

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

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

4. Disqualifications - No person -

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

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

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

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

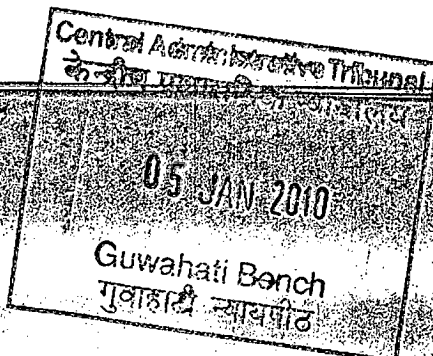
6. Saving - Nothing in these rules shall affect reservations, relaxation of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and other special categories of persons, in accordance with the orders issued by the Central Government from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

SCHEDULE

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

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2. 3. 4. 5. 6.

Accountant	2504*(1989)	General	Ps. 1400-40-	Not	No
	*Subject to	Central	1600-50-	applicable	
	variation	Service	2300-EB-60		
	dependent	Group 'C'	-2600		
	on work-	Non-Gez-			
	load.	tted			
		Ministerial			

Age limit for direct recruits	Educational and other qualifications required for direct recruits.	Whether age and educational qualifications prescribed for direct recruits will apply in case of promotees.	Period of probation, if any.
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7. Between 18 and 25 years	8. Bachelor's degree of a recognised University.	9. Not applicable	10. 2 years
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Note: The crucial date for determining age limit shall be as advertised.

Note: The educational qualifications is relaxable under the orders of the Comptroller and Auditor General of India for specified categories of staff in the Indian Audit and Accounts Department and State Public Works Accounts Clerks.

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11. 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.	12. In case of recruitment by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made.
--	---

Direct Recruitment. As stated in column 11

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

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

- (1) Accountants (Ps. 1200-2040) and senior Accountants (Ps. 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

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

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

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

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14.

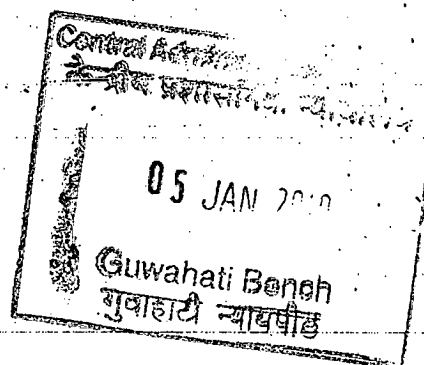
Group 'C' Departmental Promotion Committee (for confirmations) consisting of :-

Not applicable

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

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

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



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ANNEXURE

11

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

EO No. DA Cell/

207

Dated:

27.12.95

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

R. Prathapan, U.S.C. at present working

in the Office of the Supdy Eng; Along Civil Circle PWD
is posted on deputation as Divisional Accountant

in the office of the Impthal Executive Engineer
Impthal Generation and Distribution Division
Electrical, Imphal, Manipur

2. Shri R. Prathapan should

join the aforesaid post of Divisional Accountant on deputation
within 15 days from the date of issue of this order, failing
which his posting on deputation is liable to be cancelled
without any further communication and the position may be ~~filled~~

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

R. Prathapan

will be for a duration of 1 (one)

year only from the date of joining in the Office of the

Executive Engineer, Impthal Generation &
Distribution Division (Electrical), Imphal, Manipur

4. The Pay and deputation (duty) allowances in respect of
Shri R. Prathapan

will be governed by the Government of India, Ministry of
Finance, Public Grievances and Pension (Department of Personnel
and Training) letter No. 2/12/87-Estt (Pay. II) dtd: 29.4.1988

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contd..P/2...

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Certified by true copy

Daluy
Advocate

and as amended and modified from time to time. While on deputation, Shri R. Roathapan 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 R. Roathapan

_____, 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 R. Roathapan shall be treated as final and ~~AR~~ cannot be altered/changed later under any circumstance whatsoever.

5. The Dearness Allowance, CCA, Children Education ~~allowance~~, Allowance, T.A., LTC, Leave, Pension, etc will be governed by the Govt. of India, Ministry of Finance OM No. F1(6) E-IV(A)/62 dtd. 7.12.1962 (Incorporated as Annexure to Govt. of India decision No. 1 in Appendix 31 of Choudhury's C.S.R Volume IV(13th edition) and as amended and modified from time to time.)

6. Shri R. Roathapan 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 R. Roathapan (on deputation) is entrusted additional charges, appointed or transferred to a Post/Station other than that cited in this Establishment Officer.

Sd/-
Sr. Accounts Officer,
i/c DA Cell.

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P.C. 27 JAN 1996

Memo No.DA Cell/2-49/94-95/2397-2407 Dated: 27.12.95

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, (EZ) Haragar, Aunachal ^{Prad}
He is requested to release Shri R. Balhapan ; ^{U.D.C}

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

Received by 27/12/95
REGISTERED: 5) The Executive Engineer, Supdg Engineer
Along Civil Circle; Along; Aunachal ^{Prad}
He is requested to release immediately Shri R. Balhapan ; ^{U.D.C}

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

2 REGISTERED: 6) The Executive Engineer, Imphal Generation
Distribution Division (Electrical) Imphal
Manipur He is requested to intimate the date of joining of Shri R. Balhapan

Received by 27/12/95
REGISTERED: 7) Shri R. Balhapan ; ^{U.D.}
O/O the Supdg Engineer
Along Civil Circle; Along; Aunachal ^{Prad}

8. E.O. File

9. S.C. File

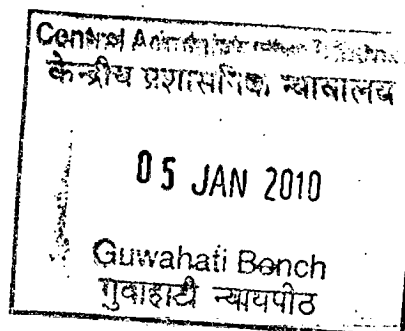
10. P.C. File

11. File of the deputationist.

12. The Chief Engineer (Electrical)
Manipur; Imphal ^{Prad}

Sr. Accounts Officer,
i/c DA Cell.

