

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

✓
10/7/2023

ORDERSHEET

1. Original Application No: 105 /2009

2. Misc Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Sri Pradip Kumar Paul

Respondant(s) U.O.I. - W.O.S

Advocate for the Applicant(s): Mr. S. Nath
Ms U. Dutta

Advocate for the Respondant(s): 6
CSS

Notes of the Registry	Date	Order of the Tribunal
<p>this application is in form is filed/C.F. For Rs. 50/- deposited vide IPO/ID No. <u>396/09</u> Dated <u>28.5.09</u></p> <p><u>5.6.09</u> Dy. Registrar <u>5/6/09</u></p> <p><u>5.6.09</u> Extra copies of Application with envelopes received for issue notice to the Respondents No. 1 to 7. Copy served. Extra charge for excess Respondents No. 6 & 7. deposited.</p> <p><u>5/6/09</u> Review for applicant <u>S. Nath</u> <u>28.5.09</u></p> <p><u>5/6/09</u> Copy of orders dated 5/6/09 along with copy of application send to the D/Sec. for issue. The same to the Respnt. No 1 to 7 P-To</p>	<p>05.06.2009</p> <p>/bb/</p> <p>29.05.2009</p>	<p>For the reasons recorded separately, the O.A. stands disposed of.</p> <p><u>M.R. Mohanty</u> Vice-Chairman</p> <p>Judgment pronounced in open Court. Kept in separate sheets. <u>BB</u></p>

and to the applicant
and learned advocates
for the parties.

~~Don~~
5/6/09

Issued vide
D/No 2934 to 2941
5/6/09 dtd.

18/8/09

Judgment & Notice
~~presented~~ received
for unserved of
Respts No. 7.

~~Don~~
18/8/09

for the reasons recorded

0002 00 00

by the A.C. at the

at

M.R. Mohan
Vice-Chancellor

18/8/09

00 00 00

in the presence of

the learned

0002 00 00

at the Court in the presence of

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 105 of 2009

Date of Decision : 05.06.2009

Shri Pradip Kumar Paul

..... **Applicant/s**

Mr. S. Nath & Ms. U. Dutta

..... **Advocate for the
Applicant/s**

- Versus -

U.O.I. & Ors.

..... **Respondent/s**

**Mr. M.U. Ahmed for Govt. of India & Mr. R.K. Dev Choudhury for
Govt. of Arunachal Pradesh**

..... **Advocate for the
Respondents**

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE-CHAIRMAN

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

Vice-Chairman

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 105 of 2009

Date of Order: This, the 5th Day of June, 2009

HON'BLE MR. M. R. MOHANTY, VICE-CHAIRMAN

Shri Pradip Kumar Paul
S/o Late Paresh Chandra Paul
Divisional Accountant
O/o The Executive Engineer
R & I Survey Division
P.O.- Agartala
West Tribura- 799001.

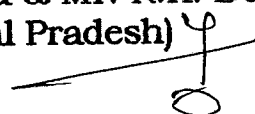
..... Applicant

(By Advocates : Mr. S. Nath & Ms. U. Dutta)

-Versus-

1. The Union of India, Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg, New Delhi- 110002.
 2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793001.
 3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar - 791 111.
 4. The Chief Engineer, I & FCD
Government of Arunachal Pradesh
Itanagar- 791 111.
 5. The Chief Engineer, P.W.D (R&B)
Govt. of Tripura, Agartala - 799001.
 6. The Executive Engineer
Resource Division
Panchamukh, P.O.- Agartala
West Tripura - 799003.
 7. The Executive Engineer
R & I Survey Division
Agartala, Tripura (W)- 799002.
- Respondents

(By Advocates : Mr. M.U. Ahmed for Govt. of India & Mr. R.K. Dev
Choudhury for Govt. of Arunachal Pradesh)

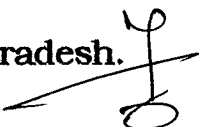


ORDER (ORAL)
05.06.2009

MANORANJAN MOHANTY, (V.C.) :

Applicant is an employee of State Government of Arunachal Pradesh. He is in deputation to the post of 'Divisional Accountant' in the Accountant Generals Organization. In that process, he has been posted in Divisions under the State Government of Tripura. By an order under Annexure-10 dated 29.04.2009, he has been asked to leave the 'Divisional Accountant' post in the State of Tripura and to join another post of 'Divisional Accountant' in the State of Arunachal Pradesh. His previous order of transfer from the State of Tripura to the State of Arunachal Pradesh was stayed by order (of this Tribunal) dated 23.06.2008 rendered in O.A.113/2008 and the stay order was, virtually, to take effect till end of April, 2009.

2. Before end of April, 2009, by order under Annexure-7 dated 06.02.2009, the Public Works Department of the State of Tripura transferred the Applicant from one division to another division within the State of Tripura. It is stated that in the meantime, the Applicant's child has taken admission in +2/Higher Secondary class in the State of Tripura. It is also stated that vacancies of 'Divisional Accountants' are still available in the State of Tripura; where the Applicant can be allowed to continue/posted; instead of being posted in a vacancy of Divisional Accountant in the State of Arunachal Pradesh.



3. Raising all the aforesaid points, the Applicant has approached this Tribunal, again, with the present O.A. under Section 19 of the Administrative Tribunals Act, 1985, virtually, challenging transfer/posting order dated 29.04.2009.

4. 'Who will be posted where' being within the competency of the authorities ⁱⁿ ~~under~~ control of the matter and this Tribunal not being an appellate authority in the matter, no interference is called for (by this Tribunal) in the matter. However, it is for the competent authorities, who are in control of the mater, to consider/ reconsider the grievances of the Applicant.

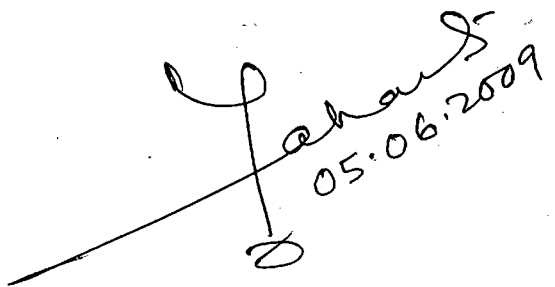
5. In the aforesaid premises, this case is ^{hereby} disposed of with grant of liberty to the Applicant to represent his case before his authorities; who should consider the matter relating to existence of vacancies of Divisional Accountants in any of the Engineering Divisions of the State of Tripura and they may allow the Applicant to continue as against one of such vacancies of Divisional Accountants in the State of Tripura.

6. With the aforesaid observations, this O.A. is disposed of.

7. Send copies of this order to the Applicant and to the Respondents (along with copies of this O.A.) in the address given in the O.A.. Respondents should treat copies of this O.A. as a representation (of the Applicant) to the Respondents and pass necessary orders, as expeditiously as possible, before end of June, 2009. Until then, the Applicant should be allowed to continue as

Divisional Accountant in R & I Survey Division, Public Works
Department of State of Tripura at Agartala.

8. Free copies of this order be handed over to Mrs.U.Dutta,
learned counsel appearing for the Applicant, Mr.M.U.Ahmed,
learned Addl. Standing counsel for the Government of India and
Mr.R.K.Deb Choudhury, learned counsel appearing for the State of
Arunachal Pradesh.; to whom copies of this O.A. have already been
supplied.


(MANORANJAN MOHANTY)
VICE-CHAIRMAN

/bb/

5 JUN 2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 105 /2009

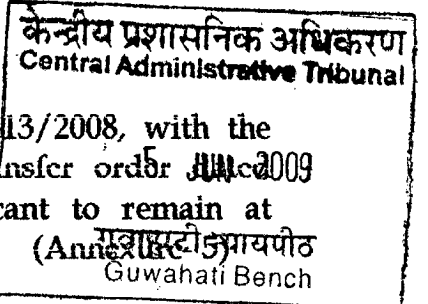
Shri Pradip Kumar Paul.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 1984- Applicant was initially appointed to the post of U.D.C in the office of the Chief Engineer, RWD, Itanagar under the Govt. of Arunachal Pradesh.
- 16.07.1999- Applicant was selected and appointed for the 3rd time as Divisional Accountant on deputation basis under the Respondent No. 2.
He is presently working as Divisional Accountant in the office of the Executive Engineer, R & I Survey Division, Agartala on deputation basis.
- 08.05.2007- Applicant approached this Hon'ble Tribunal through O.A. No. 112/2007 praying for a direction upon the respondents to allow him in the present place of posting till process of absorption in the cadre of Divisional Accountant by the Govt. of Arunachal Pradesh is completed and also prayed for a direction restraining the respondents passing any order of repatriation. The Hon'ble Tribunal while issuing notice upon the respondents at the admission stage passed an interim order of status quo on 08.05.07.
(Annexure- 1)
- 11.04.2008- Hon'ble Tribunal vide judgment and order dated 11.04.08 in O.A. No. 112/2007 observed that since the applicant has been repatriated by the authorities of the State of Tripura, apparently without leave from the Accountant General/Central Govt. organization. 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.
(Annexure- 2)
- 30.05.2008- Accountant General (A&E), Shillong issued impugned order dated 30.05.08 transferring the applicant from Agartala to the office of the Executive Engineer, Bomdilla Civil Division (Power), Bomdilla, in the State of Arunachal Pradesh with immediate effect.
(Annexure- 3)
- Applicant had approached this Hon'ble Tribunal through OA No. 113/2008 praying for modification of the impugned order dated 30.05.08.

