

30/10/01
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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3
 CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
 GUWAHATI

✓ ORIGINAL APPLN. NO. 123 OF 1995
 TRANSFER APPLN. NO. OF 1995
 CONTEMPT APPLN. NO. OF 1995 (IN OA NO.)
 REVIEW APPLN. NO. OF 1995 (IN OA NO.)
 MISC. PETN. NO. OF 1995 (IN OA NO.)

...Rohini Kr. Singh... vs... APPLICANT(S)

-VS-
 ...Union of India... vs... RESPONDENT(S)

FOR THE APPLICANT(S)

...MR.

MR. B.C. Das.

MR. B. Chakraborty, Advocate

...MR.

A.K. Choudhury
 Adv. C.S.C.

FOR THE RESPONDENTS

ORDER

Learned Senior Advocate,

Mr B.C. Das for the applicants,

Shri R.K. Singh, Shri N.J.K. Singh, and
 Shri O. Ibomeha Singh.

Mr A.K. Choudhury, learned Addl.

C.G.S.C., has received copy of the
 application and seeks to appear for the
 respondents.

The application is against the
 cancellation of the Divisional
 Accountant Examination held on
 12.6.1995 to 16.6.1995 and the proposed
 fresh examination to be held from
 10.7.1995 to 14.7.1995. Perused the
 statement of grievances and reliefs
 sought for and heard the learned
 counsel for the parties. The
 application is admitted. Issue notice
 on the respondents by registered post.

Written statement on 27.7.95. as
 prayed for by the learned Addl. C.G.S.C.

Heard counsel of the parties on
 the interim relief prayer. The
 following ~~or~~ interim order is passed:

1) The respondents are directed to
 evaluate the papers of the examination
 held from 12.6.95 to 16.6.95 and

This application is in
 form and within time
 C. F. of Rs. 50/-
 deposited vide
 IPO/BAB No. 03. 885605
 Dated 3.7.95

R.K. Singh
 27/7/95

6.7.95

(2)

keep the result in abeyance till the disposal of this application which will be subject to the result of this application.

- 2) The respondents may hold the proposed examination to be held afresh from 10.7.95 to 14.7.95 the result of which and the consequential action on the basis thereof will be subject to the result of this application.
- 3) The applicants may appear in the proposed fresh examination commencing from 10.7.95 to 14.7.95 without prejudice to their contentions.
- 4) The respondents are directed to communicate this order to the other candidates also.

As requested by the learned counsel for the applicants issue notice by Speed Post at the cost of the applicants.

List on 27.7.95 before the Division Bench for written statement and further orders.

Copy of the order be furnished to the counsel for the parties.

Requisite 3 (Three) copies filed for issuance of notices by Speed Post.

nkm

Member 6/7/95

3-8-95

Mr. B. Chakraborty for the applicant.

Mr. A. K. Choudhury, Addl. C. G. S. C. for the respondents.

Written statement filed. The learned counsel for the applicants states that there is some urgency in the matter and request that it may be heard in November. To be listed for hearing on 16-11-95. Liberty to apply for calling the record as may be relevant.

27.7.95

W/S Submitted by
Respondent No. 1, 2 and 3.

Vice-Chairman

Member

3/2

O.A. No. 123/95

OFFICE NOTE

DATE

COURT'S ORDER

Flag 'A' is received from 21.11.95
Mr. B. Chakrabarty, Adv.
or applicant - that he
desires to have the
recorder of the deposit
Exam. held from 12.6.95
to 16.6.95.

Submitted to the Board

Hearing concluded. Judgement delivered in
the open court. The O.A. is dismissed. No
order as to costs.

6
Member

Neil
Vice-Chairman

trd

Ans
sg. NAB

16.11.95

To be listed for
hearing on 21.11.95
as first Board.

Box

- 1) Service not ready.
- 2) W/ Statement of Service

20/11

11.4.96
copy of Judg. / Order
dtd. 21.11.95 issued to
the counsel of the
parties vide D/P No.
B21-822 dtd. 16.4.96

ofc.

OFFICE NOTE

DATE

COURT'S ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

D.A. NO. 123 OF 1995.
T.A. NO.

DATE OF DECISION 21-11-1995.

Sri Rohini Kumar Singh & 2 ors.

(PETITIONER(s)

Dr. N.K. Singh

ADVOCATE FOR THE
PETITIONER (s)

VERSUS

Union of India & Ors.

RESPONDENT (s)

Shri A.K.Choudhury, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (s)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMN.)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

yes

NO

Judgment delivered by Hon'ble Choudhury Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 123 of 1995.

Date of Order : This the 21st Day of November, 1995.

Justice Shri M.G.Chaudhari, Vice-Chairman.

Shri G.L.Sanglyine, Member (Administrative).

1. Sri Rohini Kumar Singh,
2. Sri N.Joy Kumar Singh,
3. Sri O. Ibomeha Singh.

... Applicants.

By Advocate Dr N.K.Singh.

- Versus -

1. Union of India
represented by the Comptroller and
Auditor General of India, New Delhi.
2. Accountant General (A&E)
Meghalaya, Shillong.
3. Senior Deputy Accountant General(A),
Meghalaya, Shillong.

... Respondents.

By Advocate Shri A.K.Chaudhury, Addl.C.G.S.C.

O R D E R

CHAUDHARI J. (V.C)

All the 3 applicants are working as Divisional Accountants in different departments of P.W.D., Manipur. They were posted as unqualified Divisional Accountants. They are eligible for regularisation/absorption in the cadre of Divisional Accountants upon passing the departmental examination within the maximum of six chances offered to them by the authorities. Even according to the applicants if a candidate fails to qualify ^{at} the examination he is liable to be reverted to the post of U.D.C and that the passing of the examination is a very tough job having regard to the subjects prescribed for the examination.

2. The departmental examination was scheduled to be held from 12.6.1995 to 16.6.95 at Shillong. The applicants were issued call letters for appearing at the said examination

contd. 2...

which they received on 21.4.1995. They appeared at the said examination and were satisfied about their performance and hoped to pass the examination. However they were shocked and surprised to receive the telegram from the office of the Accountant General intimating that the said examination stood cancelled due to reports of alleged malpractices and that the examination was rescheduled from 10.7.95 to 14.7.95. The applicants contend that the action of the respondents in cancelling the examination altogether is arbitrary and illegal. According to them only one candidate was found to have indulged in some malpractices and that cannot be a valid ground for depriving the others of the benefit of the examination particularly as it was very vital for availing the chance so as to be within the limit of six chances. They further contend that they have thus acquired a right to get the results of the said examination declared and that right cannot be taken away without affording them any opportunity to show cause merely on the basis of alleged malpractices. It is also their contention that no enquiry was made in the alleged malpractices in order to satisfy the authorities whether there were large scale malpractices justifying the cancellation of the entire examination. The applicants have not specified any relief in terms of which they seek to get it from the Tribunal. That can only be gathered from various grounds stated and the relief claimed appears to be that the order of cancellation of the examination is bad in law and is liable to be set aside.

3. The respondents have explained in the written statement the position in this regard to be as follows :

"The decision to cancel the examination and the subsequent rescheduling of the exam was taken following some incidents - the first of which occurred

hml

contd. 3...

on the second day of the examination and the next on the fourth day."

"As a measure to ensure that all answer scripts are issued within the four walls of the Examination Hall, and also to pre-empt any possible malpractices, it is strictly ascertained that all the answer scripts bearing the stamp of the official round seal on the top of the first page are duly initialled by the Presiding Officer before they are distributed."

The respondents thus refer to the general practice followed at the examination. According to them on the second day of the examination it was noticed that one particular candidate submitted an answer script which did not bear the initials of the Presiding Officer. It was also noticed that the answer script appear^{ed} to have been folded in the middle. The second incident occurred on the penultimate day of the examination i.e. 15.6.1995 when another candidate was found with a chit of paper which contained the exact solution of a compulsory question relating to balance sheet problem. On scrutiny it was revealed by the paper setter that the closing date of the Balance Sheet statement was deliberately altered to a more recent date. On further probe it was seen that the chit containing the solution was identically dated. In view of the aforesaid incidents (presumably on further enquiries) according to the respondents at a later stage when the aspect of the identical date was established the administration was led to believe that there were ample grounds to suspect from the two causes especially the latter instance of 15.6.1995, that there was a strong possibility of leakage of the question papers. It was therefore thought that perhaps it was only the tip of an iceberg. The administration therefore considered that this alone was ground enough to discourage unfair advantages to a few and thus ordered

contd. 4...

full

cancellation and rescheduling of the said examination. The examination was rescheduled to be held from 10.7.95 to 14.7.95 so as to give sufficient and equal scope to all the Divisional Accountants including the applicants to pass the Divisional Accountant Grade Examination. In these circumstances the respondents submit that the department concerned has not committed any arbitrariness by cancelling the examination which was scheduled to be held from 12.6.95 to 16.6.95 on the ground of malpractices and in rescheduling the examination to be held from 10.7.95 to 14.7.95. They therefore pray that the application is liable to be dismissed.