87c



- 21 - - 176 - Appendix - III
OFFICE OF THE ACCOUNTANT GENERAL (A&E),
MEGHALAYA, MIZORAM & ARUNACHAL PRADESH
SHILLONG - 793 001



26
111
ANNEXURE

No. DA Cell/2-46/92-93/1698

Date : 07.01.2000

To

The Joint Director of Accounts,
O/o The Director of Accounts & Treasuries,
Government of Arunachal Pradesh,
Naharlugun,
ARUNACHAL PRADESH

Sub.: Recruitment/Posting of regular Divisional Accountant.

Sir,

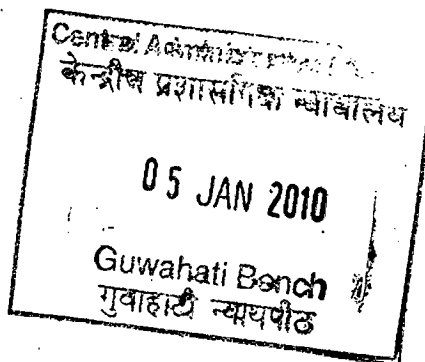
In inviting a reference to your letter No. DA/TRY/15/99/9029 dated 15.11.1999 on the subject cited above, I am to inform you that this office is the cadre controlling authority for the cadres of DA/DAO/Sr. DAO in respect of the State of Manipur, Tripura and Arunachal Pradesh. Transfer and postings of DA/DAO/Sr. DAO is the sole responsibility of this office and these officials are transferred among these three states.

Temporary appointment of DAs on deputation is only a stop-gap arrangement. Further whenever a proposal for recruitment of regular DAs is considered, concurrence of the concerned State is sought for. In this regard, this office letter No. DA Cell/2-46/92-93/3365 dated 07.01.1998, addressed to the Secretary, Finance Department, Government of Arunachal Pradesh, Itanagar, may please be referred to.

Further, I am to state that as per Recruitment Rules, published in the Gazetted of India dated 24.09.1988, the period of deputation cannot be extended beyond three years. Hence, your request for extension of the deputation terms of the deputationist Divisional Accountants beyond three years and for a further period of two years cannot be acceded to.

Yours faithfully,

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



Certified by true copy

Daly
Ad vocate

-22- -175-

ANNEXURE IV

Gr. ARUNACHAL ACCOUNTS
Phone: 24426, 110
22263, 110

GOVERNMENT OF ARUNACHAL PRADESH

Director of Accounts & Treasuries
Naharlagun-791 110

No. DA/TRY/15/99

Dated, the 12th Jan 2000

To,

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

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

Sir,

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

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

Certified by true copy

Ad vocate

Dy. S. D. B. (K) / 656 di 13/7/05

D.O.

30-2005

लखापरोक्षक का कोर्टावर्य

तह जफर मार्ग,

110 002

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

Appendix - V

OFFICE OF THE
COMPTROLLER & AUDITOR GENERAL
OF INDIA

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

दिनांक / DATE 6.7.2005

DA Cell / C+AG / 20 di 13.7.05 - 23 -

ANNEXURE

V

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,

(Signature)

(MANISH KUMAR)

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

05 JAN 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

दूर. भा. / Phone : 23231440, 23231761

तार / Telegram : ARGEL NEW DELHI

दूर. भा. / Telex : 001-055001, 001-055047

तार / Fax : 01-11-23235446, 01-11-23234014

Certified by true copy

(Signature)
Advocate

VI 1124
JAC-11
81

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

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

-24-

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.

Encl: As-stated above.

Yours faithfully

(C.M. Mongmaw),

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

Memo. NO. DA/TRY-27/2000

Dated 20 July 2005.

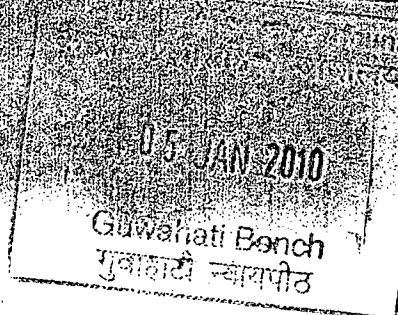
Copy to :-

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)

Certified by true copy

Advocate



-25-

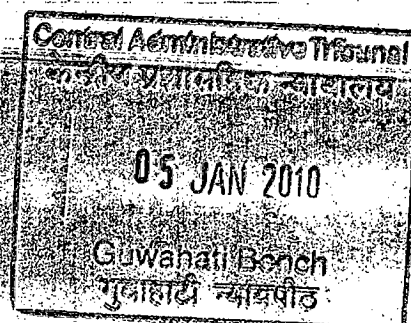
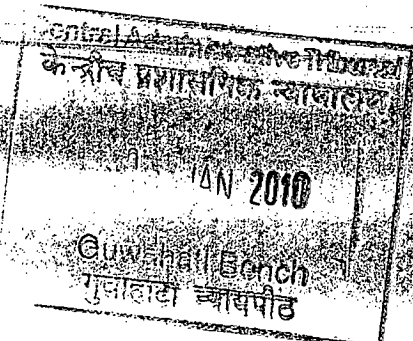
-178-
84

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, 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.



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

Administrative Control

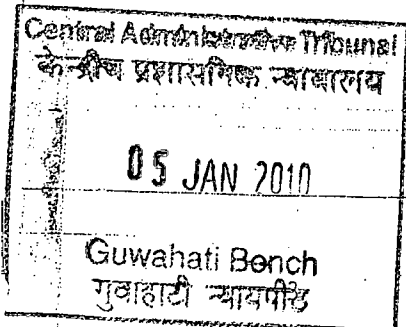
The administrative control of Sr. Divisional Accounts Officers/Divisional Accounts Officers/Divisional Accountants shall be vested with the *Finance Department, Government of Arunachal Pradesh, Itanagar* and will be exercised by the *Secretary, to the Government of Arunachal Pradesh, Department of Finance*.