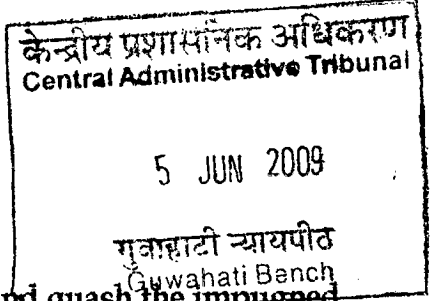


- 23.06.2008- Hon'ble Tribunal disposed of the O.A No. 113/2008, with the direction to the respondents to keep the transfer order dated 30.05.08 suspended and to allow the applicant to remain at Agartala/Tripura at least till 30.04.2009. (Annexure- 5)
- 14.07.2008- Respondent No. 2 kept the transfer and posting order dated 30.05.2008 in abeyance until further orders. (Annexure- 6)
- 06.02.2009- Chief Engineer, PWD (R&B) transferred the applicant from the office of the Executive Engineer, Resource Division, Panchmukh to the office of the Executive Engineer, R & I Survey Division, Agartala with a copy to the respondent No. 2. (Annexure- 7)
- 10.02.2009- Executive Engineer, Resource Division, Panchmukh, Agartala directed the applicant to hand over the charge. (Annexure-8)
- 13.02.2009- Applicant in compliance with the transfer order dated 06.02.2009 joined in the office of Executive Engineer, R & I Survey Division, Agartala, Tripura on 13.02.2009 (A.N). (Annexure- 9)
- 29.04.2009- Dy. Accountant General (Admn), office of the respondent No. 2, on the basis of the impugned order dated 30.05.08 has issued the impugned order dated 29.04.09 with the request to the Divisional Officer/Controlling Officer to release the applicant. (Annexure-10)
- 01.06.2009- Applicant received the impugned order dated 29.04.09.

It is stated that only son of the applicant is studying in Class XI at Holly Cross School, Agartala under the ICSE Board. In such a situation it would be very much difficult on the part of the applicant to join or shift his family at this critical juncture at Bomdilla, A.P, pursuant to the impugned order dated 30.05.08 and 29.04.2009. Moreover, it will likely to cause irreparable loss and injury of smooth continuation of education of his only son. It is also relevant to mention here that there is no School under the ICSE Board in Bomdilla in the state of Arunachal Pradesh.

It is relevant to mention here that no one is posted in the present place of posting i.e. in the office of the Executive Engineer, R&I Survey Division or in the Resource Division, Panchamukh, Agartala till filing of this original application. Moreover, in addition to the post of Divisional Accountant available at Resource Division, Panchamukh, Agartala there are availability of vacancies, more particularly, in the Drinking Water and Sanitation Division-I/II, another post available at Water Resource - II, PWD (R&B) Division No. V, Agartala and RIG Division, Agartala, as such there is no difficulty on the part of respondent No. 2 to accommodate the applicant on compassionate ground in any of the vacant division in and around Agartala.

Hence this Original Application.



PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order impugned order of transfer and posting bearing No. E.O. No. DA Cell/4 dated 30.05.2008 (Annexure- 3) and order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 (Annexure- 10) or alternatively be pleased to direct the respondents to modify the impugned transfer order bearing E.O. No. DA Cell/4 dated 30.05.2008 and order dated 29.04.2009 for accommodating the applicant in the existing vacant post in the office of the Executive Engineer, Resource Division, Panchamukh, Agartala or in any vacant post of Divisional Accountant in and around Agartala since the transfer order has been issued during the middle of the academic session.
2. Cost of the application.
3. Any other relief (s) to which the applicant is entitled as deemed fit and proper by the Hon'ble Tribunal.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned order of transfer and posting bearing No. E.O. No. DA Cell/4 dated 30.05.2008 (Annexure- 3) and order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 (Annexure- 10), till disposal of the Original Application.

5 JUN 2009

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 105 /2009

Shri Pradip Kumar Paul. : Applicant.

-Versus -

Union of India & Others. : Respondents.

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Filed by

Date:

Advocate.

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

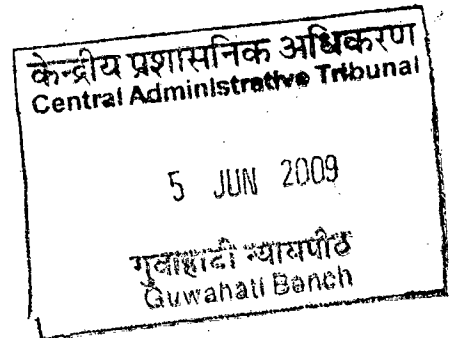
(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O.A No. 105 /2009

BETWEEN:

Shri Pradip Kumar Paul

S/o Late Paresh Chandra Paul,
Divisional Accountant,
O/o The Executive Engineer,
R & I Survey Division,
P.O- Agartala,
West Tripura- 799001. ✓



..... Applicant.

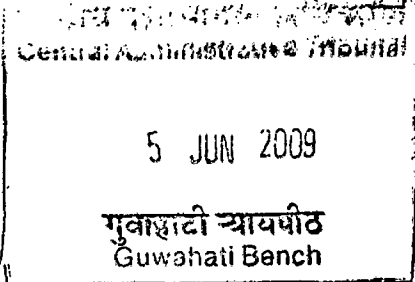
-AND-

1. Union of India,
Through the Comptroller & Auditor General of India,
10 Bahadur Shah Zafar Marg, New Delhi- 110002. ✓
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong- 793001. ✓
3. The State of Arunachal Pradesh,
Represented by the Secretary to the
Government of Arunachal Pradesh,
Department of Power, Itanagar- 791 111. ✓
4. The Chief Engineer, I & FCD
Government of Arunachal Pradesh,
Itanagar- 791 111. ✓
5. The Chief Engineer, P.W.D (R&B)
Govt. of Tripura, Agartala- 799001. ✓
6. The Executive Engineer,
Resource Division
Panchamukh, P.O- Agartala,
West Tripura- 799003. ✓
7. The Executive Engineer,
R & I Survey Division,
Agartala, Tripura (W) - 799001. ✓

..... Respondents.

Pradip Kumar Paul.

Filed by: - The applicant
 Through: - U. Dutta
 Advocate or
 05.06.09



DETAILS OF THE APPLICATION

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

This application is made against the impugned order of transfer and posting bearing No. E.O. No. DA Cell/4 dated 30.05.2008 (Annexure- 3) and order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 (Annexure-10), whereby the applicant is sought to be posted on deputation basis in the office of the Executive Engineer, Bomdilla Civil Division (Power), Bomdilla, Arunachal Pradesh with immediate effect from the office of the Executive Engineer, Resource Division, Panchamukh, Agartala, Tripura and also praying for a direction upon the respondents to accommodate the applicant in the existing vacant post or in an around Agartala due to smooth continuation of education of the son of applicant.

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.

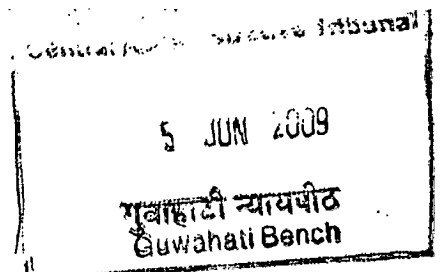
The applicant further declares that this application is filed within the limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case.

4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges granted by the constitution of India. The applicant is presently working as Divisional Accountant under the administrative control of the respondent No. 2 on deputation basis and he is now posted in Office of the Executive Engineer, R & I Division, Agartala, Tripura (West).

4.2 That the applicant was initially appointed to the post of U.D.C in the year 1984 in the office of the Chief Engineer, RWD, Itanagar under the Government of Arunachal Pradesh. However, the Rural Works Department was bifurcated by the Government of Arunachal Pradesh following a policy decision and created two separate independent

Rindip Kumar Paul

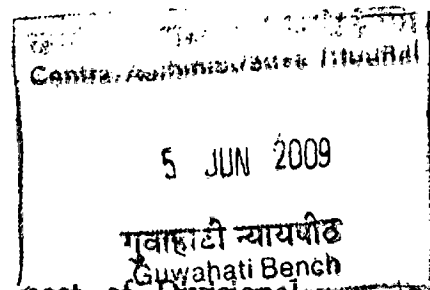


departments, that is, Public Health Engineering Department (in short PHED) and Irrigation and Flood Control Department (in short IFCD) after bifurcation. The applicant is placed in the Irrigation and Flood Control Department of the State of Arunachal Pradesh. Therefore, IFCD is the parent department of the present applicant.

- 4.3 That the applicant is presently working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Agartala in the district of West Tripura on deputation basis. In this connection it may be stated that the applicant in pursuant to a requisition sent by the office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, applied for the post of Divisional Accountant under the administrative control of Respondent No. 2. Be it stated that the respondent No. 2 vide circular bearing No. D/Cell/2-49/97-98/Vol. II/245 dated 20.01.98, invited application from the candidates who are willing to serve as Divisional Accountant available in the administrative control of respondent No. 2. The applicant who was then serving in the office of the IFCD, Itanagar and applied for the said post and thereafter was selected for the third term for the said post on deputation basis. Consequent to his selection for the post of Divisional Accountant he was appointed as Divisional Accountant vide appointment letter bearing No. E.O. No. DA Cell/68 dated 16.07.1999.

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

Pradip Kumar Paul



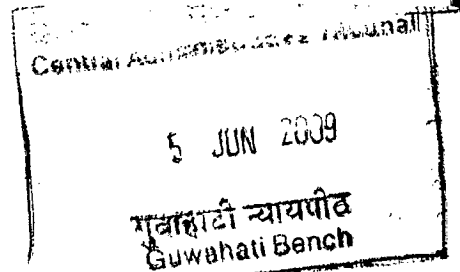
working for about 15 years with break in the post of Divisional Accountant on deputation basis.