4. Few aspects are required to be noted before we turn to the submissions of Dr Singh. Firstly the result of the cancelled examination had not been declared and even the answer papers were not evaluated for which direction was given by interim order dated 6.7.95. The applicants therefore would not know whether they have actually passed the examination or not. Secondly, despite the applicants being given leave by the aforesaid interim order to appear at the rescheduled examination without prejudice to their contentions in the instant application, they have chosen to remain absent and have not availed of that examination. Thirdly, although it is claimed by the applicants that the examination is usually tough and therefore they had put in all their efforts in all their efforts in preparing for the examination and took the examination very seriously because that was very material for their future prospects and they are being deprived of that labour, that carries no conviction since the rescheduled examination was being held within a period of one month and the applicants cannot say that they have lost their preparedness if they were to appear at the rescheduled examination.

Fourthly, it is not easy to understand the insistence of the applicants to refuse to appear at the rescheduled examination as no prejudice was being caused to them by reason of the earlier examination ^{being} rendered honest in respect of all the candidates who had appeared at that examination. Nextly, since the results of the cancelled examination were not declared and the applicants could not presume that they had passed. It is not being their case that some other candidate who had appeared at that examination was chosen for declaration of result and ^{given} ^{benefit} giving the advantage of having appeared at that examination. The applicants thus were not excluded as only candidates in comparison with others so that they can have any grievance. Since the entire examination was cancelled the applicants cannot complain that they were differently treated. Moreover, since the entire examination was cancelled and all the candidates who had appeared thereat had been affected by the cancellation the applicants could not hope to seek the relief without joining those candidates as parties to this application.

In the backdrop of the above noted aspects we may now turn to the submissions of Dr Singh, ^{the} learned counsel for the applicants. The learned counsel firstly submits that since there was malpractice committed by only two candidates and it was identified and action could be taken against them that was not sufficient to carry the suspicion of general malpractice as was entertained by the respondents. The learned counsel makes a grievance that the respondents had not made any kind of enquiry into the general alleged malpractices nor they have referred to nor have produced any material to substantiate that suspicion which has been made the ground for cancellation of the entire examination resulting in denial of the benefit

of that examination to the innocent candidates including the applicants. Thus according to the learned counsel it amounts to arbitrary action of the respondents. It is submitted in this connection that if two of the candidates had committed mischief the others could not be made to suffer on account thereof when they had not been found to have been indulged by the applicants in committing any mischief.

5. As far as the above submissions are concerned we cannot conceive of a regular enquiry required to be held giving opportunity to the candidates appearing at the examination to find out that there was leakage of the papers or there was general malpractices indulged by the entire body of candidates who had appeared at the examination. Holding of a competitive examination demands like any other examination purity in the process and ~~it is not necessary that even~~ ^{found} though the purity might have been polluted to a certain extent ^{only it may not be presumed} ~~it should be assumed~~ in respect of the remaining part. It should be a matter of common knowledge that leakage of paper of any examination vitiates the fair conduct of the examination and is to be deplored. Once there is a leakage it has to be presumed that any one of the candidates can take advantage therefrom. There may be ways and means in which different candidates may take advantage of that situation. The very fact that at least one incident has been admitted by the applicants and the respondents have stated that two candidates were found to have indulged in malpractices ~~is enough to show that~~ — there cannot be any guarantee that some others were also not likely to have done so. The circumstances pointed out by the respondents clearly spell out the possibility of leakage and that was sufficient for the respondents to take ^{the} ~~as was taken~~ ^{quasi} decision. They cannot be required to apply the standards of a ~~quasi~~

contd. 7...

hsl

judicial inquiry and establish the fact by recording evidence for otherwise it will almost be impossible for any authority holding a public examination or a departmental examination to conduct it ~~fairly and~~ smoothly. We are not therefore inclined to accept the submission that in the absence of any enquiry or any material being relied upon the suspicion entertained by the authorities about the leakage of the papers or of general malpractices having been indulged was without any reasonable basis. Their action cannot be described as arbitrary as the entire examination was cancelled and as benefit thereof ^{particular} was not given to any candidate to the exclusion of others or applicants.

6. It is next submitted by Mr Singh that even according to the written statement the authorities were supposed to have taken pre-cautions to pre-empt any possible mischief and that does not permit them now to contend that there arose a suspicion of large scale malpractice. In this respect the applicants have averred that the entire examination was conducted in a very congenial atmosphere and under strict surveillance. There were five invigilators in a small hall and thus there was hardly any possibility of commission of any malpractices during the examination. We really fail to understand the purport of this contention. There cannot be any doubt that since the applicants have referred at least to one instance of malpractice that despite all the precautionary steps taken by the authorities at least two candidates were found to have indulged in committing malpractices. That these candidates could be caught itself shows that that could be possible because of the steps that had been taken by the authorities to prevent commission of malpractices and due to diligent invigilation on the part of the invigilators is a

W.H.

circumstance that does not favour the applicants and therefore it is not possible to accept the above argument.

7. The learned counsel next submitted that the opportunity given to appear at the examination cannot be snatched away lightly as it is a valuable right and since in the instant case there was no material sufficient to lead to the inference that it was the case of general malpractice the applicants cannot be denied benefit of the examination. According to the learned counsel as only two candidates had tried to do something objectionable the others cannot be made to suffer. In this respect it has been averred that the applicants have acquired a right to get their results duly declared and that cannot be taken away from them without having afforded them any opportunity to explain their position on the basis of only a suspicion that there could be large scale mischief. That averment itself implies that if an opportunity were to be given to the applicants and yet the fact of malpractice was established then the results could be detained and they could be deprived of the right of getting the results declared. The applicants therefore ~~cannot claim any vested right~~ They cannot claim such a vested right. Their only right is to be given opportunity to pass the qualifying examination and it is the job of the authorities to hold and conduct the examination fairly. Since in our opinion this is not a case where any enquiry was required to be held and though the applicants were not blamed for indulging in any malpractice there was no question of giving any opportunity to them to show cause and consequently it cannot be held that there has been violation of principle of natural justice.

8. The learned counsel next submitted that a Court/Tribunal can interfere in such grievance and undertake a judicial scrutiny of the matter as has been held in number of cases

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arising under Article 226 of the Constitution. It can interfere and set aside the rescheduled examination and restore the results of the original examination which was cancelled inasmuch as the action of the respondents for the various reasons pointed by the applicants is arbitrary and illegal. Now on the scope of the jurisdiction to interfere we have no quarrel with the proposition advanced by the learned counsel. However on the facts of this case we are not satisfied that there is any violation of any vested right of the applicants nor they have been put to any prejudice needing our interference. The applicant could have very well appeared at the rescheduled examination and as they were already prepared one month ago they could not have had any fear of failing if they were otherwise confident of their preparation. This is also not a case where they were singled out but all the candidates who appeared at the cancelled examination have been placed in similar situation.

9. An averment has also been made by the applicants that the action for rescheduling the examination was taken by the authorities at the behest of the candidates who could not fare well in the examination. Indeed it is a very wild allegation. The applicants however have not disclosed the names of these candidates who were to be favoured. There is no basis to assume that those candidates had not fared well at the examination as is alleged by the applicants. The source of information to carry that opinion has not been disclosed. In fact the answer papers were still to be evaluated. This averment has thus been made light heartedly to gain support to their case and has to be rejected. It is also averred that the decision to reschedule the examination was taken without application of mind. This averment needs to be mentioned only

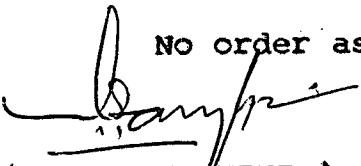
full

to be rejected in view of the details given by the respondents in the written statement about the detection of the two instances of malpractice. That shows application of mind.

10. It appears from the record that on 4.8.95 an application was filed by Mr B.Chakraborty, Advocate requesting for calling the records in connection with the conduct of the examination which was cancelled. This was in fact a note addressed to the Deputy Registrar and has not been made to the Tribunal seeking any direction judicially. That apart we see no reason to call for the record. In view of the

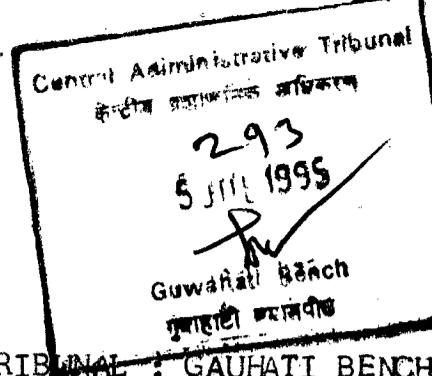
11. Mr A.K.Choudhury, learned Addl.C.G.S.C for the respondents submitted that as explained in the written statement the action of the respondents was not at all arbitrary. He submitted that only after the authorities were satisfied that there was an attempt to copy leading to the inference of leakage of papers that they had taken a very reasonable step in cancelling the entire examination and that the applicants cannot complain of any prejudice, ^{being} caused to them as they were offered opportunity to appear at the rescheduled examination and their right to appear at the scheduled examination for being considered for promotion has no way been affected. Hence he submitted that the application is liable to be dismissed.