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)



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

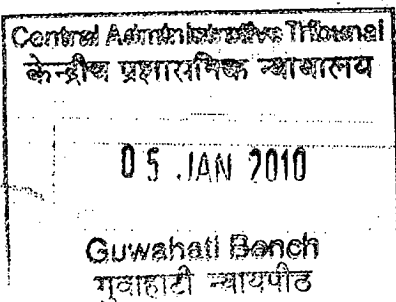
After this training , the candidates are required to pass the Divisional test, which will be conducted by Director of Accounts and Treasuries. Till such time as the trainees, they are posted as Divisional Accountant on probation. After passing the Divisional Test Examination supernumerary posts equal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

6. Transfer & Posting:-

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

7. Transfer of record:-

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



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

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Annexure VII

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ANNEXURE

VII

204

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

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

Dated:- 5.4.2007

11 APR 2007

To

1. Chief Engineer
PWD, PHE, I&FCD, RWD, Power.

Sub:- Implications of overstay 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 overstay 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 of had already expired and 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 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 overstay shall not count against service for the purpose of pension and that any increment due during the period of unauthorised overstay shall be deferred, with cumulative effect till the on which offer rejoins his parent cadre. 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 DAs to be refixed in their respective scale of pay in the State Govt. from the date of their unauthorised over stay on depuration. (ii) excess drawl of pay & allowance and increments drawn after the date in every case to be recovered. (iii) Increments due in the

Certified by true copy

Advocate

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

05 JAN 2010

Guwahati Bench
Tejapada Baruah

-29-

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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.

Y/F

Sl. AO

D.A.G. (A)

Memo No, DA Cell/2-46/DDA/Vol.III/2007/16

Dated:- 5.4.2007

Copy forwarded to the Pr.Accountant General (Audit), Meghalaya etc., Shillong with request kindly to issue instruction to the ^{in full} verify with reference to the above instructions passed by this office regarding over payment of pay & allowances to Divisional Accountant, if any during local audit of the Divisions. on deputation.

Dy.Accountant General (A)

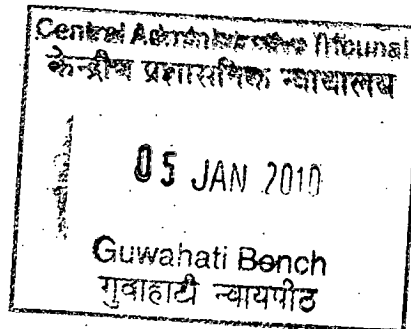
Registered
Memo No, DA Cell/2-46/DDA/Vol.III/2007/17-81

Dated:- 5.4.2007

Copy forwarded to the :-

1. The Executive Engineers 32 nos as mentioned as mentioned in the list
2. The Person concerned 27 nos as above enclosed

Sr.Accounts Officer
DA Cell.



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ANNEXURE VIII

VIII

Registered Post

OFFICE
5 MAY 2005

342

286

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.IV/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.

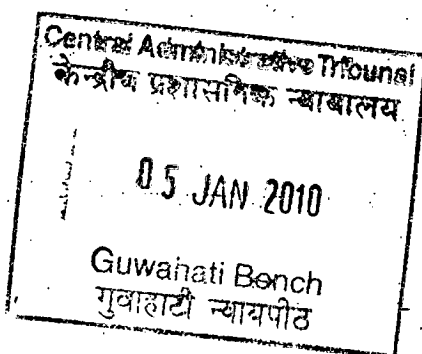
Comments/suggestion if any, of the government may be communicated to this office for onward transmission to the O/o the C&AG of India for consideration/approval. Also the action taken by the State Government on this office letter No. DA Cell/1-1/2000-2001/1390 dated 31.10.2005 (Copy enclosed) may also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

Enclor:- As stated above.

Yours faithfully,

(A.K.Das)

Dy.Accountant General (Admin)



Certified by true copy

Ad vocate

ANNEXURE

Appendix - IX

SPEED 1051

1831

OFFICE OF THE ACCOUNTANT GENERAL (A&E),
MEGBALAYA, 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 3rd October 2005.

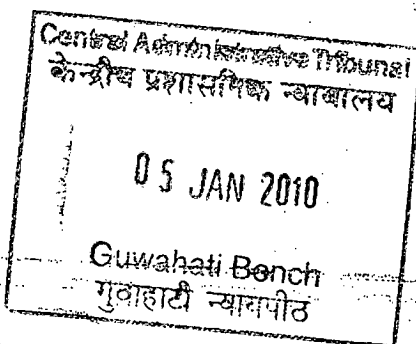
Sir,

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.)



Certified by true copy

Advocate

ANNEXURE

X

208

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

No. DA Cell/178

On expiry of the period of deputation to the Post of Junior Grade Divisional Accountant under the Administrative Control of the Accountant General (A&E) Meghalaya, Shillong, Shri R. Pratab Kumar on deputation

at present posted in the Office of the Executive Engineer, R.W.D. Bazar, Assam Pradesh

is repatriated to his parent Department i.e. Chief Engineer, P.W.D. Jorhat, Assam Pradesh

with effect from 12.3.93 (JN).

On being relieved of his duties in the Office of the Executive Engineer, R.W.D. Bazar, Assam Pradesh, Shri R. Pratab Kumar

is to report for duties to the Chief Engineer, P.W.D. Jorhat, Assam Pradesh

immediately

As required under Para 334 of the Comptroller and Auditor General's M.S.O. (Admn.) Vol. I reproduced in Appendix-I of the C.P.W.A. Code, 2nd Edition, 1964 the

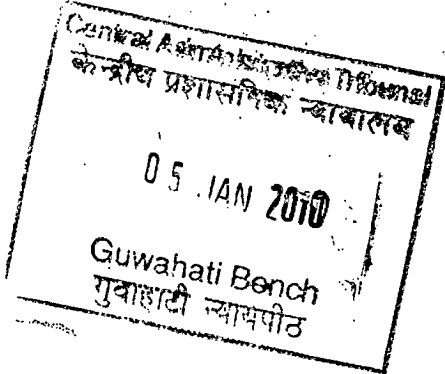
relieving official should prepare a memorandum reviewing the accounts of the Division (in triplicate) which the relieving official should examine and forward promptly with his remarks to the Accountant General (A&E), Meghalaya etc,

Shillong, through the Divisional Officer, who will record such observations thereon as he consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving Officer.

Authority:- A.G's order dt.5.2.93 at P113W in the file No. DA Cell/10-1/92-93

Sd/-
Sr. Dy. Accountant General (A&E).

contd..P/2...