- 4.4 That it is stated that the present applicant earlier approached this Hon'ble Tribunal by filing an O.A no. 112/2007 praying interaila for a direction upon the respondents to allow to continue the applicant in the present place of posting till process of absorption in the cadre of Divisional Accountant by the Govt. of Arunachal Pradesh is completed and also prayed for a direction restraining the respondents passing any order of repatriation. The Hon'ble Tribunal while issuing notice upon the respondents at the admission stage passed an interim order of status quo on 08.05.2007, and the said interim order was thereafter continued from time to time till disposal of the O.A. No. 112/2007 on 11.04.2008.

A copy of the interim order dated 08.05.2007 is enclosed as Annexure -1.

- 4.5 That its is stated that after receipt of the notice from the Hon'ble Tribunal, the respondents more particularly the respondent no. 1 and 2 filed the written statement, wherein the respondents no. 1 and 2 filed the written statements, wherein more particularly in para 9 and 12 has specifically stated that there is no proposal to repatriate the applicant immediately and also alleged that the said O.A has been filed only on apprehension. However, the learned Tribunal vide judgment and order dated 11.04.2008 passed in O.A No. 112/2007 observed that since the applicant has been repatriated by the authorities of the State of Tripura, apparently without leave from the Accountant General/Central Govt. organization. Therefore, in the peculiar facts and circumstances the learned Tribunal observed that the Respondent No. 2 need to post the applicant against a vacant post of Divisional Accountant in Arunachal Pradesh until he his repatriated from his deputation. In compliance of the said order of learned Tribunal the respondent no. 2 vide impugned order no. E.O. No. D.A Cell/4 dated 30.05.2008 transferred the applicant from Agartala to the office of the Executive Engineer, Bomdilla Civil Division (Power), Bomdilla, in the State of Arunachal Pradesh with immediate effect.

Pradip Kumar Paul



Copy of the judgment and order dated 11.04.2008, impugned transfer order dated 30.05.2008 and a copy of the written statement filed by the respondent is annexed herewith and marked as Annexure- 2, 3 and 4 respectively.

- 4.6 That the applicant after receipt of the transfer order dated 30.05.2008 approached this Hon'ble Tribunal through O.A. No. 113/2008 praying for modification of the transfer order dated 30.05.2008 and also praying for a direction upon the respondents to accommodate the applicant in the existing vacant post or in an around Agartala due to smooth continuation of education of the son of applicant. It is relevant to mention here that at that point of time son of the applicant was reading at Class X at Agartala under the ICSE Board. However, the Hon'ble Tribunal vide judgment and order dated 23.06.2008 disposed of the O.A No. 113/2008 with the direction to the Respondents to keep the transfer order dated 30.05.2008 suspended and allow the applicant to remain at Agartala/Tripura at least till 30.04.2009.

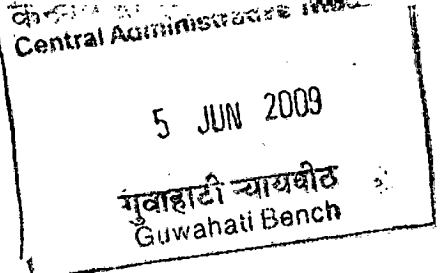
Copy of the judgment and order dated 23.06.2008 in OA No. 113/2008 is enclosed herewith and marked as Annexure- 5.

- 4.7 That it is stated that the Office of the respondent No. 2 in compliance with the direction passed by this Hon'ble Tribunal on 23.06.2008 in OA No. 113/2008 issued the order bearing letter No. E.O. No. DA Cell/8 dated 14.07.2008 whereby the transfer and posting order dated 30.05.2008 has been kept in abeyance until further orders.

Copy of the order dated 14.07.2008 is enclosed herewith and marked as Annexure- 6.

- 4.8 That the applicant while working as Divisional Accountant in the office of the Executive Engineer, Resource Division, Panchamukh, Agartala, the Chief Engineer, PWD (R&B) vide office order bearing No. F. 6E-19/PEO (S) dated 6th Feb, 2009 transferred the applicant from the office of the Executive Engineer, Resource Division, Panchamukh to the office of the Executive Engineer, R & I Survey Division, Agartala with a copy to the

Rudip Kumar Paul

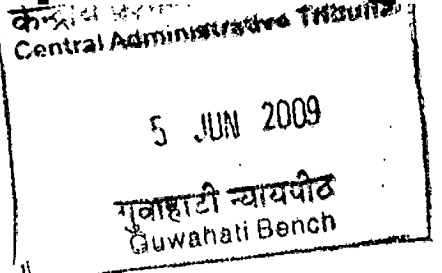


respondent No. 2. Be it stated that in pursuance of the transfer order dated 06.02.09, the Executive Engineer, Resource Division, Panchamukh, Agartala vide his order bearing No. F.EE/RESO/DN/P (C)/2383-91 dated 10.02.2009 directed the applicant to hand over the charge to Shri Mrinal Chowdhury, Assistant Accounts Officer. The applicant in compliance with the transfer order dated 06.02.2009 joined in the office of Executive Engineer, R & I Survey Division, Agartala, Tripura on 13.02.2009 (A.N). Be it stated that after his joining in the office of the Executive Engineer, R&I no one has been posted in his place in the office of the Executive Engineer, Resource Division, Panchamukh, Agartala and the said post is still lying vacant.

Copy of the transfer order dated 06.02.09, order dated 10.02.09 and joining report dated 13.02.09 are enclosed herewith and marked as Annexure- 7, 8 and 9 respectively.

- 4.9 That the applicant states that while he is working in the office of the Executive Engineer, R & I Survey Division, Agartala, the Dy. Accountant General (Admn), office of the respondent No. 2, has issued the impugned order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 with the request to the Divisional Officer/Controlling Officer to release the applicant. Be it stated that the impugned order dated 29.04.2009 has been issued in the light of the orders dated 11.04.2008 and dated 23.06.2008 passed the Hon'ble Tribunal and subsequent office order dated 30.05.2008 and dated 14.07.2008. Be it stated that the impugned order dated 29.04.2009 has been issued with the authority of AG's order dated 27.04.2009, which has not been forwarded to the applicant, as such the applicant is unaware of the contents of the order of respondent No. 2 dated 27.04.2009. Be it stated that in the impugned order dated 29.04.2009 it has been stated that applicant has been withdrawn from the office of the Executive Engineer, Panchamukh, Agartala whereas applicant has in the meantime joined in the office of the Executive Engineer, R & I Survey Division, Agartala pursuant to the transfer order dated 06.02.2009. As such the impugned order dated 29.04.2009 is a defective order, moreover, the impugned order dated 30.05.2008 has lost its' force after issuance of the transfer order

Pradip Kumar Paul



dated 06.02.2009, which the applicant has already complied with and joined in the office of the Executive Engineer, R & I Survey Division on 13.02.2009 (Annexure- 9) where the applicant is at present working on deputation basis and he has not been released till filing of the Original Application. Therefore the impugned order dated 30.05.2008 has lost its force and the question of issuance of the impugned order dated 29.04.2009 on the basis of impugned order dated 30.05.2008 does not arise at all. Therefore the impugned order dated 30.05.2008 and dated 29.04.2008 are liable to be set aside and quashed.

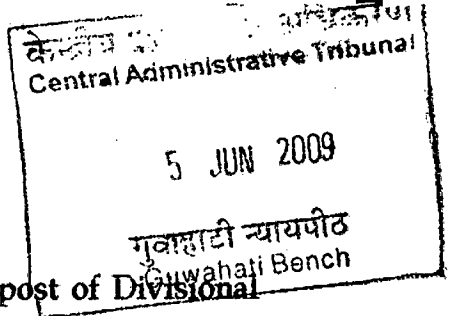
Copy of the impugned order dated 29.04.2009 is enclosed herewith and marked as Annexure- 10.

4.10 That it is stated that impugned order dated 30.05.2008 as well as impugned order dated 29.04.2009 has no administrative exigency, which is evident from the para 4 of the judgment and order dated 23.06.2008 in OA No. 113/2008, as follows:

"4. On the other hand, Mrs. M. Das, that the learned Addl. Standing Counsel for the Govt. of India (to whom a copy of the present Original Application has already been supplied) argued that the A.G. had no proposal to disturb the applicant from Agartala/Tripura; but for the reason of the observation of this Tribunal (made in its order dated 08.05.2007 rendered in OA. 112/2007) the Applicant has been asked to face the present transfer from Agartala/Tripura to Bomdila/A.P."

From the above submission of the learned Addl. Standing Counsel it is evident that the transfer and posting of the applicant from Agartala, in the State of Tripura to Bomdila, Arunachal Pradesh issued vide impugned order dated 30.05.2008 has no administrative exigency or public interest. Therefore the impugned order dated 30.05.2008 as well as impugned order dated 29.04.2009 are liable to be set aside and quashed.