12. For the foregoing discussion we find no merit in this application. The C.A. is accordingly dismissed. The interim direction to evaluate the papers of the cancelled examination and to hold the result in abeyance is vacated. Interim direction that the result of the rescheduled examination and the consequential action taken on its basis shall be subject to the result of the O.A. is also vacated. It is however made clear that the cancelled examination shall not be treated as a chance availed by the applicants for the purpose of counting the six chances available to them to qualify.


No order as to costs.

(G.L.SANGEVINE)
MEMBER (A)


(M.G.CHAUDHARI)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH.

O.A. NO. 123 /95.

Sri Rohini Kumar Singh & Ors.

... Applicants.

-Versus-

Union of India & Ors.

... Respondents.

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Filed by :-

B. Chakraborty

Second and third
part by present
indulge to serve
a copy to him or
and when he is available
B. Chakraborty
Mr. P. K. Chakraborty
Adv. C. S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GAUHATI BENCH.

File by
B. Chakraborty
Admitted
4.7.95

O.A. NO. 123 /95.

Sri Rohini Kumar Singh & Ors.

... Applicants.

-Versus-

Union of India & Ors.

... Respondents.

1. PARTICULARS OF THE APPLICANTS.

1. i) Sri Rohini Kumar Singh,
ii) Son of M. Birahari Singh
iii) Aged about 46 years.
iv) Divisional Accountant, Flood Control & Drainage Division No.IV, I.F.C.D. Manipur, Bishnupur.
2. i) Shri N. Joy Kumar Singh,
ii) Son of Late N. Yaima Singh,
iii) Aged about 44 years,
iv) Divisional Accountant, Mechanical Division No.I, P.W.D., Manipur Chingmeirong.
3. i) Shri O. Ibomeha Singh
ii) Son of late O. Gopalmacha Singh.
iii) Aged about 47 years,
iv) Divisional Accountant.
Electrical & Mechanical Division,
I.F.C.D., Manipur, Lomphelpat.

contd....

2.

2. PARTICULARS OF THE RESPONDENTS:

1. Union of India,

Represented by the Comptroller and

Auditor General of India , New Delhi.

2. Accountant General (A & E),

Meghalaya, Shillong.

3. Senior Deputy Accountant General(A),

Meghalaya, Shillong.

3. THE APPLICATION IS AGAINST THE FOLLOWING ORDER:

Telegram dated 23.6.95 from the office of the Accountant General, Meghalaya, Shillong intimating that the Divisional Accountant , Grade Examination conducted from 12.6.95 to 16.6.95 stood cancelled due to reports of alledged mal practices and rescheduling the Examination from 10.7.95 to 14.7.95.

4. JURISDICTION :

The applicants declare that the subject matter is within the jurisdiction of this Tribunal .

5. LIMITATION :

The applicants declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

contd...

6. FACTS OF THE CASE :

1) That the applicants are citizen of India and permanent residents of Imphal . They all completed their graduation under the Gauhati University. They are filing this application jointly since the cause of action of all of them is common in nature.

2) That, in 1965 the applicant No.1 was appointed as L.D.C. in P.W.D. Manipur and was promoted to U.D.C. in 1978 . In 1985, he was appointed to the cadre of Divisional Accountant (for short Divisional Accountant) under the office of Accountant General, Meghalaya , in the Engineering Cell Fishery Division, P.W.D., Manipur and was transferred to the Electricity Department and therefrom he has been further transferred and posted to his present Department in March, 1993.

The applicant No.2 was appointed as L.D.C. in 1970 in the Electricity Department and was promoted to U.D.C. in 1985 . In 1985, he was appointed to the cadre of Divisional Accountant under the Office of Accountant General, Meghalaya in the P.W.D. Building project Division and was transferred to the Electricity Department and therefrom in May, 1994, he has been transferred and posted to this present Department.

Similarly the applicant no.3 was also appointed as L.D.C. in 1963 in the P.W.D. and was

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promoted to U.D.C. in 1978 . He was also appointed to the cadre of Divisional Accountant under the office of Accountant General ,Meghalaya in the P.W.D. Mechanical Division II and was transferred to Irrigation and Flood Control Department in 1988, wherefrom he has since been transferred to the present department in 1994 . All the applicants are holding the post of Divisional Accountant/^{under} the Office of Accountant General, Meghalaya .

3. That the applicants, beg to state that they were posted as unqualified Divisional Accountant and their regularisation/ absorbtion to the cadre of Divisional Accountant is subject to their passing the Departmental Examination for Divisional Accountant within the maximum of 6(six) physical chances offered to them by the authorities . It is needless to mention that if the unqualified Divisional Accountants fail to qualify in the Examination they will be reverted back to their earlier post of U.D.C.

4. That the applicants state that the Departmental Examination for Divisional Accountant comprises of the following 5 subjects :-

Sl.No.	Subject	Time	Maximum Marks.	Minimum marks required for exemption.	Minimum marks for passing.
1. i)	^{English} Essay or precis and Draft.	3 hrs.	150	40%	45%
	ii) Grammar				
2.	Elementary Book keeping.	2 $\frac{1}{2}$ hrs.	150	40%	50%

contd...

3. Public works Accounts and procedure (practical without Books).	3 hrs	150	40%	50%
4. P.W. Accounts and procedure (Theory)	1 $\frac{1}{2}$ hrs.	150	40%	50%
5. General Accounts Treasury & Financial Rules (both central and State Government).	3 hrs	150	40%	50%

Aggregate	750	45
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That applicants state that a mere glance to the above Examination chart will convey that this departmental Examination is vigorous one and the fact that the candidates are allowed 6(six) physical chances to pass the examination will substantiate that the passing of the examination is a very tough job. The applicants further state that the Examination normally takes place twice a year and though all the applicants joined the post of Divisional Accountant in 1985 , The authorities delayed in allowing physical chances to the applicants , thus making the task of passing the examination heavier for them in this age.

5. That the applicants states that on 21.4.95 they received the call letters from the Respondent No.3 for appearing in the Departmental examination scheduled

from 12.6.95 to 16.6.95 at Shillong and they put all of their efforts in preparing for the Examination and took the examination very seriously as they were aware that failure this time would leave them with limited number of chances . The applicants appeared in examination duly and they were satisfied with the performance and this time they were hopeful to pass the departmental examination .

Annexure A/1 is the copy of the above call letter.

6. That, it is stated that earlier the applicant no.1 availed of 4 chances and cleared 2 subjects and this time he appeared for the rest 3 subjects . The applicant no.2 also availed 3 chances earlier and would clear 1 subject and appeared in the rest 4 subjects this time . Similarly, the applicant No.3 had earlier availed his 5 chances and cleared 2 subjects and appeared in the rest 3 subjects this time .

7. That, as such, the applicants were shocked and surprised to receive a telegram from the office of the Accountant General , intimating them that the examination held from 12.6.95 to 16.6.95 stood cancelled due the reports of alledged mal practices and the examination was rescheduled from 10.7.95 to 14.7.95.

Annexure A/2 is a copy of the above telegram .

contd...

8. That the applicants beg to state that they were utterly surprised to get the telegram and to find that the examination was cancelled due to the reports of alledged malpractices inasmuch as the entire examination was conducted in a very congenial atmosphere and under strict surveillance . There were 5 (five) Invigilators in a small hall of 25 feet x 15 feet (approx.) where only 11 candidates in all appeared, and this will make it ~~empty~~ clear that there was hardly any possibility of commission of any malpractices during the examination . However, during the 4th examination on 15.6.95, a candidate, named P. Kenshong Naga, was apprehended by the Invigilators, while he made an effort to resort to some unfair means.

But the candidate was allowed to appear in all the remaining examination, and no action was taken on him. which shows that there was nothing serious in the matter.

9. That the appellants states that the case of Mr.Naga was the only incident which took place during the entire examination and this kind of ^{incident} are dealt with, if it is warranted at all, in accordance with the relevant Rules/circulars against that individual only. It is apperrant that since the incidence was not a very serious one and pertaining to ^{the} individual only, the Invigilators found it proper to allow the said candidate to appear in the remaining examination. It is stated that barring the above incident there was no other

contd..

incident by which it can be said that widespread malpractices occurred during the examination warranting cancellation of entire examination. The applicants state ^{not} action of the authorities in rescheduling the examination is taken without any application of mind.

10. That the applicants state that the 5(five) Invigilators who were presents during examination, are the Deputy Accountant General, two Accounts Officer, the Dealing Asstt. and another and they way they were constantly surveiling the examination, there was no possibility of commission of any malpractice. The applicants states that the impugned action of rescheduling the examination has been taken at the behest of the those candidates who could not ~~fail~~ well in the examination.

11. That, as stated above, the Departmental examination is a very stiff one and the appellants were at the fag end of their chances. They, therefore put their best efforts this time and they also fared very well in the examination and are hopeful of clearing their subjects . They, therefore, have a right of getting their results duly declared and the same can not be taken away from them, without affording them any opportunity, only on the basis of allegation of malpractices.