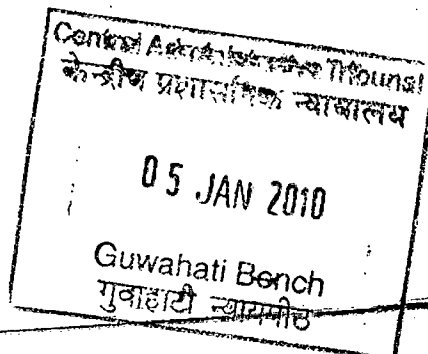
Certified by true copy

Ad vocate

NO. DA Cell/10-1/24-93/2750-56 Dated: _____
 Copy forwarded for information and necessary action to :-

- 1) The Chief Engineer,
/Accountant General (A&E) Manipur, Imphal.
 He is requested to arrange for posting of Shri.
 Divisional Accountant on
 on his repatriation to his parent Department.
 The concerned Executive Engineer, has been asked to release
 Shri
 On before 12.3.93 positively. He is also requested to convey
 his concurrence for the aforesaid Divisional Accountant
 upto the period 12.3.93.
- 2) The Superintending Engineer,
- 3) The Executive Engineer,
- 4) The Accountant General (A&E),
- 5) The Executive Engineer,
 He is requested to release
 Shri
 of his Division positively on before 12.3.93 as his terms
 of his expires. He is also requested to instruct Shri. ...
 to report to his
 parent Department i.e. Chief Engineer
/Accountant General
 (A&E) Manipur, Imphal on his release from your Department.
 He is also requested to intimate this Office telegraphically
 the exact date of release.
- 6) The Executive Engineer,
 He is requested to direct Shri.
 Divisional Accountant
 of the Office of the Executive Engineer,
 in addition
 to his normal duties.
- 7) Shri DAO/Grade-I
 Office of the Executive Engineer,
 He is requested
 to look after the work of the Divisional Accountant of the
 Office of the Executive Engineer,

contd..1/3...



-34-

-186-

83

.....
in addition to his normal duties, till a substitute is posted.

Shri
Divisional Accountant on deputation is hereby asked to report to his parent Department., i.e, the Office of the Chief Engineer,
...../Accountant General (A&E) Manipur, Imphal on relieve from the Office of the Executive Engineer,

3. Personal File of Shri R. Pruthi
to
20.1.10

21. E.O. File

22. S.c. File

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
05 JAN 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

Sr Accounts Officer,
i/c D.A. Cell. 93

-35- -187 Appendix - XI
ANNEXURE

Speed Post.

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

NO.DA.Cell/2-46/2007-08/Vol.IV/104

Dated :- 25.5.09.

25/5/09

To

The Executive Engineer,
Hydro Power Division,
Department of Hydro Power Development.,
Ziro, Arunachal Pradesh.

Sub:- Retirement of Shri R.Prathapan, Divisional ^{Accountant} Accountant on Deputation.

Sir,

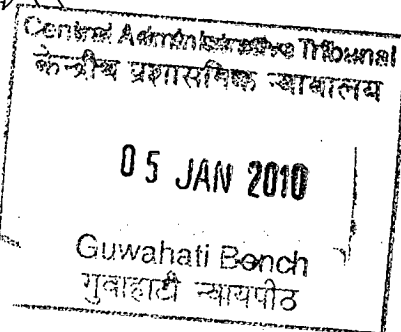
With reference to your letter No. ZD/HPD/E-3/2009-10/ 188-92 dated 20.5.2009 on the subject cited above, I am to inform you that retirement age of the employees of the Government of Arunachal Pradesh is applicable to the Divisional ^{Accountant} Accountants on deputation recruited from the Govt. of Arunachal Pradesh.

Therefore, Shri R.Prathapan, Divisional Accountant on deputation should retire on attaining the of his superannuation on 31.5.2009 as per records available in your Division.

Yours faithfully,

Sr.AO/DA Cell

Dy. Accountant General (Admn)



Certified by true copy

Advocate

-188- Appendix - XII
-36- ANNEXURE

XII
Speed Post.

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

No. DA Cell/Court Case/RP/2009/261

Dated:- 29.7.2009.

To

The Executive Engineer,
Hydro Power Division, Ziro,
Department of Hydro Power Development,
ZIRO, Arunachal Pradesh.

Sub:- Retirement of Shri R.Pratapah, Divisional Accountant on deputation.

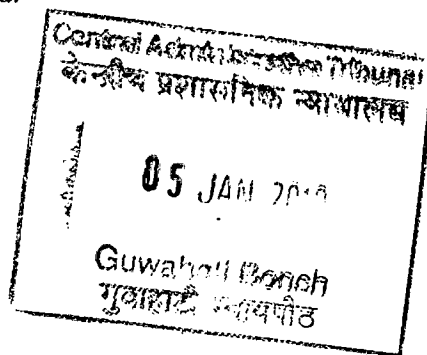
Sir,

Kindly refer to this office letter No. DA Cell/2-46/2007-08/Vol.IV/104 dated 25.5.2009 (Copy enclosed) on the subject cited above, I am directed to request to intimate this office whether Shri R.Prathapan, Divisional Accountant on deputation has retired from service on 31.5.2009 on attaining his age of superannuation

This is with reference to your letter No. ZD/HPD/E-3/2009-10/188-92 dated 20.5.2009.

The matter may kindly be treated as most urgent.

Encl:- As stated.



Yours faithfully,

Sr.Accounts Officer,
DA Cell.

Certified by true copy

Advocate

SA Cell/20/Fax/3 dt 6.6.2006. -189- Appendix - X111

GOVERNMENT OF ARUNACHAL PRADESH

-37-



C.M. MONGMAW

Director of Accounts & Treasuries
Naharlagun - 791 110

Phone : 0360 : 244680 (O)
: 244140 (O)
: 212365 (K)
Fax : 0360 : 244680 (O)

Gram : ARUNACCOUNTS

D.O. No ... DA/TRY/18/2002.

Dated, the 6th June 2006.....

Respected Sir,

I am in receipt of your D.O. No. DA Cell/1-17/2000-2001/95 dated 5.6.2006 regarding retiring age of Divisional Accountant originally an employee of Govt. of Arunachal Pradesh holding ex-cadre post of Divisional Accountant and at present under your control.