Pradip Kumar Paul



4.11 That it is stated that the applicant is still holding the post of Divisional Accountant in the office of the Executive Engineer, R & I Division, Panchamukh, Agartala, Tripura under the administrative control of A.G (A&E), Meghalaya. It is relevant to mention here that only son namely; Sri Priyam Paul of the present applicant is studying in Class XI, Holly Cross School, Agartala under the ICSE Board and his final examination is scheduled to be held in the month of March, 2011. In such a situation it would be very much difficult on the part of the applicant to join or shift his family at this critical juncture at Bomdilla pursuant to the impugned order dated 30.05.2008 and 29.04.2009. It is further submitted that in the event of his posting at Bomdilla it will likely to cause irreparable loss and injury of smooth continuation of education of his only son, who is going to appear in the final examination in the month of March, 2011. It is also relevant to mention here that there is no School under the ICSE Board in Arunachal Pradesh, more particularly in Bomdilla in the state of Arunachal Pradesh. It is relevant to mention here that no one is posted in the present place of posting i.e. in the office of the Executive Engineer, R & I Survey Division, Agartala or in the office of the Executive Engineer, Resource Division, Panchamukh, Agartala till filing of this original application. Moreover, in addition to the post of Divisional Accountant available at Resource Division, Panchamukh, Agartala following vacancies are available in and around Agartala where the applicant may be accommodated for smooth continuation of the education of his son.

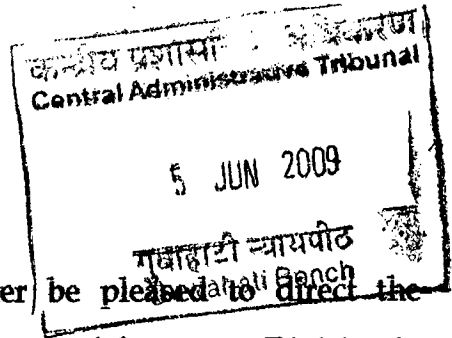
The list of vacancies in and around Agartala is as follows:

1. Drinking Water Sanitation (DWS) Division No. I, Agartala.
2. Drinking Water Sanitation Division (DWS) II, Agartala.
3. RIG Division, Agartala.
4. P.W.D (R&B). Division V, Agartala.
5. Water Resource Div II, Agartala.

Therefore there is no difficulty on the part of respondent No. 2 to accommodate the applicant on compassionate ground in any of the vacant division as mentioned above.

In the circumstances stated above the learned Tribunal be pleased to set aside the impugned transfer and posting order dated 30.05.2008 as

Randip Kumar Paul

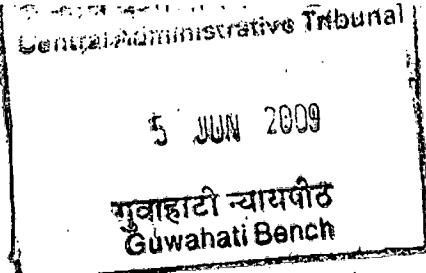


well as order dated 29.04.2009 and further be pleased to direct the respondent to accommodate the applicant in any of the vacant Division in and around Agartala.

4.12 That it is stated that the impugned order of transfer dated 30.05.2008 and 29.04.2009 has not been passed in the administrative exigency or in public interest, as such the same can be kept in abeyance till completion of H.S Course of the son of the applicant. It is pertinent to mention here that the Divisional Accountants who are working on deputation basis under the administrative control of Respondent No. 2 has not been transferred after the process of taking over the cadre of Divisional Accountant has been initiated by the Govt. of Arunachal Pradesh except the present applicant. As such there is no urgency for effecting the transfer order, therefore Hon'ble Court be pleased to set aside and quash the impugned order of transfer dated 30.05.2008 and 29.04.2009 or alternatively be pleased to direct the respondents to keep the impugned order of transfer in abeyance till completion of H.S course of the applicant who is studying under ICSE Board.

4.13 That it is stated that as a result of passing of the impugned order dated 30.05.2008 and 29.04.2009, issued by the respondent no. 2 transferring the applicant from Agartala to Bomdilla, Arunachal Pradesh, it is apprehended that the applicant may be released at any moment from the office of the Executive Engineer, R & I Division, Agartala. As such finding no other alternative applicant in the compelling circumstances approaching this Hon'ble Tribunal to allow him to continue in the office of the Executive Engineer, R & I Division, Agartala or in any other vacant post in an around Agartala, otherwise it will cause serious injury to smooth continuation of education of the only son of the applicant. Therefore Hon'ble Court be pleased to pass an appropriate interim order staying operation of the impugned order dated 30.05.2008 and 29.04.2009 till final disposal of the original application and further be pleased to set aside the impugned transfer order dated 30.05.2008 and 29.04.2009 or alternatively be pleased to direct the respondents to pass an appropriate direction to the respondents for accommodating the applicant either in the

Pandip Kumar Paul



post presently holding by him on deputation basis or in any other post of Divisional Accountant as indicated in the preceding paragraph on deputation basis.

4.14 That the applicant states that he has received the impugned order dated 29.04.2009 on 01.06.2009, therefore he did not get any scope to submit any representation apprehending that he may be released at any moment and as such in the compelling circumstance he is approaching the Hon'ble Tribunal for redressal of his grievance.

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

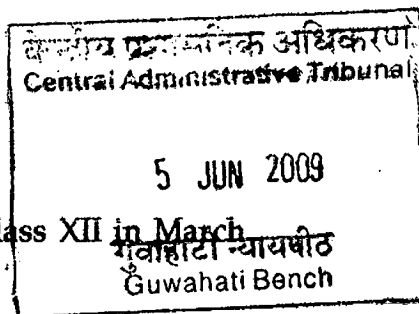
5. Grounds for relief(s) with legal provisions.

5.1 For that after issuance of the impugned transfer order dated 30.05.2008 applicant has been further transferred and posted vide order dated 06.02.2009, accordingly applicant has joined in the office of the Executive Engineer R& I Survey Division, Agartala on 13.02.2009 and presently he is working as Divisional Accountant in the office of Executive Engineer, R & I Division, Agartala. As such the impugned order dated 30.05.2008 has lost its force after issuance of the transfer and posting order dated 06.02.2009, which the applicant has complied with. Therefore, impugned order dated 29.04.2009 is a defective order, as such the impugned order dated 30.05.2008 and 29.04.2009 are liable to be set aside and quashed.

5.2 For that after issuance of the impugned order dated 30.05.2008 applicant has been transferred and posted to the office of the Executive Engineer R& I Survey Division, Agartala vide order dated 06.02.2009, with a copy to respondent No. 2. As such the impugned order dated 29.04.2009 transferring the applicant from the office of the Executive Engineer, Resource Division, Panchamukh, Agartala to Bomdila, Arunachal Pradesh is a defective order and the same is liable to be set aside and quashed.

5.3 For that, there is no urgency or administrative exigency for affecting the impugned transfer order dated 30.05.2008 and 29.04.2009 during the mid-academic session of the applicant's son who is appearing in final

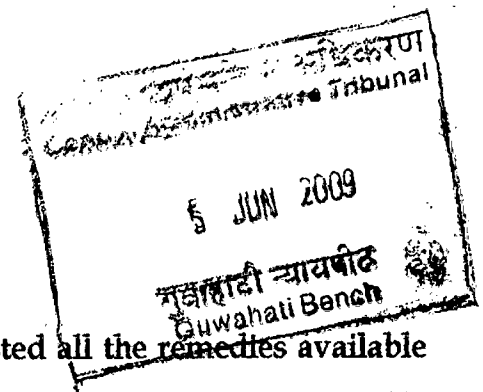
Pondip Kumar Paul



examination of Class XI standard in March 2010 and Class XII in March 2011.

- 5.4 For that the applicant is praying for setting aside of the impugned transfer order dated 30.05.2008 and 29.04.2009 or alternatively for modification of the transfer orders for accommodating the applicant in the existing vacant post or in and around Agartala since the transfer order has been issued during the middle of the academic session of the only son of the applicant, who is reading in class XI and the examination is scheduled to be held in the month of March, 2010. As such the impugned transfer order dated 30.05.2008 and 29.04.2009 are liable to be set aside and quashed.
- 5.5 For that the ICSE course is not available in the state of Arunachal Pradesh, more particularly in Bomdilla, in which the applicant is sought to be transferred.
- 5.6 For that in the event of implementation of the impugned transfer order dated 30.05.2008 and 29.04.2009 during the middle of the academic session, it will cause irreparable loss and injury of the smooth continuation of the education of the only son of the applicant.
- 5.7 For that the name of the son of the applicant is already registered in ICSE Board for appearing in the final examination from Agartala centre.
- 5.8 For that no person is transferred and posted in place of the present applicant, where the applicant is continuing as Divisional Accountant and the said post is also under the absolute control of A.G (A&E) Meghalaya and as such the post occupied by the applicant shall remain vacant in the event of his release pursuant to the order dated 30.05.2008, as such there is no difficulty for the respondents to allow the applicant to continue in the present place of posting.
- 5.9 For that as many as 6 to 7 posts of Divisional Accountant are available under the administrative control of A.G (A&E), Meghalaya in an around Agartala, as such respondents has no difficulty to accommodate the applicant to continue in Agartala for the sake of education of his only son.

Rudip Kumar Paul



6. Details of remedies exhausted.

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

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

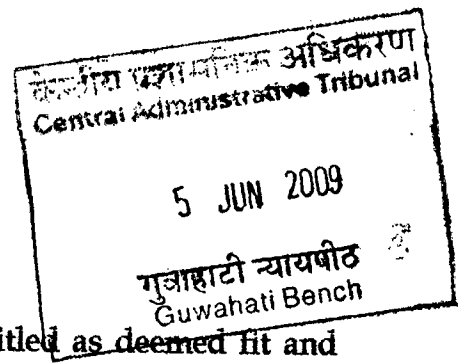
The applicant further declares that he had previously filed application/ Writ Petition before this Hon'ble Tribunal/High Court. However, those cases were disposed of by this learned Tribunal as well as by the Hon'ble High Court. The applicant further declares that save and except filing of O.A No. 113/2008 he has not filed any application or writ petition regarding subject matter of this Original Application.