12. That the impugned Telegram ex-facie shows that the examination was cancelled "DUE TO THE REPORTS OF

ALLEGED MALPRACTICES " and it is quite apparent here that the authorities themselves made no enquiry to satisfy as to whether the reports of alleged malpractices had any substance or not and it appears that they took the impugned action only on the basis of complaints. It is an elementary principle that before taking any adverse action, whatsoever, the authorities must satisfy themselves about the truth or foundation of the complaints and in the absence of such a satisfaction, the action would be whimsical, arbitrary and illegal. In the instant case, the cancelling of the entire Examination, without any sort of enquiry or satisfaction on the part of authority is arbitrary and illegal which has caused great hardships and injury to the applicant ..

7. DETAILS OF REMEDIES EXHAUSTED

The applicants do not have any remedies under the Rules.

8. The applicants further declare that they have not previously filed any application/Writ petition or suit regarding the matter in respect of which this application has been made before any Court of law or any other authority or any other Bench of the Hon'ble Tribunal and ~~also~~ such application /Writ petition or suit is pending.

9. RELIEF SOUGHT AND GROUNDS :

1. For that the impugned action of the authorities in cancelling the examination without any conceivable

contd...

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reasons is arbitrary and illegal and as such the liable to be set aside .

ii) For that the impugned order of rescheduling the examination suffers from absolute non- application of mind inasmuch as the order has been passed only on the basis of the reports of alledged malpractices without making any sort of inquiry to the matter, which was incumbent upon the authorities under law before passing the order of cancellation of examination and as such the actions of the authorities are bad in law and liable to be set aside.

iii) For that after appearing in the examination duly , the applicants have a vested right to get the results , in the absence of any untoward incident and as such the authorities have acted illegally in rescheduling the examination, without any sort of satisfaction after giving hearing to the candidates and as such the action of the authorities are not tenable in law and liable to be set aside.

iv) For, that there being only one instance by a candidate, the action of the authorities is arbitrary and malafide in cancelling the entire examination instead of taking any action against the candidate individually and this action is not sustainable in law and liable to be set aside.

contd..

v) For that the action of the authority is malice ladden in as much as the same has been done at the behest of the candidates who could not fare well in the examination and as such the action is bad in law and liable to be set aside.

vi) For that since there was only reports of alledged mal practice, on the authority before acting in such a whimsical manner, ought to have reached some concrete finding regarding the allegation after some inquiry before resorting such a drastic action of rescheduling the entire examination and this is not tenable in law.

vii) For that in the instant case there were only a handful of candidates appearing in a small hall under the strict surveilence which was properly manned, there can not be, by any stretch of imagination, any allegation of widespread malpractice justifying the cancellation of the entire examination and as such the order of cancellation is bad in law and is liable to be set aside.

viii) For that in any view of the matter, the order of cancellation of the examination is bad in law and is liable to be set aside.

12.

10. INTERIM ORDER

That the applicants pray that pending disposal of this application your Lordships be pleased to forbid the authorities ^{from} ~~found~~ holding the examination rescheduled from 10.7.95 to 14.7.95 and direct them to postpone the examination.

11. Does not arise.

12. Postal order No.03885605 dated 3.7.95 issued by the post office at Guwahati enclosed.

verification

contd....

VERIFICATION

I, Shri M. Rohini Kumar Singh, son of M. Birahari Singh, aged about 46 years, resident of Moirangkhon, Sougaijam Leikai, Imphal -1, Manipur, do hereby verify that I am the applicants No.1 in the accompanying application and the statements made in paragraphs No.1,3,4,8,9,10, 11 and 12 are true to my knowledge; those made in paragraphs No.2, 5, 6,7 being matters of records are true to my information derived therefrom and noting materials have been suppressed.

M. Rohini Kumar Singh
(M. Rohini Kumar Singh).

100
R.R.C.O 47.
21-4-95

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ANX - A/1
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REGISTERED

OFFICE OF THE ACCOUNTANT GENERAL(A&E) MEGHALAYA :: ETC :: SHILLONG.
EO No.DA Cell/264 Dated: 28.3.95

The next Divisional Accountant Examination will be held as per shheduled indicated below:-

<u>Date</u>	<u>Day</u>	<u>Time</u>	<u>Subject</u>
12.6.95	Monday	3 Hours From 10:30 AM - to 1:30 PM	English, Essay, Precis, Draft and Grammar
13.6.95	Tuesday	3 Hours From 10:30 AM - to 1:30 PM	General Accounts, Treasury and Financial Rules
14.6.95	Wednesday	3 Hours From 10:30 AM - to 1:30 PM	P.W. Accounts and Procedures(Practical without Books)
15.6.95	Thursday	2½ Hours From 10:30 AM - to 1:00PM	Elementary Book Keeping
16.6.95	Friday	1½ Hours From 10:30 AM - to 12:00 Noon	P.W. Accounts and Procedures(Theory)

2. The Examination will be held at Shillong and the particulars and actual venue may please be obtained from DA Cell of this office one day prior to the Examination. The Index Numbers of the candidates for this Examination may also be collected from DA Cell one day prior to the Examination.

3. All the eligible Emergency(Unqualified)Junior Grade Divisional Accountants are required to send their application to sit for the Examination through their respective Divisional Officer giving the particulars as indicated at Para-5 of this circular so as to reach this office positively by 31.5.95.

4. The rules and syllabus for the Divisional Accountant Grade Examination are available in Annexure-III to Appendix-I of CPWD Code(2nd Edition.) 1965 except that instead of P.W Accounts and procedure(Vava-Voce) there will be a theory of 1½ hours duration of P.W. Accounts and Procedure for 150 marks. The question papers on the aforesaid subject will contain a large number questions calling for brief answers space for writing answer will be provided in the question paper itself, correct answers should be written in the first instances and correction(s) if any, made subsequently will entail forfeiture of marks. The extract of these rules may please be seen in Annexure-I to this circulars.

5. Attention of the Emergency Junior Grade Divisional Accountant is drawn to the Judgement awarded by the Hon'ble Central Administrative Tribunal, Guwahati in which it has been specifically emphasised that those who have not availed six physical chances shall be given the remaining chances so as to make a total of six chances for passing the D.A. Grade Examination. In their cases if they do not avail of any future chances they would be deemed to have appeared for the purpose of counting the total number of chances.

Allotted
Or else
Subject

Those who fail will be integrated into their parent cadre and departments. ~ repatriated to

6. The Divisional Accountant should bring an Identity card letter issued by the respective Divisional officers and should produce the same when demanded at the time of Examination.

7. Divisional Accountants who have appeared in the Divisional Accountant Examination held in 12/91 should not last apply for this Examination, if they are eligible to appear.

Sr. Dy. Accountant, General(A)

Memo No.DA ~~cell/2-2/92-93/29~~
Copy forwarded to the :-

Dated: 6 APR 1995

REGISTED: 1) The Executive Engineer,
Flood Control & Drainage Div NO IV
& FCA) Bishnupur; P.O. Bishnupur; Manipur
with the request to bring the content
to this circular to the notice of the Divisional Accountant
working under him. The particulars of the candidates
shown in the application may please be verified before
forwarding the same to this office.

6/95
He is informed that as per Court verdict, ^{Examination} chance towards the
in his unavailable chances.

Sr. Accounts Officer,
i/c DA Cell

Particulars to be furnished by the candidates willing to sit for the Divisional Accountant Grade Examination to be held in

1. Full Name of the candidate (in block letter)
.....
2. Date of birth.
3. Date of appointment (qualified Divisional Accountant)
.....
4. Period(s) for which officiating as Emergency (Unqualified) Divisional Accountant)
.....
5. Whether appeared for the Divisional Accountant Grade Examination previously, if so, state the month/year in which appeared. If exempted in any paper, state subject and month of Examination of the previous Examination,
.....
6. Whether willing to use Hindi/English in answering question paper (option exist to use either English or Hindi)
.....
7. Whether applicant belong to Scheduled Caste/Tribe

DATE B

SIGNATURE OF THE CANDIDATE.

Marked
B. chard by
A. Deere

ANNEXURE - I

Extract of Rules for the Divisional Accountant Examination

1. The subject for the Examination, the minimum marks qualifying for a pass and the percentage required for obtaining exemption in the examination will be as follows :

Sl. No.	Subject	Time	Age			Minimum marks required for passing	Minimum marks for exemption
			Maximum Marks	Minimum Marks	Age		
1.	(i) Essay or Precis and Draft	3 Hours	150	40%	45		
	(ii) Grammar						
2.	Elementary Book Keeping,	2½ Hours	150	40%	50%		
3.	Public Works Accounts and Procedure (Practical without Books)	3 Hours	150	40%	50%		
4.	P.W. Accounts and Procedure (Theory)	1½ Hours	150	40%	50%		
5.	General Accounts Treasury & Financial Rules (both Central and State Government.)	3 Hours	150	40%	50%		
	Aggregate		750	45			

Note :- The initial Recruitment Examination passed candidates taking the Divisional Test (in papers other than in Precis and Draft should secure 40% marks in each of the four papers and 45% marks in the aggregate for these papers to secure a pass in the Divisional Test.

contd.. P/2...

The syllabus and the standard for the examination will be as follows :-

(i) Essay or Precis
and draft
(ii) Grammar

The standard in the paper on subject-I in the Divisional Accountant's Grade is the same as that prescribed in rules 2 and 3 of the initial Recruitment Examination Rules, detailed in Annexure-I to this chapter.