In fact, after adaptation of State laws vide Govt. Notification No. FIN/E/47/87 (PT) dated 16th February 1989 on attainment of statehood by this State, the Govt. of Arunachal Pradesh had adopted the T.R. & S.R.. But, afterwards vide another Notification No. FIN/E-47/94 dated 5th January 1999, the Govt. stated its stand to continue with 58 years of age for retirement which was prevalent at the time of adoption of law. In this context, both the copies of orders referred to in this para are enclosed for ready reference please.

With warm regards,

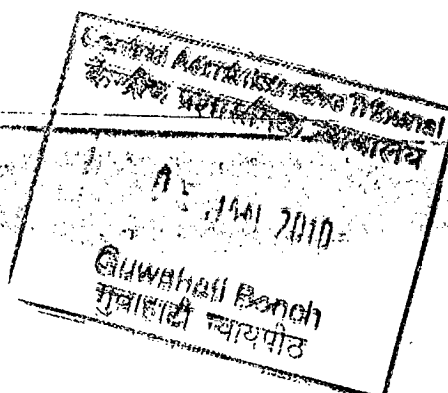
Yours faithfully,

(C.M. Mongmaw)

Sri A.W.K. Langstieh
Accountant General (A&E),
Meghalaya, Arunachal Pradesh, etc.,
Shillong.

Certified by true copy

Advocate



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE XIV

NO. 7A cell/Inward/179
dt 30.3.07

Original Application No.27 of 2006

And

Original Application No.103 of 2006

Date of Order: This the 2nd day of March 2007

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

The Hon'ble Smt Chitra Chopra, Administrative Member

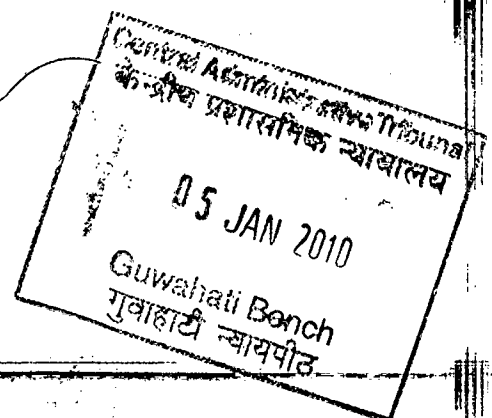
O.A.No.27/2006

Siri L. Appal Swami
S/o Late L.A. Naidu,
Presently working as Divisional Accountant,
O/o The Executive Engineer,
PHE & Water Supply Division, Khonsa,
Distt.- Tirap, Arunachal Pradesh.Applicant

By Advocates Mr M. Chanda, Mr G.N. Chakraborty
and Mr S. Nath.

- versus -

1. Union of India, through the
Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg, New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.,
Shillong-793003.
3. The State of Arunachal Pradesh, represented by
The Secretary to the Government of Arunachal Pradesh,
Department of PHE & WS, Itanagar.
4. The Commissioner, Finance Department,
Government of Arunachal Pradesh, Itanagar.
5. The Director of Accounts & Treasuries,
Government of Arunachal Pradesh, Naharlagun-791110.
6. The Chief Engineer,
Public Health Engineering & W.S. Department,
Government of Arunachal Pradesh, Itanagar.



Certified by true copy

[Signature]
Advocate

BAN
30/3/07

6. The Executive Engineer
PHE and Water Supply Division,
Khonsa, Distt.- Tirap,
Arunachal Pradesh.

..... Respondents

By Advocate Mr G. Baishya, Sr. C.G.S.C. and
Mr A. Buzarbaruah, Government Advocate,
Arunachal Pradesh.

II. O.A.No.103/2006

Shri Keshab Chandra Das,
S/o Shri Kamini Kumar Das,
Presently working as Divisional Accountant,
O/o The Executive Engineer,
R.W.D. Division Bomdila, Distt.- West Kameng,
Arunachal Pradesh-750116.

..... Applicant

By Advocates Mr M. Chanda, Mr G.N. Chakraborty
and Mr S. Nath.

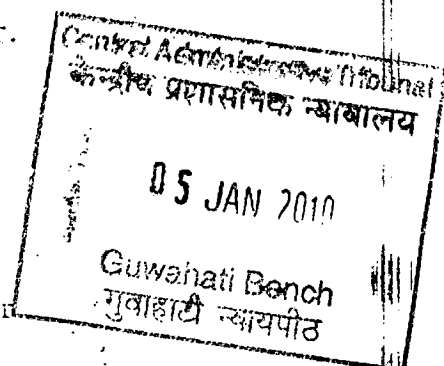
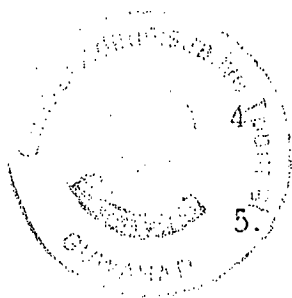
- versus -

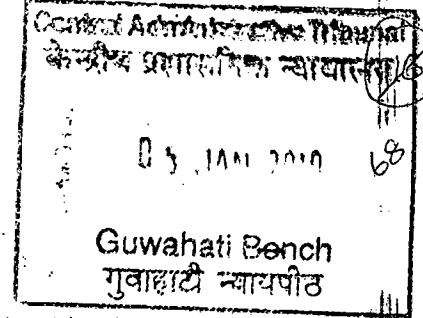
1. Union of India, through the
Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg,
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.,
Shillong-793003.
3. The State of Arunachal Pradesh, represented by the
Secretary to the Government of Arunachal Pradesh,
Department of PHE & WS, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh, Itanagar.
5. The Director of Accounts & Treasuries
Government of Arunachal Pradesh,
Naharlagun-791110.
6. The Chief Engineer
R.W.D. Department,
Government of Arunachal Pradesh, Itanagar.
7. The Executive Engineer
R.W.D. Division,
Bomdila, Arunachal Pradesh.

..... Respondents

By Advocate Ms U. Das, Addl. C.G.S.C. and
Mr A. Buzarbaruah, Government Advocate,
Arunachal Pradesh.

.....



ORDERK.V. SACHIDANANDAN (V.C.)

The applications are filed by the applicants who have been selected and appointed as Divisional Accountants on deputation basis under respondent No.2 and presently working in the Office of the Executive Engineer, Arunachal Pradesh. The issues involved in these cases are same and the prayers in both the applications are also identical as to permit them to continue in service till attaining the age of 60 years. Therefore, the O.A.s are being disposed of by a common order by consent of the parties.