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) upon making the following declarations:

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order impugned order of transfer and posting bearing No. E.O. No. DA Cell/4 dated 30.05.2008 (Annexure- 3) and order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 (Annexure- 10) or alternatively be pleased to direct the respondents to modify the impugned transfer order bearing E.O. No. DA Cell/4 dated 30.05.2008 and order dated 29.04.2009 for accommodating the applicant in the existing vacant post in the office of the Executive Engineer, Resource Division, Panchamukh, Agartala or in any vacant post of Divisional Accountant in and around Agartala since the transfer order has been issued during the middle of the academic session.

Pandip Kumar Paul



8.2 Cost of the application.

8.3 Any other relief (s) to which the applicant is entitled as deemed fit and proper by the Hon'ble Tribunal.

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order of transfer and posting bearing No. E.O. No. DA Cell/4 dated 30.05.2008 (Annexure- 3) and order bearing No. E.O. No. DA Cell/6 dated 29.04.2009 (Annexure- 10), till disposal of the Original Application.

10.

This application is filed through Advocates.

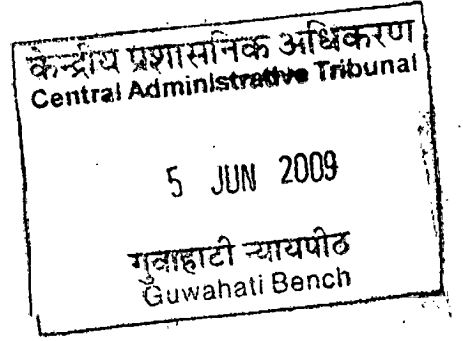
11. Particulars of the I.P.O.

i)	I. P. O. No.	:	39 G 409122
ii)	Date of Issue	:	28.05.09
iii)	Issued from	:	G.P.O , Ghy
iv)	Payable at	:	G.P.O. Ghy

12. List of enclosures.

As given in the index.

Randip Kumar Paul



VERIFICATION

I, Shri Pradip Kumar Paul, S/o Late Paresh Chandra Paul, aged about 52 years, presently working as Divisional Accountant in the office of the Executive Engineer, R & I Survey Division, P.O- Agartala, West Tripura-799001, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 5th day of June, 2009.

Pradip Kumar Paul.

STATE OF ARUNACHAL PRADESH
GOVERNMENT
OFFICE OF THE SECRETARY
DISCIPLINARY AUTHORITY
JALPAIGURI

112/07

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Main Petition No.

Contingent Petition No.

Review Application No.

Applicant (SI) Pradip Kr. Paul vs Union of India & OrsRespondent the Applicant (S) M. Chanda S. NathMr. L. DuttaRespondent the Respondent (S) C. & S. C.

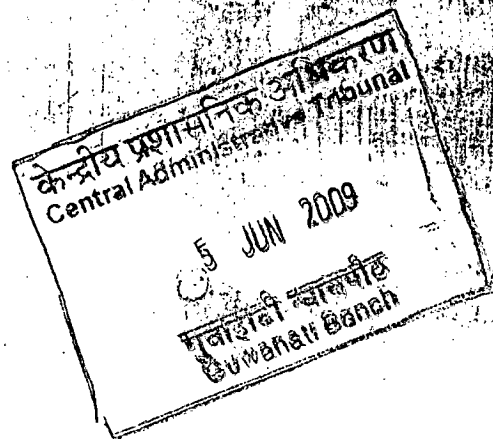
8.5.2007

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

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

Heard
Dutta
A.W.

Contd..P/2

Contd.
8.6.2007

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

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

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

Contd.
8.5.2007

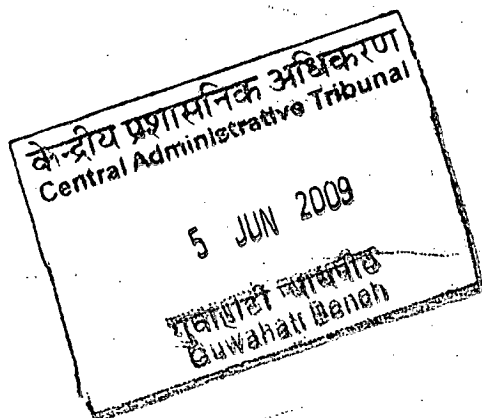
Consequently, Applicant made representation (Annexure-9) dated 3.5.2007. Applicant apprehending that he may be repatriated to his parent cadre has filed this O.A.

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

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

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

SD/VICE CHAIRMAN



Accepted
Dutta
Adv

8.5.07
8.5.07
8.5.07
BY
8.5.07
C.G.S.C. (Jd)l
Guwahati Bench
Guwahati

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

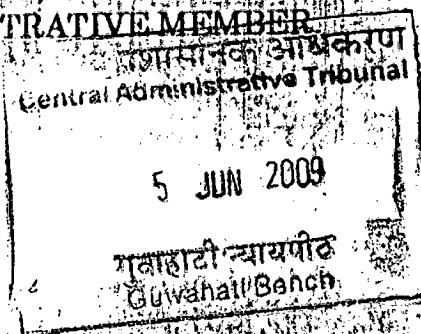
Original Application Nos. 112, 130, 134, 143,
144, 159 & 182 of 2007

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

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

O.A. 112/2007

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

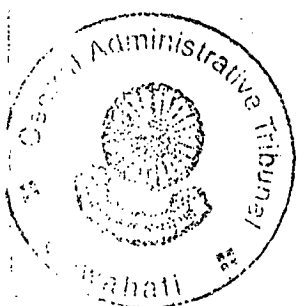


Applicant in O.A. 112/2007

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

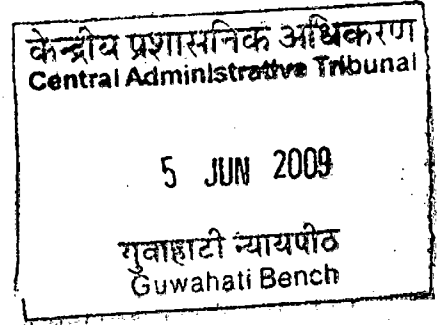
Vs.

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



Accepted
Dutta
Ash

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

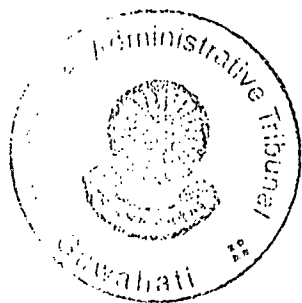
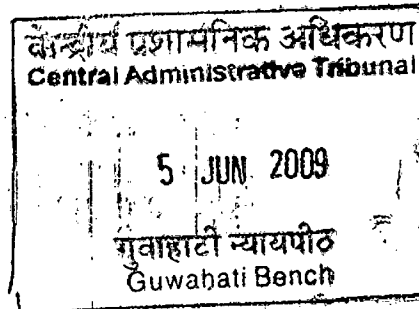
1. Sri Tashi Namgye
Divisional Accountant
O/o the Executive Engineer
PWD, Seppa, Arunachal Pradesh.
2. Shri R.K.Deb
Divisional Accountant
O/o the Executive Engineer
M&FCD, Tezu, Arunachal Pradesh
3. Sri S.K.Dam
Divisional Accountant
O/o the Executive Engineer
Seppa Electrical Division
Arunachal Pradesh.

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.



[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.



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).

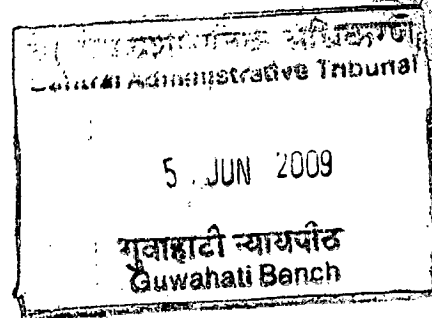
By Advocates S/Shri M.Chanda, S.Nath & U.Dutta.

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.

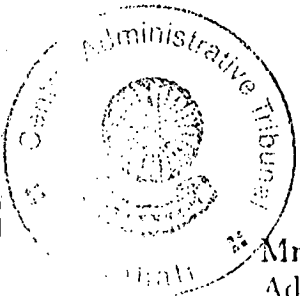
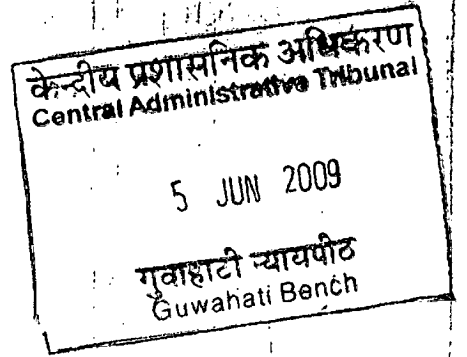
Applicants in O.A.134/2007

(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).
[Signature]

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

Vs.

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



Respondents in O.A.134/2007

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

O.A.143/2007

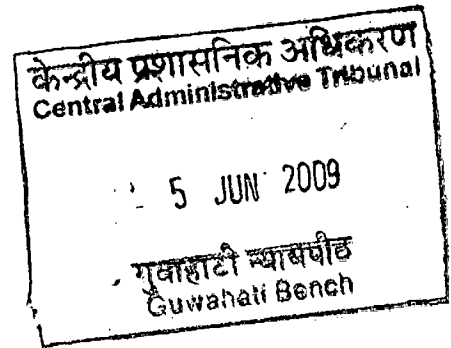
1. Sri M.V.Krtithikeyan Nair
Divisional Accountant
O/o the Executive Engineer
PWD Division, Kalaktang
Arunachal Pradesh.