Note :-

Persons who have passed the Initial Recruitment Examination with Paper-(I) Essay or Precis and Draft (ii) Grammar will not be required to appear again for this paper in the Divisional Accountant's Grade Examination.

Elementary Book Keeping :- The paper in this subject will be of a fairly elementary character. Advanced Accounting By. W. B. Baski, 23rd Edition has been prescribed as the text book for the paper on this subject. The following chapter have been included in the syllabus :-

Chapters I, II, III, IV, XIV and Chapter XXIV.

Notes :-

If there is any change in the numbering of these chapters in the subsequent editions of this Book the candidate should read the Chapter containing the same subject matter in those editions. P.W. Accounts and procedure (Practical without Book) :- The Written part should be a severe practical test of the candidate's knowledge of the rules and processes connected with (1) the preparation and examination of initial accounts, stock and tools and plant returns, contractor's bills and other bills and vouchers and (2) the classification and compilation of Divisional Accounts and delegation of financial Rules of the State Govt.

Authority :- Correction slip No.125 dt. 21.6.90 to CAG's MSO(A) Vol.II received with HQ. letter No.1645-N.III/46-86, Vol.I KW-3 (dt. 27-6-90).

*Munshi
Brahmley*

P.W. Accounts and Procedure (Theory) :- The Theory paper on P.W. Accounts and procedure with a large number of questions calling for brief answers has been prescribed to adjudge in an effective way whether the candidate can promptly to the Executive Engineers of the Public Works Department appropriate advice in matters concerning the accounts and financial arrangements of Divisional and Sub-divisional Officer.

General Accounts, Treasury & Financial rules (Both Central and State Govt.)

The paper will comprise of questions of straight forward and general nature from the following Codes:-

- 1) Account Code Volume.I
- 2) General Fiancial Rules

3) Central Treasury Rules Volume I & II are corresponding Rules of State Governments.

4) Fundamental and Supplementary Rules

3. The question should be set on the portion which will be of practical use to the Divisional Accounts in the discharge of their duties as such.

4. Any candidates failing in the examination but securing exemption marks in subject will not be required to appear again in that subject.

5. The candidates should not be allowed access to any books. However, if the question paper indicates that any of the prescribed "Public Works Forms" are to be used by the candidates in the examination, the forms may be supplied to them.

6. The theory paper on P.W. Accounts and procedure with a large number of question calling for brief answer has been prescribed to adjudge in an effective way whether the candidate can promptly give to the Executive Officers of the Public Works Department appropriate advice in matter concerning accounts and financial arrangements of Divisional and sub-district offices. The question paper will itself provide space for writing answers to be recorded in a short time and limited space. The candidate should write the correct answers in the first instance itself and corrections, if any, made by them ential forfeiture of marks.

The syllabus and the standard for the examination will be as follows :-

(1) Subject I- 1) The standard in the paper on subject-I in the Divisional Test is the same as that prescribed in rules 2 and 3 of the Initials Recruitment Examination Rules, detailed in Annexure-I to this chapter.

Note :- Persons who have passed the Initial Recruitment Examination with the paper (I) Essay or Precis and Draft (ii) Grammar, will be required to sit again for this paper in the Divisional Test.

Attended
B. Elementary

Subject-2:-

Elementary Book Keeping:- The paper in this subject will of a fairly elementary character. Advanced Accounting by J.M. Batlitboi, 23rd Edition has been prescribed as the next book for the paper on this subject. The following chapter have included in the syllabus :-

Chapter:- I, II, III, IV, V, XIV, XV, XXIV and Chapter XXV portion relating to voyage

Note :- If there is any change in the numbering of these chapters in the subsequent editions of this Book, the candidates should read the chapter containing the same subject matter in those Editions.

(ii) Subject - 3:- The Written part should be a severe practical test of the candidates knowledge of the rules and processes with (1) the preparation and examination of initial accounts stock and tools and plant returns, contractors, the classification and compilation of divisional accounts.

(iii) Subject - 4:- The Theory paper on P.W. Accounts and procedure with a large number of questions calling for brief answers, has been prescribed to adjudge in an effectively give to the Executive Officers of the Public Works Department appropriate advice in matters concerning the accounts and financial arrangements of divisional sub-divisional Officer.

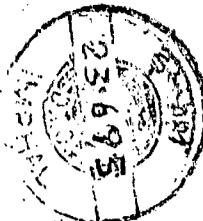
(iv) Subject-5:- The paper will comprise of questions of straight forward and general nature from the following orders:-

- (1) Account Code Volume, I
- (2) General Financial Rules
- (3) General Treasury Rules Volume, III and corresponding Rules of State Governments.
- (4) Fundamental and Supplementary Rules.

3. The questions should be set on the portion which will be of practical use to the Divisional Accountants in the discharge of their duties as such.
4. Any candidate failing in the examination but securing exemption marks in the subject will not be required to appear in that subject.
5. The candidate should not be allowed access to any books. However, if the question paper indicates that any of the prescribed "Public Works Forms" are to be used by the candidates in the examination the forms may be supplied to them.
6. The theory paper on P.W. Accounts and procedure with a large number of questions calling for in an effective way whether the candidate can promptly give to the Executive Officers of the Public Works Department appropriate advice in matters concerning accounts and financial arrangement of divisional and sub-divisional officers. The question paper will itself provide space for writing answers to be recorded in a short time and limited space. The candidate should write the correct answers in the first instance itself and corrections, if any, made by them will entail forfeiture of marks.
7. The Accountant General shall have discretion to hold only one examination in each year instead of two if he considers that the second examination will ~~not~~ have the effect of increasing to an undue extent the number of clerks from sources (1) and (2) qualified for appointment as Divisional Accountants but not promoted owing to lack of vacancies. If, however, there is a direct recruitment under training. The Accountant General will not hold the second examination for him only.

B. Chandy

ANN-AL



45 D 47 SHILLONG 23 STE 59

SRI M ROHINI KUMAR SINGH

DIVISIONAL ACCOUNTANT

FLOOD CONTROL AND DRAINAGE DIVISION

NO IV BISHNUPUR

MANIPUR

NO DA CELL/1141 DATED D A GRADE EXAMINATION CONDUCTED FROM 12-6-95
TO 16-6-95 STANDS CANCELLED DUE TO REPORTS OF ALLEGED MALPRACTICES
THE EXAMINATION IS RESCHEDULED TO BE HELD FROM 10TH JULY TO

14TH JULY 1995 (.)

ACCOUNTS MEGHALAYA

SHILLONG

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==== ESHSHCD102

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*Marked
rehearsed*

27 JUL 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
Gauhati Bench GUWAHATI
सुनाहरी आवास BENCH AT GUWAHATI

IN THE MATTER OF OA NO. 123/95

Shri Rohini Kr. Singh and two others

vs

Union of India and Others

and

IN THE MATTER OF

Written statement submitted by
The Respondents No. 1,2 & 3

Written Statement

The Respondents submit their written statement as follows :-

1. That with regard to the statements made in paragraphs 1, 2, 3, 4 and 5 of the application, the Respondents submit that they have no comments on them.
2. That with regard to the statements made in paragraph 6 (1) of the application, the Respondents submit that they have no comments, as the same pertains to the matter of records.
3. That with regard to the statements made in paragraph 6(2) of the application the Respondents submit that the applicants were appointed temporarily, to officiate as Emergency (un qualified) Junior Grade Divisional Accountants under the administrative control of this Office during 1985. Regarding other points raised in this para 6(2), the Respondents submit that they have no comments, as the same pertain to matters of record.

(Annexure I, II & III)

4. That with regard to the statement made in para 6(3) of the applicants, the respondents submit that the Emergency (Unqualified) Junior Grade Divisional Accountants are eligible to appear in the Divisional Accountant Grade Examination after successful officiating in the same capacity for 2 years. They are required to qualify in the examination within the prescribed 6 chances for their absorption as regular Divisional Accountants.
5. That with regard to the Para 6(4) of the application the respondents submit that the Divisional Accountants Grade Examination, is a prescribed examination for absorption, in the cadre of DA's Divisional Accountants, which takes place twice in a year. The unqualified Junior Grade Accountants, are eligible for the aforesaid examination only after completion the officiating period of TWO years. They are to qualify

Filed in Court
on.....27.7.95.....
Bom
Court Master

Filed by
P. K. Choudhury
Addl. Central Govt.
Standing Counsel
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officiating period of TWO years. They are to qualify within the prescribed 6(six) chances for their absorption in the Departments.

In the instant case all the three Unqualified Divisional Accountants joined in September '85 and December '85 respectively and they where eligible to appear in the DA Grade Examination held in 12/87, 6/88, 12/88, 6/89, 12/89 and 6/90, for qualifying in the aforesaid examination and subsequent absorption in the cadre of Divisional Accountants. As such there was no delay on the part of the authority to allow the applicants for appearing in the examination in time.