2. The case of the applicants is that, they were selected and appointed as Divisional Accountants on deputation basis and the Government of Arunachal Pradesh is under active consideration to take over the cadre of Divisional Accountants. For that purpose, the Commissioner of Finance made a request to the Government of Arunachal Pradesh stating that the Divisional Accountants who were appointed on deputation basis may be allowed to continue as emergency Divisional Accountants. Aggrieved by the said action of the respondents, the applicants approached this Tribunal through different applications (O.A.No.115/2005) for consideration of their case for permanent absorption, which is pending disposal. While so, the Sr Accounts Officer, Office of the Accountant General (A&E), Meghalaya vide impugned letter dated 10.01.2006 intimated the Director of Accounts and Treasuries that the applicants were due to retire on 31.01.2006 (applicant in O.A.27/2006) and 30.04.2006 (applicant in O.A.103/2006) respectively on attaining the age of 58

— 41 — — 193 —

years and requested the State authorities to take necessary steps to enable the applicants to take retirement as per their retirement age. Aggrieved by the said action of the respondents the applicants have filed the present O.A.s seeking the following reliefs:

O.A.No.27/2006

"8.1 That the Hon'ble Tribunal set aside and quashed the impugned notice issued under letter No.KPHED/ESTT/PF-172/2000-01/1427 dated 30.12.2005 (Annexure-9)

8.2 That the Hon'ble Tribunal be-pleased to declare that the applicant is entitled to retire on superannuation only on attaining the age of 60 years in terms of the provision laid down in FR 56 (a) as well as in terms of rule 35 of CCS (Pension) Rules, 1972

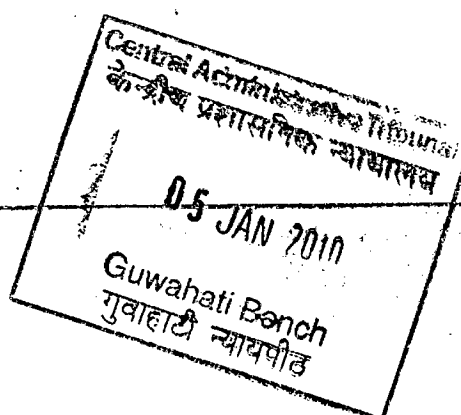
8.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in service till attaining the age of 60 years in terms of the prayer no.2."

O.A.No.103/2006

"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter issued under letter No.DA Cell/2-46/2000-01/Vol.III/1667-69 dated 10.01.2006 (Annexure-6) so far the applicant is concerned.

8.2 That the Hon'ble Tribunal be pleased to declare that the applicant is entitled to retire on superannuation only on attaining the age of 60 years in terms of the provision laid down in FR 56 (a) as well as in terms of rule 35 of CCS (Pension) Rules 1972.

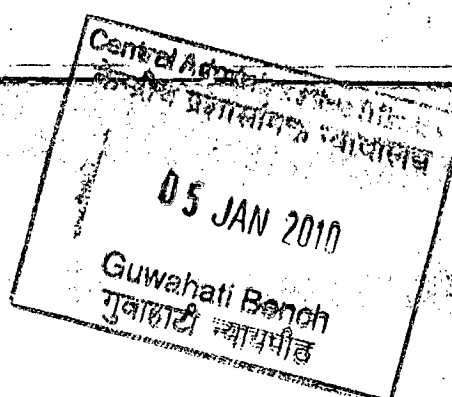
8.3 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in service



till attaining the age of 60 years in terms of the prayer No.2"

3. The respondent Nos.1 and 2 and 3 to 7 have filed detailed written statements separately contending that the applicants are regular employees of the Government of Arunachal Pradesh. Since there were vacancies in the cadre of Divisional Accountants and since it takes time to fill up the vacancies through the Staff Selection Commission, the respondent No.2 called for applications from amongst the experienced staff in Public Works Department, PHE, etc. who were willing to serve as Divisional Accountants on deputation basis under the State Governments of Tripura, Arunachal Pradesh and Manipur. Accordingly the applicants have been selected and appointed as Divisional Accountants on deputation basis under the administrative control of respondent No.2 for an initial period of one year and making it clear that the applicants were liable to work on deputation basis in any of the above three States.

4. The Government of Arunachal Pradesh submitted a proposal to transfer the cadre of Divisional Accountants under the direct control of Director of Accounts and Treasuries, Government of Arunachal Pradesh and a formal notification would be communicated by the State Government in due course. The State Government cannot unilaterally take over the cadre of the Divisional Accountants, which is under the control of any of the State Accountant Generals without the prior consent and approval of the Comptroller and Auditor General of India. After completion of the applicants' deputation period the repatriation orders to the parent departments of the applicants were issued to the applicants. However, instead of reporting back to the parent departments, the applicants filed an application before the



Tribunal against the repatriation order and the issue is pending before this court as different proceedings.

5. Four years have elapsed, the State Government of Arunachal Pradesh have not initiated any move to take over the cadre of Divisional Accountants in the State from the administrative control of the Accountant General (A&E). The handing over of the Divisional Accountants cadre from the administrative control of Accountant General cannot take place without the consent of the Comptroller and Auditor General of India. Since some of the Original Applications (O.A.Nos. 114/2005, 115/2005 and 238/2005) are pending before the Tribunal and which have not attained finality, the question of absorption of the Divisional Accountants on deputation was under consideration by the Office of the Comptroller and Auditor General of India. The applicants are regular employees of the Government of Arunachal Pradesh and appointed as Divisional Accountants on deputation basis. As State Government employees the applicants were to retire on superannuation on attaining the age of 58 years, which is the superannuating age of all the employees of the Government of Arunachal Pradesh. Though the Government of Arunachal Pradesh adopted Central Government rules and regulations including Fundamental Rules and Supplementary rules as well as CCS (Pension) Rules, CCS (leave) Rules etc. which govern the service conditions of the employees of Government of Arunachal Pradesh, the retirement age of the employees of the Government of Arunachal Pradesh continues to be 58 years. Therefore, the applicants are not entitled to any relief as prayed for.