Applicant in O.A.143/2007

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

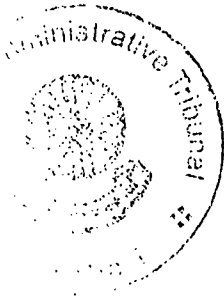
Vs.

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



Respondents in O.A.143/2007

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



O.A.144/2007

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

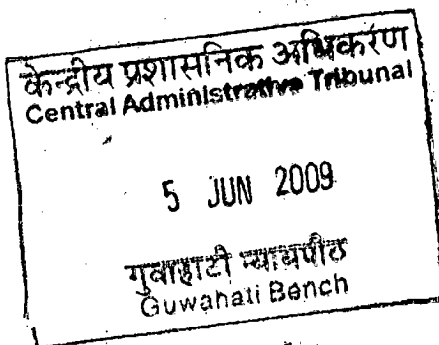
Applicant in O.A.144/2007

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

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&E)
Arunachal Pradesh, Meghalaya, Mizoram etc.
Shillong - 793003.
3. The State of Arunachal Pradesh
Represented by the Secretary to the
Government of Arunachal Pradesh
Department of Power, Itanagar.
4. The Commissioner, Finance Department
Government of Arunachal Pradesh
Itanagar.

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.

A handwritten signature in black ink, appearing to be 'L. Tenzin', written over a horizontal line.

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.

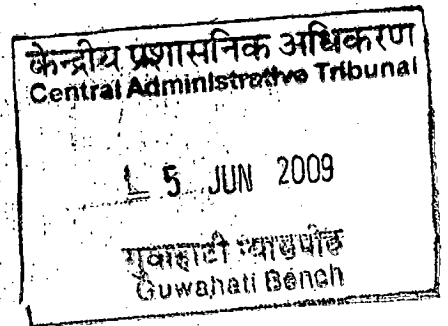
Applicant in O.A.159/2007

(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.



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

Respondents in O.A. 159/2007

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

O.A.182/2007

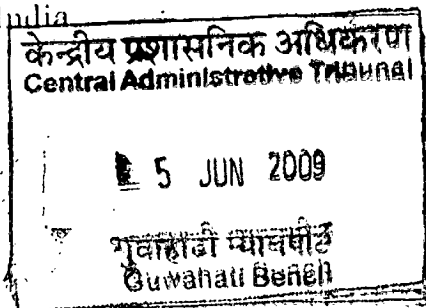
1. Sri Malay Bhusan Dey
Divisional Accountant
O/o the Executive Engineer
I&FC Department, Tawang
Tawang, Arunachal Pradesh.
2. Shri Nikhil Ranjan Nath
Divisional Accountant
O/o the Executive Engineer
P.H.E., Tawang
Tawang, Arunachal Pradesh.
3. Sri Upendra Chandra Debnath
Divisional Accountant
O/o the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

Applicants in O.A.182/2007

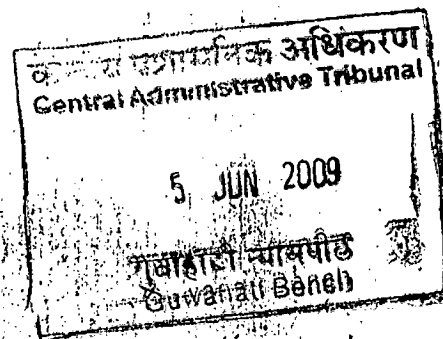
By Advocates S/Shri M.Chanda, S.Nath & U.Dutta.

Vs.

1. Union of India
Through the Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg
New Delhi.
2. The Accountant General (A&F)
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 143 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.

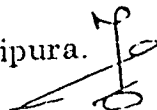
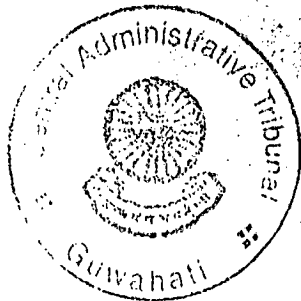
Note 2 Vacancies caused by the incumbent being away on transfer on deputation or long illness or study leave or under other circumstances for a duration of one year or more may be filled on transfer on deputation from:

- (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.

5 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

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

7
8

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.

प्रशासनिक अधिकरण
Administrative Tribunal

5 JUN 2009

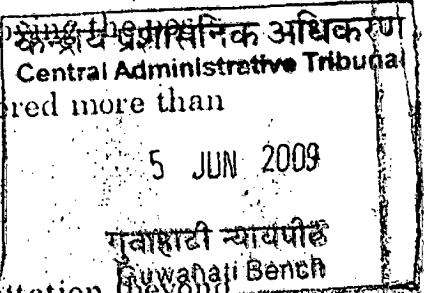
गुवाहाटी न्यायपीठ
Guwahati Bench

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

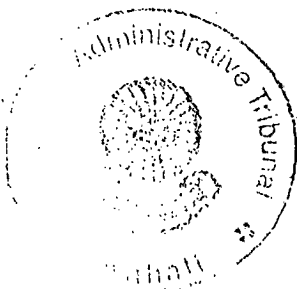
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posts of Divisional Accountant etc. are lying vacant in the State of Arunachal Pradesh and, if the present Applicants are repatriated, then there shall be total disruption of Accounting in various Engineering Divisions of that State. We are informed 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.



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 (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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी ब्याचपीठ
Guwahati Bench



*Disputed
Writ
A.C.*

TRUE COPY
Section Officer (Adm)
Central Administrative Tribunal
Guwahati Bench

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

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

E.O.No. DA Cell/4

Dated:- 30.5.2008

In light of the judgement dated 11.4.2008 passed in O.A. No. 112/2007, Shri Pradip Kumar Paul, Divisional Accountant on deputation recruited from Govt. of Arunachal Pradesh is withdrawn from the O/o the Executive Engineer, Resources Division, Panchamukh, Agartala, Tripura and posted in the same capacity as Divisional Accountant on deputation in the office of the Executive Engineer, Bomdila Civil Division (Power) Arunachal Pradesh with immediate effect.

The Divisional Officer/ Controlling Officer is requested to release Shri Pradip Kr. Paul D.A. and copy of formal handing over and taking over along with charge reports may be forwarded to this office.

Shri Pradip Kr. Paul, DA is requested to submit his handing over memorandum to the Divisional Officer under intimation to this office.

The transfer is in public interest.

Authority :- AG's order dated 28.5.2008 at page 27H in the file No. DA Cell/Court case/TN/2007.

Sd/-

Dy. Accountant General (Admin).

Memo No. DA Cell/Court Case/TN/2007/13-14 Dated:- 30.5.2008

Copy forwarded for information and necessary action to:-

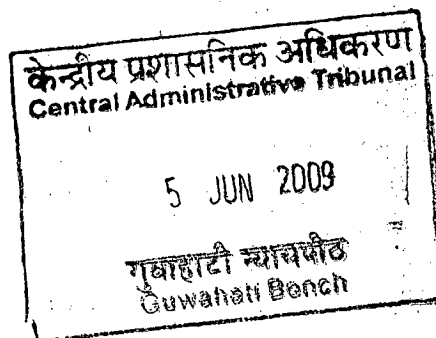
1. The Chief Engineer, PWD (R&B), Govt. of Tripura, Agartala.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh Itanagar.
3. The Executive Engineer, Resource Division, Panchamukh, Agartala. He is requested to forward a copy of release order of Shri P.K. Paul, Divisional Accountant on Deputation.

Attested
Dutta
Ash

Contd.

4. The Executive Engineer, Bomdila Civil Division (Power), Bomdila, Arunachal Pradesh. He is requested to forward the joining report of Shri P.K.Paul., DA
5. The Director of Accounts and Treasuries, Govt. of Arunachal Pradesh, Naharlagun.
6. The Sr.Dy.Accountant General (A&E) O/o the A.C. Tripura, Agartala.
- ✓ 7. Shri Pradip Kumar Paul, Divisional Accountant O/o the Executive Engineer, Resource Division, Panchamukh, Agartala, Tripura.
8. Personal file of Shri Paul.
9. E.O. Book.
10. Spare Copy.

Sr. Accounts Officer,
DA Cell



Received
on 19/12/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

IN O.A NO. 112/2007

SHRI PRADIP KUMAR PAUL. APPLICANT

-Vs-

THE UNION OF INDIA & OTHERS - RESPONDENTS

AND

IN THE MATTER OF :

WRITTEN STATEMENT SUBMITTED BY THE
RESPONDENTS NUMBERS 1 AND 2.

কেন্দ্রীয় প্রশাসনিক আধিকারণ
Central Administrative Tribunal
5 JUN 2009
গুৱাহাটী ন্যায়ালয়
Guwahati Bench

WRITTEN STATEMENTS

The humble Respondents submit their written statement as follows:

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

Accepted
Dutta
Adv

Respondent No. 2. The letter of Respondent No. 2, while appointing the Applicant as Divisional Accountant on deputation, categorically stated that the period of deputation was initially for one year and that the Applicant was liable to work as a Divisional Accountant on deputation basis in any of the three States of Tripura, Arunachal Pradesh and Manipur. As per Recruitment Rules the period of deputation could be extended for a maximum period upto three years and in no case beyond three years. However, the Applicant is continuing in the deputation post in the Office of the Executive Engineer, Resource Division, Agatala, Tripura till date.

Recruitment Rules 1988 (Appendix I)

Appointment letter dated 16.7.99 (Appendix II)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

Divisional
Accountant
Agatala

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

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

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

CAT's order dated 21.3.2007 Appendix- III

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

प्रशासनिक अधिकारी
Central Administrative Tribunal
5 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

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

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

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

7.