The applicants however failed to avail all the above 6(six) chances for their absorption in the Departments. It may be added here that out of a total of 163 divisional Accountants, 114 have already qualified in the examination and absorbed in the stream of Divisional Accountants. As such, the contention of applicants that the "passing of the examination is very tough job and heavier for them" is highly unreasonable.

From the above facts, it would be apparent that the applicants did not seriously make concious efforts in passing the examination and did not even avail of all the chances and thus failed to qualify for absorption within the prescribed 6(six) chance. The Department had no other option but to revert them back to their respective parent Departments during Oct '91 against which the applicants filed a case before the honourable Central Administrative Tribunal, Guwahati vide O.A. No. 214 of 1991-217 of 1991 and 211 of 1991. The applicants were allowed to avail of the unavailed physical chances by the orders of the Tribunal dated 8.6.1993 on the all three above case. The applicants are now availing the physically unavailed chances.

(Annexure IV, V & VI)

Therefore their contention that the authority delayed in allowing physical chances is incorrect.

6. That with regard to para 6(5) of the application the Respondents submit that they have no comments to offer on this point.

7. That with regard to the para 6(6) of the application, the respondents states that before commencement of this examination held in 12.6.95 to 16.6.95 and the rescheduled examined on 10.7.95 to 14.7.95, the number of chances availed of by the candidates are correct as stated in Sub-para 6(6) of the application except for the applicant No. 2 (Shri. N. Joikumar Singh) who availed of 4 chances altogether and not three (3) as stated in the paragraph.

8. As regards para 6(7) to 6(12) the Respondents contend that there were only TWO appointed invigilators in the hall during the course of examination held from 12/6/95 to 16/6/95 and not five as stated by the the applicants.

Further the decision to cancel the examination and the subsequent rescheduling of the exam was taken following some incidents - the first of which occurred on the second day of the examination and the next on the fourth day.

As a measure to ensure that all answer scripts are issued within the four walls of the Examination Hall, and also to pre-empt any possible malpractices, it is strictly ascertained that all the answer scripts bearing the stamp of the official round seal on the top of the first page are duly initialled by the Presiding Officer before they are distributed.

On the second day of the examination it so happened that one particular candidate submitted an answer script which did not bear the initials of the Presiding Officer. It was also noticed that the answer script appear to have been folded in the middle.

(Annexure VII)

The second incident occurred in the penultimate day of the examination i.e. on the 15th June 1995 when another candidate was found with a chit of paper which contained the exact solution of a compulsory question relating to Balance Sheet problem. On scrutiny it was revealed by the Paper-setter that the closing date of the Balance sheet statement was deliberately altered to a more recent date. On further probe it was seen that the chit containing the solution, was identically dated.

(Annexure VIII)

In both the of the above instances, instant action was not taken due to:

In the first case the fact of the submission of an un-initialled answer script came to the knowledge of the Presiding Officer only at the end of the day's examination. Since he was not caught in the act of committing the malpractice as a result on-the-spot action was not taken.

As for the latter case of 15/6/95 the candidate was actually relieved of the chit before he could copy and the matter was reported to the Administration. That he was allowed to continue for the rest of the examination was only due to the fact that the Administration felt that the matter called for further scrutiny and examination.

It was at a later stage when the aspect of the identical date was established that the Administration was led to believe that there were ample grounds to suspect that in the above cases, especially of the latter instance of 15/6/95, there were strong indications of a possible leakage of the Question

papers. It was thought that this was perhaps only the tip of an iceberg. Even if it was to be construed that the beneficiaries of the suspected leakage were confined to the above two candidates only, the Administration was firm on its resolve that this alone was ample ground enough to discourage unfair advantages to a few and thus ordered for a cancellation and rescheduling of the said examination.

9. With regards to the statement made in Para 7 of the application it is submitted by the Respondents that the applicants did not represent or make any appeal to the higher authority. In this case the Accountant General, as the Appellate Authority could have been approached.

10. With reference to Para 8 of the application, the Respondents have no comments to offer.

11. That with regard to statement of para 9 of the application, regarding the reliefs sought for and the grounds for relief, the respondents submit that the applicants are not entitled to any of the relief sought for and on the contrary are liable to be dismissed. The respondents further submit that none of the grounds mentioned in the paragraphs is tenable, hence the application is liable to be dismissed with cost.

12. That with regard to the statements (Annexure VII) made in para 10 of the application the respondents submit that in view of the facts and circumstances of the case submitted above, the respondents plead that the interim order granted is vacated.

13. That with regard to the statements made in paragraph 11 & 12 of the application, the respondents submit that they have no comments to offer.

14. The respondents submit that in view of the matter explained in paragraph 8 of the submission, the examination held from 12/6/95 to 16/6/95 was rescheduled to be held from 10/7/95 to 14/7/95 to give sufficient and equal scope to all the Divisional Accountants, including the Applicants to pass the DA Grade Examination.

15. All the three applicants however remained absent on the rescheduled dates of examination held from 10/7/95 to 14/7/95. This was also ample indicator of the fact that they were not serious and sincere enough to clear the examination besides being indifferent to the honourable Tribunals interim orders dated 6/7/95.

16. The Respondents also submit that in compliance to the honourable Tribunal's interim orders dated 6/7/95, the answer scripts of the exam held from 12/6/95 to 16/6/95 are being evaluated by the appointed Examiners. The results of the evaluation will be held in abeyance till further orders.

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17. The interim orders of the Honourable Tribunal sent by Speed Post was received in this Office only on the late hours of 7/7/95 (i.e on the last working day of the week,) and as such since all of the candidates were from the State of Manipur, it was not possible to inform the candidates accordingly as directed by the Honourable Tribunal on the same day. However one candidate Shri.P.Kenshong Naga (Roll No.9) appeared for the Exam held from 10/7/95 to 14/7/95.

18. The Respondents therefore submit that this Department has not committed any arbitrariness by cancelling the Examination held from 12/6/95 to 16/6/95 on grounds of malpractices and the subsequent rescheduling of the Examination from 10/7/95 to 14/7/95. As such the allegation of the applicants that the Respondents action was baseless and arbitrary does not hold ground nor is it tenable and is liable to be set aside with costs.

VERIFICATION

I Shri.L. Tochhawng, Senior Deputy Accountant General (A&E) Meghalaya, etc, Shillong, do hereby solemnly declare that the statements made above in the written statement are true to the best of my knowledge, belief and information, and I sign the verification on this day the 21st of July 1995 at Shillong.



DEPONENT

L. TOCHHAWNG

Sr. Deputy Accountant Gen ra.
(Administrative)

***** Meghalaya, Arunachal Prd.s. & Mizoram
Shillong.

Annexure I

OFFICE OF THE ACCOUNTANT GENERAL (ACCOUNTS)
MEGHALAYA :: SHILLONG.

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Mr. Shilling, Inc. 5-5-23 4/9/85

Est. Order No. VII. 1/41

Shri/anti. M. Rehini Kauru Singh, U.D.C.

Office of the ~~Sub-Divisional~~ ~~Sub-Divisional~~ Irrigation Division in the State
Nanjangud, Belgaum is appointed temporarily, to officiate as ~~Emergency~~ (Un-qualified)

Junior Grade Divisional Accountant under the Administrative control of this office subject to the following terms and conditions:-

1. (a) While officiating as Junior Grade Divisional Accountant, he/she will draw pay in the scale of pay of Jr. Grade Divisional Accountants of Rs. 425-15-500-EB-15-560-20-640-EB-20-700-25-750/- to be fixed under normal rules applicable to them read with the G.I. decisions No.(5) & (14) below F.R. 22C of Chaudri's Compilation of F.Rs., and S.Rs., Vol.I, 8th Edition and other allowances as admissible to the Central Government employees from time to time.
(b) That in case of any change made subsequently in the mode of fixation of pay by the Govt. of India, his pay will be re-fixed on that basis.
(c) That No claim will be entertained for fall in emoluments if any, consequent upon fixation of pay under the aforesaid rules.
(d) No claim for protection of substantive/officiating pay of the parent department will be entertained.

2. After passing the Divisional Accountants' Grade Examination, to which he/she is eligible to appear after successful officiation for two years in the capacity of Emergency (Unqualified) Junior Grade Divisional Accountant, within the prescribed chances, he/she may be absorbed in the cadre of Divisional Accountant, subject to fulfilment of other conditions and availability of posts.

County, 1920

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3. In case the post of post of his/her parent Department(s) is revised retrospectively, no claim for revision of pay in the scale of pay of Jr. Accountant will be entertained.

4. He/she will be liable for transfer in any of the P.M.Offices/offices of the C.I.E. in the State of Tripura/Manipur/Meghalaya/Mizoram/Assam etc., as well as in Offices of the Accountant General, Assam/Chakravarty/Meghalaya/Manipur/Tripura.

5. The date(s) of his/her appointment to officials as Emergency(Unqualified) Junior Grade Divisional Accountant will be effective from the date(s) he/she takes over charge as such in the post of Accountant General, Assam/Chakravarty/Meghalaya/Manipur/Tripura Division to which he/she is posted.