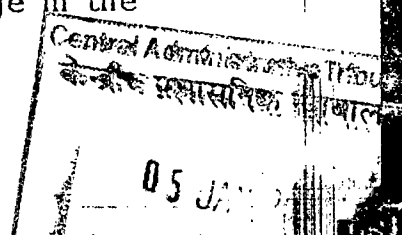
6. We have heard Mr M. Chanda, learned counsel for the applicants, Mr A. Buzarbaruah, learned Government Advocate,

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
05 JAN 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

Arunachal Pradesh, Mr G. Baishya, learned Sr. C.G.S.C. in O.A.No.103/2006 and Ms U. Das, learned Addl. C.G.S.C. in O.A.No.27/2006. The learned counsel for the parties have taken us to various pleadings, evidence and materials placed on record.

7. The learned counsel for the applicants argued that the applicants were erstwhile employed in the Union Territory and after formation of the State of Arunachal Pradesh the applicants have been shifted to the State Government service and on deputation basis. At the time of formation of the State Government, the CCS (CCA) Rules, Fundamental Rules, etc. of the Central Government were adopted by the State Government. Therefore, the CCS (Pension) Rules of the Central Government and FR 56 are also being adopted. Therefore, after recommendation of the Fifth Central Pay Commission the age of superannuation which was enhanced to 60 years by the Central Government would automatically be applicable to the State Government employees. Therefore, the applicants are entitled to retire at the age of 60 years instead of 58 years.

8. The learned counsel for the respondents, on the other hand, persuasively argued that though the fundamental rules and supplementary rules of the Central Government are applicable to the State Government employees vide Notification dated 16.02.1989, the retirement age of the employees adopted by the State Government as 58 years has never been enhanced by the State Government and any enhancement or change made by the Central Government would not automatically be applicable to the State Government employees. The mere fact of adoption of the Central Government rules at the time of formation of the State will always continue, but any change in the



Central Government service conditions would not automatically be applicable to the State Government employees.

9. We have given due consideration to the arguments, evidence and materials placed on record. The issue involved in this case is whether the age of the applicants to be determined as 60 years instead of 58 years. Our attention is brought to letter dated 12.01.2000 where a proposal is made to transfer the cadre of Divisional Accountants to the State of Arunachal Pradesh. Admittedly, the applicants are State Government employees working on deputation basis as Divisional Accountants. The issue as to the permanent absorption etc. has not reached finality and proceedings are pending before different courts. The crux point to be decided by this court is whether the applicants are entitled to retire at the age of 60 years. Our attention is taken to Chapter IX F.R. 56, which is quoted below:

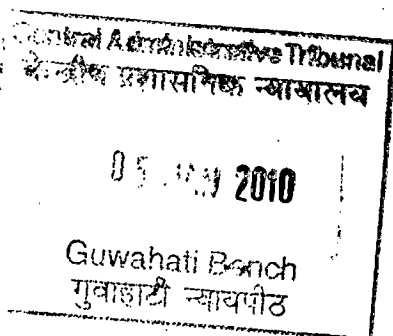
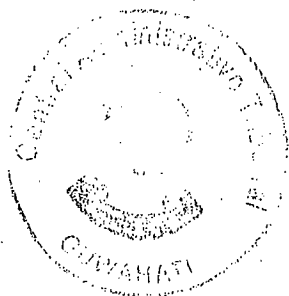
"F.R. 56. (a) Except as otherwise provided in this rule, every Government servant shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

Provided that a Government servant whose date of birth is the first of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.

Provided further that a Government servant who has attained the age of fifty eight years on or before the first day of May, 1998 and is on extension in service, shall retire from the service on expiry of his extended period of service.

Or on the expiry of any further extension in service granted by the Central Government in public interest, provided that no such extension in service shall be granted beyond the age of 60 years.

(b) A workman who is governed by these rules shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years."



10. It is made clear that an employee has to retire from service in the afternoon of the last date of the month on which he attains the age of superannuation. Here, the retirement age has been fixed as 60 years as far as Central Government employees are concerned. This is also corroborated by Clause (1) of the Government of India's Decision, Chapter V of the Pension Rules. Admittedly, when the rules have been adopted by the State Government it was 58 years. Our attention has been taken to Notification dated 6.01.1999, which is reproduced as under:



"It is hereby notified for general information that the provisions of FRs - 56, 'Chapter-X' relating to 'Retirement' as adopted by this Government, vide No.Fin/E/47/87 (pt) dated 16th February, 1989 will continue to be applicable to all the government employees of the Government of Arunachal Pradesh."

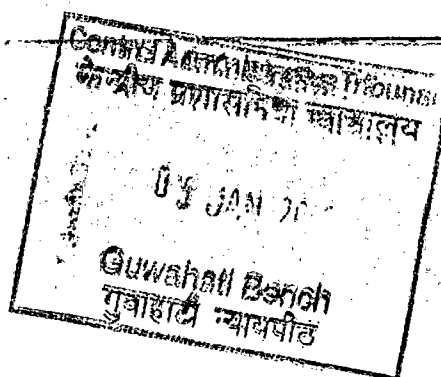
By order and in the name of the Governor of Arunachal Pradesh.

Sd/-
(P. K. Nandi)
Under Secretary (Finance)
Government of Arunachal Pradesh
Itanagar"

11. The Government of Arunachal Pradesh also has clarified the position of retirement vide Annexure-IX dated 06.06.2006, which is also reproduced hereunder:

"Am in receipt of your D.O.No.DA Cell/1-1/2000-2001/95 dated 5.6.2006 regarding retiring age of Divisional Accountant originally an employee of Govt. of Arunachal Pradesh holding ex-cadre post of Divisional Accountant and at present under your control."

In fact, after adaptation of State laws vide Govt. Notification No.FIN/E/47/87 (PT) dated 16th February 1989 on attainment of statehood by this State, the Govt. of Arunachal Pradesh had adopted the F.R. & S.R. But, afterwards vide another Notification No.FIN/E-47/94 dated 5th January 1999, the Govt. stated its stand to continue with 58 years of age for retirement which was



prevalent at the time of adoption of law. In this context, both the copies of orders referred to in this para are enclosed for ready reference please.