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

प्रशासनिक अधिकारी
Central Administrative Officer

5 JUN 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

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

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

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

FWP

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

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

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

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

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

11. That with regard to the statement made in paragraph 4.21 of the application, the Respondents humbly submit that they have no comments to offer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Grounds of relief(s) with legal provisions

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

Attached
Bulla
Adv

7 41

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

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
Hon'ble

5 JUN 2009

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

गुवाहाटी न्यायपीठ
Guwahati Bench

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

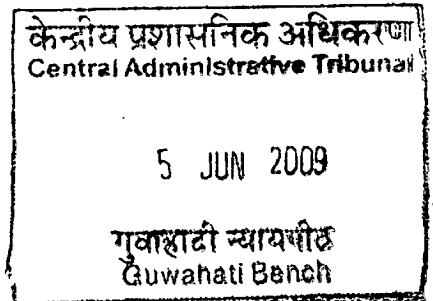
Verification

I, Shri J.P. Rajak, Sr. Deputy Accountant General (Admn), Office of the Accountant General (A&E) , Meghalaya, Arunachal Pradesh and Mizoram Shillong do hereby solemnly declare that the statements made above in the written statement are true to my knowledge, belief and information and I sign the verification on 25th day of September 2007 at Shillong.


Deponent.

Sr. Deputy Accountant General (Admn.)
Meghalaya etc., Shillong

*Attested
Dutta
A.W.*



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 113/2008

Date of Order: This the 23rd Day of June, 2008

THE HONBLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

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

Applicant

By Advocate Mr M. Chanda

Versus

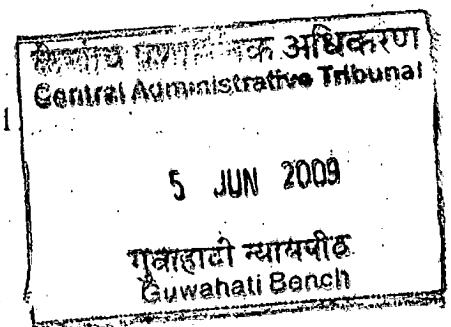
1. Union of India
through The Comptroller & Auditor General of India
10 Bahadur Shah Zafar Marg, New Delhi-110002.

2. The Accountant General (A&E)
Arunachal Meghalaya, Mizoram at
Shillong-793001.

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

4. The Chief Engineer, I & FCD
Government of Arunachal Pradesh,
Itanagar - 791 111.

The Executive Engineer,
Resource Division,
Panchamukh, P.O. Agartala,
West Tripura-799003.



..... Respondents

By Mrs M. Das, Addl. CGSC

Collected
Mita
A-4

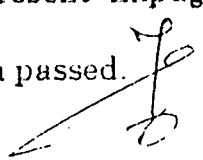
ORDER (ORAL)

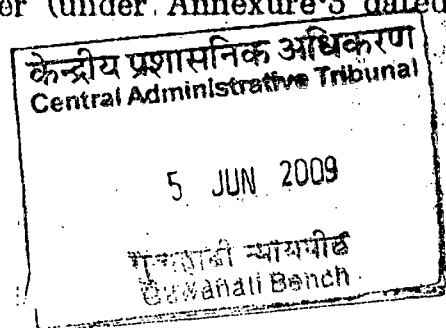
MANORANJAN MOHANTY (V.C)

Heard Mr M.Chanda, learned counsel appearing for the applicant and Mrs M.Das, learned Addl.Standing Counsel appearing for the Respondents and perused the materials placed on record.

2. The Applicant is continuing as a Divisional Accountant in the State of Tripura being stationed at Agartala. By the impugned order under Annexure-3 dated 30.05.2008 the Applicant has been asked to go on transfer as Divisional Accountant in the office of the Executive Engineer of Bomdila Civil Division (Power) in the State of Arunachal Pradesh. Present Original Application is directed against this transfer order under Annexure-3 dated 30.05.2008.

3. — Previously, he was repatriated from the post of Divisional Accountant by the authorities of Tripura State. That was without the authority from the Accountant General. Said action of the authorities of Tripura State was subject matter of challenge before this Tribunal in O.A.112/2007. For the reasons of an interim order dated 08.05.2007 of this Tribunal (rendered in O.A.112/2007) the Applicant was allowed to continue in the State of Tripura. While disposing of the said O.A.112/2007 (along with several other cases) liberty was given to the Accountant General to regularize the matter by giving appropriate posting to the Applicant in the State of Arunachal Pradesh. Pursuant to the same, the present impugned order (under Annexure-3 dated 30.05.2008) has been passed.





But while doing so, the authorities (A.G) apparently lost sight of the fact that the order dated 30.05.2008, issued during the mid academic session, is going to affect the child of the Applicant; who is prosecuting ICSE course (being a student of 10th class) in a school at Agartala/Tripura. It is reported that final examination of ICSE 10th class course shall commence during March/April 2009 and that there are no school at Bomdila (Arunachal Pradesh); where education under ICSE course are being imparted.

That apart, it has been pleaded by Mr Chand, learned counsel appearing for the Applicant, that there are seven posts of Divisional Accountants lying vacant at Tripura/Agartala; as against which the Applicant can be accommodated even till completion of +2 classes of the son of the Applicant and that (because of dearth of personnel to man the posts of Divisional Accountants in the State of Tripura) Nobody has been posted in the post sought to be vacated (at Agartala/Tripura) by the Applicant.

5 JUN 2009
 Central Administrative Tribunal
 Guwahati Bench

Mr Chanda, learned counsel appearing for the Applicant has pointed out that it may take a considerable time for AG and State Government of Arunachal Pradesh to complete the recruitment process (of recruitment of Divisional Accountant) for various Engineering Divisions of Arunachal Pradesh (whether made directly or by deputation) and that, therefore, the Applicant may be allowed to continue at Agartala/Tripura without being disturbed now.



4. On the other hand, Mrs M. Das, learned Addl. Standing Counsel for Govt. of India (to whom a copy of the present Original

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Application has already been supplied) argued that the A.G had no proposal to disturb the Applicant now from Agartala/Tripura,; but for the reason of the observation of this Tribunal (made in it's order dated 08.05.2007 rendered in O.A.112/2007) the Applicant has been asked to face the present transfer from Agartala/Tripura to Bomdila/A.P.

In the above view of the matter and in all fairness of the things, the Respondents should allow the Applicant to continue to serve as Divisional Accountant at Agartala/Tripura at least till end of April, 2009; for Applicant's son is going to appear in final (ICSE) School Examination during March/April, 2009.

With the direction to the Respondents to keep the transfer order (under Annexure 3 dated 30.05.2008) suspended and to allow the Applicant to remain at Agartala/Tripura at least till 30.04.2009, this Original Application is hereby disposed of. While disposing of this case, liberty is hereby granted to the Applicant and Respondents to approach this Tribunal for modification of this disposal order.

Sd/-
Manoranjan Mohanty
Vice-Chairman

Affected
Maita
Adv

TRUE COPY
13/7/08
Section 3(1)(b)
Central Administrative Tribunal
18/7/08

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

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" ANNEXURE-6
Registered Post.

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

19

E.O.No. DA Cell/8

Dated:- 14.7.2008

In view of the latest judgement dated 23.6.2008 (in OA No.113/2008) of the Hon'ble Central Administrative Tribunal, Guwahati Bench, the withdrawal and posting order of Shri Pradip Kumar Paul, Divisional Accountant on deputation from Agartala, Tripura, to Bomdila, Arunachal Pradesh issued vide this office E.O. No. DA Cell/ 4 dated 30.5.2008 has been kept in abeyance until further orders.

Authority :- DAG's order dated 8.7.2008 at page 3N of the file No. DA Cell/Court case/PKP/2008..

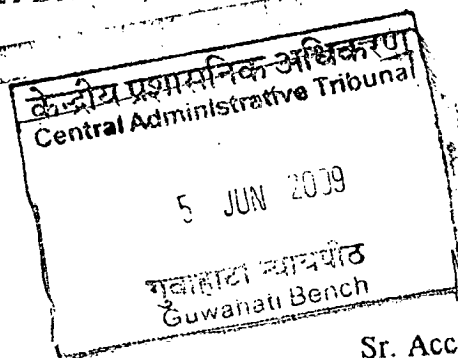
Dy. Accountant General (Admn).

Memo No. DA Cell/Court Case/PKP/2008/139-145 Dated:- 14.7.2008.

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, PWD (R&B), Govt. of Tripura, Agartala.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh Itanagar.
3. The Executive Engineer, Resource Division, Panchamukh, Agartala.
4. The Executive Engineer, Bomdila Civil Division (Power), Bomdila, Arunachal Pradesh.
5. The Director of Accounts and Treasuries, Govt. of Arunachal Pradesh. Naharlagun.
6. The Sr.Dy. Accountant General (A&E) O/o the A.G. Tripura, Agartala.
7. Shri Pradip Kumar Paul, Divisional Accountant on deputation O/o the Executive Engineer, Resource Division, Panchamukh, Agartala, Tripura.
8. Personal file of Shri Paul.
9. E.O. Book.
10. Spare Copy.

Attended
Shri Paul
Adv



Sr. Accounts Officer,
DA Cell

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11/2

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

ANNEXURE-7

Dated, Agartala, the 6th Feb./2009.