6. Before Shri/Smti. PL Kishan Kumar Singh is released from his/her parent Deptt., he/she is to give an Undertaking to his/her Divisional officer to the effect that he/she accepts the above terms and conditions with a copy enclosed to this office. Unless Shri/Smti. PL Kishan Kumar Singh gives the said Undertaking, his/her joining report as a Emergency (Unqualified) Divisional Accountant will not be accepted.

Sd/-
Deputy Accountant General (aE).

① REGISTERED/
Memo. No. W.M.I/(D...Cell)/3-6//67-68/Vol.V/ 560.00 Shillings,
26 AUG 1985 the

Copy to:-

- 1) The Accountant General, (Accounts) Manipur/Chakravarty.
- 2) The Chief Engineer, Manipur/Chakravarty.
- 3) THE Superintending Engineer Manipur/Chakravarty.

C-ntd....3.....

- 3 -

4) The Executive Engineer, Electrical Light Department Division No. II, JHFC Project Manager, Bishnupur, will be requested to obtain the Unit Linkage and other details of Shri/Smt.

M. Robin Kumar Singh, use and forward the same to this office immediately.

5) The Executive Engineer, Engineering Cell, Fishery Deptt, Manager, Jyoshak, will be requested to forward the joining report along with the Service Book and copy of the Last Pay Certificate of Shri/Smt. M. Robin Kumar Singh, to this office immediately, for fixation of his/her pay.

6) Shri. M. Robin Kumar Singh, use of the Executive Engineer, Electrical Light Department Division No. II, JHFC Project Manager, Bishnupur, use and forward the same to D.A. G (Accounts).

8) P.C. File.

9) E.O. File.

10) S.C. File.

11) File No. WM.I/2-1/79-80/Vol.III.

Deputy Accountant General (A&E).

*Notified
A&E*

Annexure II

OFFICE OF THE ACCOUNTANT GENERAL(ACCOUNTS)

Estt. Order No. V.M. I/64

Dt. Shillong, the 5-8-85

Shri/Smti. O. Bomena Singh, I.C.A.

Office of the ~~Ex. Sewage Investigation Division, Admin. Dept. Shillong, Imphal~~
 is appointed temporarily to officiate as Emergency(Unqualified) Junior Grade Divisional Accountant under the administrative control of this office subject to the following terms and conditions:-

1. (a) While officiating as Junior Grade Divisional Accountant

he/she will draw pay in the scale of pay of Jr. Grade Divisional Accountants of Rs. 425-15-500-EB-15-560-20-640-EB-20-700-25-750/- to be fixed under normal rules applicable to them read with the G.I. decisions No.(5) & (14) below F.R. 22C of Chaudri's compilation of F.Rs. and S.Rs., Vol.I, 8th Edition and other allowances as admissible to the Central Government employees from time to time.

(b) That in case of any change made subsequently in the mode of fixation of pay by the Govt. of India, his pay will be re-fixed on that basis.

(c) No claim will be entertained for fall in emoluments, if any, consequent upon fixation of pay under the aforesaid rules.

(d) No claim for protection of substantive/officiating pay of the parent department will be entertained.

2. After passing the Divisional Accountants' Grade Examination, to which he/she is eligible to appear after successful officiation for two years in the capacity of Emergency(Unqualified) Junior Grade Divisional Accountant, within the prescribed chances, he/she may be absorbed in the cadre of Divisional Accountants subject to fulfilment of other conditions and availability of posts.

Contd....2....

3. In case the scale of pay of his/her parent department(s) is revised retrospectively, no claim for re-fixation of pay in the scale of pay of Jr. Grade Divisional Accountant will be entertained.

4. The/she will be liable for transfer in any of the P.W.Offices/offices of the Chief Engineers in the States of Tripura/Manipur/Jiangtang/Arunachal Pradesh etc., as will be in the offices of the Accountant General, Assembly, Law, Legislative, Manipur/Tripura.

5. The date(s) of his/her appointment, to officiate as Emergency (Unqualified) Junior Grade Divisional Accountant will be effective from the date(s) he/she takes over charge as such in

Mechanical Division to T.P.W.D. Manipur, Imphal.

Division to which he/she is posted.

Before Shri/Smt. O. Homcha Singh

is released from his/her parent deptt., he/she is to give an Undertaking for officiating Divisional Officer upto the effect that he/she

accepts the above terms and conditions with a copy endorsed to

this office. Unless Shri/Smt. O. Homcha Singh

gives the said Undertaking, his/her joining report as a Emergency (Unqualified) Divisional Accountant will not be accepted.

Sd/-

Deputy Accountant General (A&E).

REGISTERED/ Memo. No. MM.1/(D...Cell)/3-6/67-68/Vol.V: 603-13 Dt. Shilling, 26 AUG 1985

Copy to:-

1. The Accountant General, (Accounts) Manipur, Imphal
2. The Chief Engineer P.W.D. Deptt. Manipur, Imphal
3. The Superintending Engineer P.W.D. Manipur, Imphal.

Contd....3....

11-80-27

4) The Executive Engineer, ~~Severage Investigation Division, P.W.D.~~
~~P.W.D. Deptt., Manipur, Lamphelpat, Imphal~~. He is requested to obtain
the Undertaking mentioned at para 6 above from Shri/Smt. ~~Shri/Smt.~~
____ ~~O.C. Ibomcha Singh, U.D.C.,~~ and forward the same
to this office immediately.

5) The Executive Engineer, ~~Mechanical Division No. 11,~~
~~P.W.D. Manipur, Imphal~~ is requested to forward the
joining report along with the Service Book and copy of the Last
Pay Certificate of Shri/Smt. ~~O.C. Ibomcha Singh~~
to this office immediately, for fixation of his /her pay.

6) Shri. ~~O.C. Ibomcha Singh, U.D.C., O/C to the Executive Engineer,~~
~~Severage Investigation Division, P.W.D. Deptt., Manipur,~~
~~Lamphelpat, Imphal~~

7) P.A. to D.R. G (Accounts).

8) P.C. File.

9) E.O. File.

10) S.C. File.

11) File No. WM.I/2-1/79-80/Vol.III.

Deputy Accountant General (A&E).

Affected
W.H. Chaudhury
Addl. Central Govt.
Standing Counsel

OFFICE OF THE ACCOUNTANT GENERAL(ACCOUNTS)
MEGHALAYA: SHILLONG.

Listt. Order No. WM: I/72

Dt. Shillong, the 5-8-85

Shri/ Smt. N. Jaykumar Singh, I.A.C.

Office of the EE Sub-Station Construction Division,
Electricity Deptt. Manipur, Yerwala
is appointed temporarily to officiate as Emergency(Unqualified)Junior Grade Divisional Accountant under the Administrative control
of this office subject to the following terms and conditions:-

1. (a) While officiating as Junior Grade Divisional Accountant, he/she will draw pay in the scale of pay of Jr. Grade Divisional Accountants of Rs. 425-15-500-EB-15-560-20-640-EB-20-700-25-750/- to be fixed under normal rules applicable to them read with the G.I. decisions No.(5) & (14) below P.R. 22C of Chaudri's Compilation of P.Rs. and S.Rs., Vol. I, 8th Edition and other allowances as admissible to the Central Government employees from time to time.

(b) That in case of any change made subsequently in the mode of fixation of pay by the Govt. of India, his pay will be re-fixed on that basis.

(c) ~~No~~ No claim will be entertained for fall in emoluments if any, consequent upon fixation of pay under the aforesaid rules.

(d) No claim for protection of substantive/officiating pay of the parent department will be entertained.

2. After passing the Divisional Accountants' Grade Examination, to which he/she is eligible to appear after successful officiation for two years in the capacity of Emergency(Unqualified) Junior Grade Divisional Accountant, within the prescribed chances, he/she may be absorbed in the cadre of Divisional Accountant subject to fulfilment of other conditions and availability of posts.

Contd.....2...

- 2 -

3. In case the scale of pay of his/her parent department(s) is revised retrospectively, no claim for re-fixation of pay in the scale of pay of Jr. Grade Divisional Accountant will be entertained.

4. He/she will be liable for transfer in any of the P.W.Offices/offices of the Chief Engineer in the State of Tripura/Manipur/Nagaland/Arunachal Pradesh etc., as well as in the offices of the Accountant General, Assam/Meghalaya/Nagaland/Manipur/Tripura.

5. The date(s) of his/her appointment to office of Emergency (Unqualified) Junior Grade Divisional Accountant will be effective from the date(s) he/she takes over charge as such in

Building Project Division No. III, P.W.O. Manipur

Chachipur.

Division to which he/she is posted.

6. Before Shri/Smti. N. Jaykumar Singh is released from his/her parent deptt., he/she is to give an Undertaking to his/her Divisional officer to the effect that he/she accepts the above terms and conditions with a copy and read to this office. Unless Shri/Smti. N. Jaykumar Singh gives the said Undertaking, his/her joining report as a Emergency (Unqualified) Divisional Accountant will not be accepted.

Deputy Accountant General (a.e.)

2 SEP 1985

REGISTERED/

Memo. No. WM.I/(D.A.Cell)/3-6/167-68/Vol.V/899-909 Dt. Shillong, the

Copy to:-

Manipur, Jaspur.