Yours faithfully,

Sd/-
(C.M. Mongmaw)

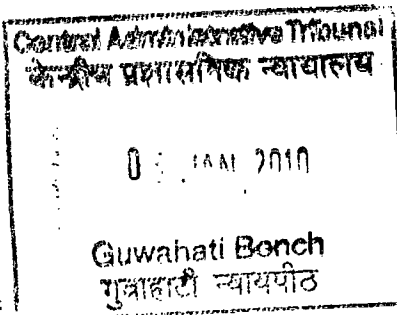
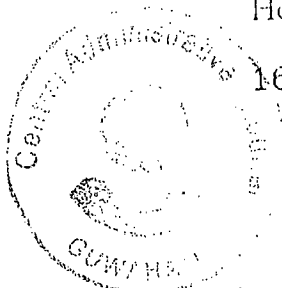
12. The learned counsel for the applicant argued that vide the Notification dated 5.1.1999 what is adopted is F.R. 56 whereas the retirement age of the Central Government employees by virtue of the Fifth Central Pay Commission has been enhanced to 60 years by that time. Therefore, it is presumed that without mentioning the age as 58 years there was a total adoption of F.R. 56. It will only mean that the age of State Government employees also would be reckoned as 60 years for State Government employees. A further clarification dated 6.6.2006 would not help the respondents to reduce the same to 58 years since any administrative decision cannot overrule the notification regarding fundamental rules of the State Government. However, our attention is also taken to the Notification dated 16.02.1989, the operative portion of which is reproduced as under:

"No.FIN/E/47/87(Pt):- Whereas by Sub-section (2) of section 46 of the State of Arunachal Pradesh Act, 1986 (Act No.69 of 1986) for the purpose of facilitating the application of any law in relation to the state of Arunachal Pradesh the Government of the State of Arunachal Pradesh as the appropriate Government is empowered by order, to make such adaptation and modification of the law, whether by way of repeal or amendment, as may be necessary or expedient.

Now, therefore, in exercise of the power aforesaid the Government of the State of Arunachal Pradesh hereby makes the following order, namely:-

....."

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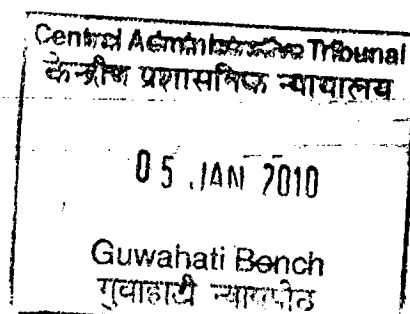


13. Now, the crucial question is whether the retirement age is to be considered as 60 years or 58 years. It is an admitted fact that this is a policy decision of the Government. Even though the Government of Arunachal Pradesh vide Notification dated 16.02.2989 adopted Central Government rules and regulations including Fundamental Rules and Supplementary Rules as well as CCS (Pension) Rules, CCS (Leave) Rules etc. which govern the service conditions of the employees of the Government of Arunachal Pradesh it is made clear in the Notification dated 06.01.1999 that the retirement age of employees of the Government of Arunachal Pradesh will continue to be 58 years. This was also confirmed by the Director of Accounts and Treasuries vide letter dated 06.06.2006. Since this being a policy decision and is the prerogative of the Government concerned to fix the retirement age, the mere fact that Fundamental Rules/CCS Rules have been adopted by the State Government does not mean that the retirement age all through the years should be applicable to the State Government employees. The learned counsel for the applicant have also taken our attention to the decision of the Apex Court reported in 1998 (7) SCC 221, Municipal Corporation of Delhi vs. Dharam Prakash Sharma and another and canvassed for a position that in view of the Central Government ruling the State Government cannot take a different view. The facts of the case discussed in the said ruling are different and not applicable in this case. The counsel also cited a decision of the Full Bench of the Central Administrative Tribunal, New Delhi reported in (2005) 2 ATI 617, Shri Prakash Chand and seven others vs. Union of India and others, which pertains to the Assured Career Progression Scheme and canvassed for a position that once a benefit has been granted it

cannot be withdrawn by issuance of a clarification unless the Government amend the Scheme in accordance with law. The proposition is not directly applicable in this case since in the case before the Full Bench the ACP was granted to the applicant therein by virtue of a notification and therefore the clarification cannot be sufficient. In the given case it is a policy decision of the Government and the adaptation of the Central Government Rules at a particular point of time cannot ipso facto be extended to the State Government employees especially with reference to retirement age since this is absolutely a policy matter. Therefore, this decision is also not applicable in the present case.

14. On perusing the records we find that the Central Government has taken a decision to enhance the retirement age from 58 years to 60 years as per the recommendations of the Fifth Central Pay Commission. There is no material placed on record that such a recommendation has been accepted by the State Government nor any separate notification has been issued by the State Government enhancing the age of superannuation from 58 to 60 years. In the absence of such notification and it being a policy decision of the State Government, we are of the considered view that this court cannot interfere in such matters. The Hon'ble Supreme Court in (1997) 1 SCC 253, Consumer Corporation Madras vs. Madras Corporation has cautioned that Courts/Tribunals cannot interfere with the policy matters of the Government.

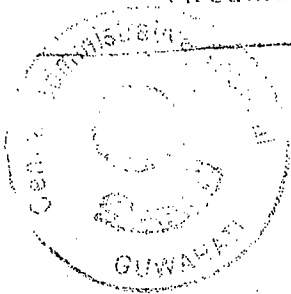
15. In the conspectus of facts and circumstances mentioned above we are of the view that since it being a policy decision of the Government to enhance the age of retirement and since the State



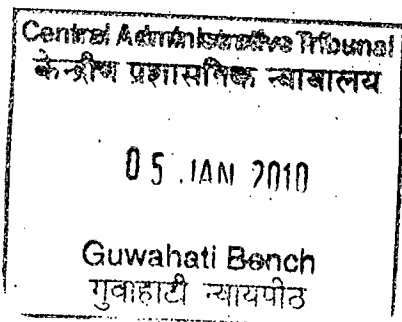
Government has taken a decision that the retirement age of the State Government employees would continue to be 58 years this court cannot give a declaration otherwise. Therefore, the O.A.s are without merit and liable to be dismissed.

Accordingly the Original Applications are dismissed. In the circumstances there will be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)



ikn



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प्रतिलिपि

[Signature]
अनुसार 20/11/07
Section Officer
Central Administrative Tribunal
Guwahati Bench
Date: 20/11/07
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