OFFICE ORDER

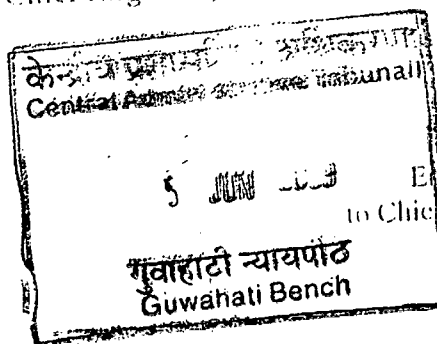
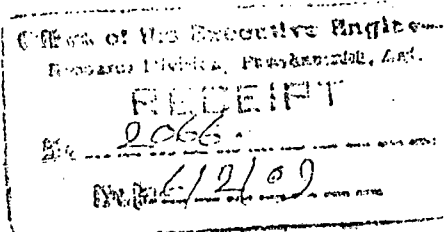
In the interest of public Service, the following transfer & posting in the grade of Divisional Accountant/ Asstt. Accounts Officer is hereby made with immediate effect.

Sl. No.	Name of Accountant	Transferred		REMARKS
		From	To	
1	2	3	4	5
1.	Sri Pradip Kr. Paul, Divisional Accountant	O/o the Executive Engineer, Resource Divn., Panchamukh	O/o the Executive Engineer R & I Survey Division, Agartala	On deputation

Sri Mrinal Choudhury Asstt. Accounts Officer attached to the PMGSY Cell, PWD(R&B), Agartala will hold the Addl. Charge of Divisional Accountant of Executive Engineer, Resource Division, Panchumukh in addition to his won duties.

The implementation of above order shall have to be completed latest by 15th February, 2009.

By order of Chief Engineer, P.W.D(R&B) Agartala, Tripura



(B. Paul)
Engineering Officer (C.G.)
to Chief Engineer, PWD(R&B)
Agartala, Tripura

Copy to :

1. Accountant General (A & E), Shillong
2. The Chief Engineer, PWD(WR), Kunjaban, Agartala.
3. The Superintending Engineer, WR Circle I, Agartala.
4. The Superintending Engineer, PMGSY, PWD(R&B) Agartala
5. The Executive Engineer, Resource Division, Panchumukh.
6. Sri Mrinal Choudhury, Asstt. Accounts Officer attached to the PMGSY Cell, PWD(R&B), Agt. for information.
7. Person Concerned.
8. Guard File.
9. Office Order Book.

Attested
Manta
Adh

(B. Paul)
Engineering Officer
to Chief Engineer, PWD(R&B)
Agartala, Tripura.

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ANNEXURE-8

Government of Tripura
Office of the Executive Engineer
Resource Division
Panchamukh, Agartala.

OFFICE ORDER NO. 164

In pursuance of the office order No.F.6E-19/PEO (S) dated 6th February 2009 of the Chief Engineer, PWD (R & B), Agartala, Tripura Sri Pradip Kr. Paul, Divisional Accountant of this office is hereby directed to report to the office of the Executive Engineer, R & I Survey Division, Agartala by 15th February, 2009 on deputation. Sri Paul, Divisional Accountant is also directed to hand over the charges related papers, documents etc. along with him to Sri Mrinal Chowdhury, Assistant Accounts Officer, attached to the PMGSY Cell, PWD (R & B), Agartala prior to resume his duties in the office of the Executive Engineer, R & I Survey Division, Agartala by 15th February, 2009.

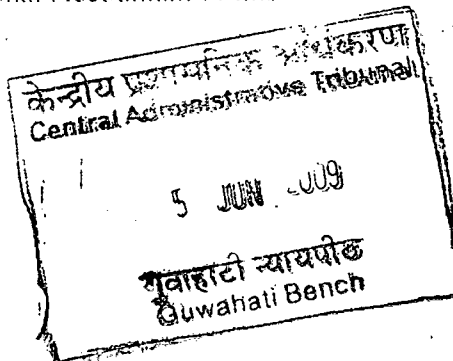
(C. K. Chowdhury)
Executive Engineer
Resource Division
Panchamukh, Agartala.

No.F.EE/RESO/DN/P(C)/68/2383-91

Dated Agartala, the 10th February, 2009.

Copy to: -

1. Accountant General (A & E), Shillong for favour of information please.
2. The Chief Engineer, PWD (R & B), Agartala for favour of kind information please.
3. The Chief Engineer, PWD (W.R), Kunjaban, Agartala for favour of kind information please.
4. The Superintending Engineer, W.R. Circle No-I, Kunjaban, Agartala for favour of kind information please.
5. The Executive Engineer, R & I Survey Division Agartala for information please.
6. Sri Mrinal Chowdhury, Assistant Accounts Officer attached to the PNGSY Cell, PWD (R & B), Agartala for information. He is requested to take the charge related papers; documents etc. from Sri Pradip Kr. Paul, Divisional Accountant of this office immediately to comply the office order No. F.6E-19/PEO (S) dated 6th February 2009 of the Chief Engineer, PWD (R & B), Agartala, Tripura.
7. Sri Pradip Kr. Paul, Divisional Accountant of this office for information and necessary action.
8. Guard File.
9. Office Order Book.



Attested
With
del

10/02/09
Executive Engineer
Resource Division
Panchamukh, Agartala.

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ANNEXURE-9

To,
The Executive Engineer
R & I Survey Division
Agartala, Tripura (W).

Subject: Joining report.

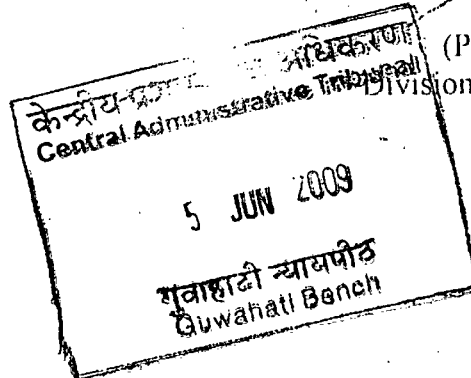
Reference: Chief Engineer.PWD (R&B) order No: F.6E-19/PEO(S).
Dated: 6th February 2009.

Sir,

In reference to the above order, I am joining my duty to-day the 13th
February 2009 (A.N) on deputation and oblige.

Yours faithfully,

(P.K.Paul)
Divisional Accountant



Attended
Mitta
AW

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ANNEXURE-10

Speed Post

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

E.O.No. DA Cell/ 6

Dated:- 29.4.2009.

In light of the orders dated 11.4.2008 and dated 23.6.2008 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. No.112/2007 & O.A. No. 113/2008, and subsequent to this office orders No. E.O.No. DA Cell/4 dated 30.5.2008 (Copy enclosed) and E.O. No.DA Cell/8 dated 14.7.2008 (Copy enclosed), Shri Pradip Kumar Paul, Divisional Accountant on deputation recruited from Govt. of Arunachal Pradesh is withdrawn from the O/o the Executive Engineer, Resources Division, Panchamukh, Agartala, Tripura and posted in the same capacity as Divisional Accountant on deputation in the office of the Executive Engineer, Bomdila Civil Division (Power), Bomdila, Arunachal Pradesh with immediate effect.

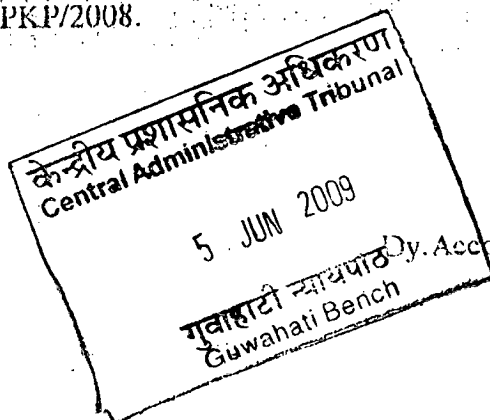
The Divisional Officer/ Controlling Officer is requested to release Shri Pradip Kr. Paul. D.A. and copy of formal handing over and taking over along with charge report may be forwarded to this office.

Shri Pradip Kr. Paul D.A. is requested to submit his handing over memorandum to the Divisional Officer under intimation to this office.

The transfer is in public interest.

Authority :- AG's order dated 27.4.2009 at page 8 N. in the file No. DA Cell/Court case/PKP/2008.

Attended
M. K. Adh



Accountant General (Admn).

Contd.. 2.

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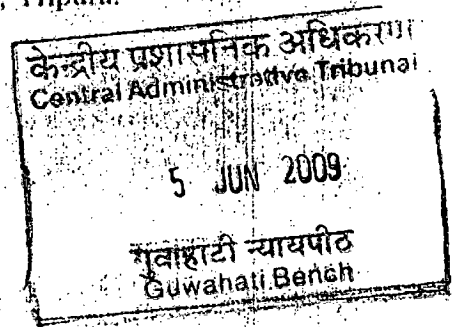
- 2 :-

Memo No. DA Cell/Court Case/PKP/37-47 Dated:-

30 Al

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, PWD (R&B), Govt. of Tripura, Agartala.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh Itanagar.
3. The Executive Engineer, Resource Division, Panchamukh, Agartala. He is requested to forward a copy of release order of Shri P.K. Paul, Divisional Accountant on Deputation.
4. The Executive Engineer, Bomdila Civil Division (Power), Bomdila, Arunachal Pradesh. He is requested to forward the joining report of Shri P.K. Paul, DA.
5. The Director of Accounts and Treasuries, Govt. of Arunachal Pradesh. Naharlagun.
6. The Sr.Dy. Accountant General (A&E) O/o the A.G. Tripura, Agartala.
7. Shri Pradip Kumar Paul, Divisional Accountant O/o the Executive Engineer, Resource Division, Panchamukh, Agartala, Tripura.
8. Personal file of Shri Paul.
9. File No. DA Cell/ Court/Case/TN/2007.
10. E.O. Book.
11. Spare Copy.



[Signature]
29/4/09
Sr. Accounts Officer,
DA Cell.