- 1) The Accountant General, Assam
- 2) The Chief Engineer, Electricity Deptt. Manipur, Jaspur
- 3) THE Superintending Engineer P.W.O. Manipur, Jaspur

Contd....3.....

32-14

4) The Executive Engineer, Sub-Station Construction Division, Electricity Deptt., Manipur, Yurimbam. He is requested to obtain the undertaking mentioned at para 6 above from Sir/Stock.

M. Joy Kumar Singh U.D.C. and fees are the same to this office immediately.

5) The Executive Engineer, Buildings Project Division No.III, P.W.D., Manipur, Chachipur. He is requested to forward the joining report along with the Service Book and copy of the Last Pay Certificate of Shri/Ext. M. Joy Kumar Singh.

(A) to this office immediately, for fixation of his/her pay.

6) Shri M. Joy Kumar Singh, U.D.C., Office of the Executive Engineer, Building Project Division, Block, Deptt. Manipur, Yurimbam.

7) P.A. to D.A.G(Accounts).

8) P.C. File.

9) E.O. File.

10) S.C. File.

11) File No.WM.I/2-1/79-80/Vol.III.

Deputy Accountant General(A&E).

Attached
P.D.C.
Min. Contral Govt
Standing Council

12

33

15

Annexure IV

REGISTERED

OFFICE OF THE ACCOUNTANT (A&E) MEGHALAYA ETC SHILLONG.

E.O. No. DA Cell/135

Dated: 16.10.91

As per the conditions of recruitment and confirmation relating to the Emergency Divisional Accountant as laid down in Chapter VII of the Manual of Standing orders (admin) Vol. I and instructions contained in the Comptroller and Auditor General's letter No. 2274-N.III/24-88-Vol.I dt. 9/90 and also as per terms and conditions laid down in his appointment letter Shri

M. R. Bhawna K. T. Singh.....
 Divisional Accountant having failing to qualify himself in Divisional Test Examination, (now called Divisional Accountant Grade Examination) within the prescribed six chances, is reverted with immediate effect to his Parent Department (i.e. C.P.W.C. Department of the Govt. of Manipur, Imphal) and his services are placed at the disposal of the Chief Engineer, I&F.C. Deptt., Manipur, Imphal Department, Govt. of Manipur, Imphal

As required under para 334 of the Comptroller & Auditor General's M.S.O. (Admin) Vol. I reproduced in Appendix-I of the C.P.W.A. code, 2nd Edicition, 1964 the relieved official should prepare a memorandum reviewing the Accounts of the Division (in triplicate) which the relieving official should examine and forward promptly with his remarks to the Accountant General (A&E).

.....through the Divisional Officer, who will record such observation as he may consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving officer.

[Authority :- AG's order dt. 4.9.91 at P/41^N of file
 No. DA Cell/2-41/90-91/

FO
 b
 1/11

SD/-

Sr. Dy. Accountant General (A).

Seal
 12/11/91

*Referred
 M. K. Chaudhury*
 M. Comptroller
 Standing Council

13 16
62 - 2 -

ADC

11/11/91

Memo No. DA Cell/2-41/90-91/2094 Dated: 23 OCT 1991

Copy forwarded for information and necessary action to :

1. The Accountant General(A&E).....
2. The Chief Engineer, I & F C. Dep't
Manipur, Imphal
3. The Executive Engineer,
He is requested to release Shri
Divisional Accountant immediately with the instructions to
report to the Chief Engineer,.....
4. The date of release may kindly be intimated to this office
telegraphically. As substitute is being posted.
5. Shri:
Personal file of Shri
6. E.O. File
7. S.C.File

Accounts Officer

Annexure V

34-175
175

REGISTERED

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

E.O. No.DA Cell/142

Dated: 14.10.91

As per the conditions of recruitment and confirmation relating to the Emergency Divisional Accountant as laid down in Chapter VII of the Manual of standing orders(Admn) Vol.I, and instructions contained in the Comptroller and Auditor General's letter No.2274-N.III/24-88-Vol-I dt. 9/90 and also as per terms and conditions laid down in his appointment letter Shri.....

N. Jay. Kumar..... Divisional Accountant having failed to qualify himself in the Divisional Test Examination (now called Divisional Accountant Grade Examination) within the prescribed six chances, is reverted with immediate effect to his parent Department (i.e.) Electrical Engg. Dept. Department of the Govt. of M... and his services are placed at the disposal of the Chief Engineer, Electrical Engg. Dept. of the Central Govt. of Meghalayal Department, Govt. of M...

As required under para 334 of the Comptroller & Auditor General's M.S.O (Admn) Vol.I reproduced in Appendix-I of the C.P.W.A. code, 2nd edition, 1964 the relieved official should prepare a memorandum reviewing the Accounts of the Division (in triplicate) which the relieving official should examine and forward promptly with his remarks to the Accountant General (A&E).

..... through the Divisional Officer, who will record such observation as he may consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving officer.

[Authority :- A.G's order dt. 4.9.91 at P/41^N of file
No.DA G Cell/2-41/90-91]

Attested
Mr. Chandra
Addl. Central Govt.
Standing Counsel

Sr. Deputy Accountant General(A&E)

18
11
Memo No. DA Cell/2-41/90-91/ 3645 Dated: 23 OCT 1991

Copy forwarded for information and necessary action to :-

1. The Accountant General (A&E).....
.....
2. The Chief Engineer,.....
.....
3. The Executive Engineer,.....
.....

He is requested to release Shri
Divisional Accountant immediately with the instructions to
report to the Chief Engineer,.....
.....

The date of release may kindly be intimated to this office
telegraphically. A substitute is being posted.

Ran
4. Shrd N. Tony Kurnate Singh, DA,
O.O. of Executive Engineer, Trans. Commission, Ov. No. 1
Electrical Dep'tt, Manipur; Imphal.

5. Personal file of Shri.....
6. E.O. File
7. S.C. File

23/10/91
Accounts Officer.

Annexure VI

REGISTERED

462

OFFICE OF THE ACCOUNTANT GENERAL (A.G) MEGHALAYA ETC SHILLONG.

E.O. No. DA Cell/145

Dated: 14.10.91

As per the conditions of recruitment and confirmation relating to the Emergency Divisional Accountant as laid down in Chapter VII of the Manual of Standing Orders (Admin) Vol. I, and instructions contained in the Comptroller and Auditor General's letter No. 2274-N. III/24-88-Vol-I dt. 19/90 and also as per terms and conditions laid down in his appointment letter Shri Q. Ibomcha Singh, Divisional Accountant, having failed to qualify himself in the Divisional Test Examination (now called Divisional Accountant Grade Examination) within the prescribed six chances, is reverted with immediate effect to his parent Department (i.e. O.P. The Chief Engineer P.H.E. Deptt., Manipur, Imphal) Department of the Govt. of Manipur and his services are placed at the disposal of the Chief Engineer, M.C.P.H.E. Deptt. Manipur, Imphal Department, Govt. of Manipur.

As required under para 334 of the Comptroller & Auditor General's M.S.O (Admin) Vol. I reproduced in Appendix-I of the C.P.W.A. code, 2nd Edition, 1964 the relieved official should prepare a memorandum reviewing the Accounts of the Division (in triplicate) which the relieving official should examine and forward promptly with his remarks to the Accountant General (A.G). Through the Divisional Officer, who will record such observations as he may consider necessary. This memorandum is required in addition to the handing over memo of his charges to relieving officer.

[Authority : A.G's order dti 4.9.91 at P/41^N of file
No. DA Cell/2-41/90-91]

Sd/

Sri Deputy Accountant General, etc.

Q. Ibomcha Singh
Who is this person?

Attested
A.K. Chanchal
Addl. Control. Govt.
Standing Comm.

(21) 90
23
Memo No. DA Cell/2-41/90-91/8025 Dated 23/06/91

Copy forwarded for information and necessary action to :-

1. The Accountant General (Acct).....

2. The Chief Engineer, P.H.E. Dep'tt, Manipur

3. The Executive Engineer,.....

He is requested to release Shri Divisional Accountant immediately with the instructions to report to the Chief Engineer,.....

The date of release may kindly be intimated to this office telegraphically. A substitute is being posted.

4. Shrd.....

5. Personal file of Shri.....

6. E.O. File

7. S.C. File

Accounts Officer.

Annexure - VII

21 - 26-1

Annexure VII



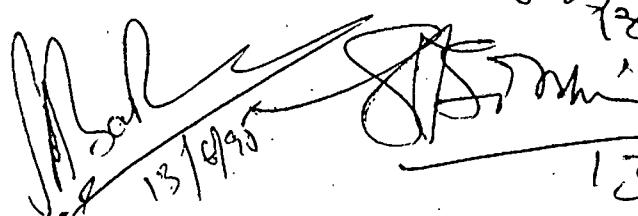
The paper may be cancelled, as this
was not found to be signed by President
after. This must have been procured
from outside sources & original signed paper
not submitted

✓ 13/6/95

P. K. Bhattacharya

S. C. S. - 13/6/95

13/6/95


13/6/95

13/6/95

Attached
P. K. Bhattacharya

Addl. Central Govt
Standing Counsel

Annexure VIII

Annexure - VIII

Trading Account as at 31-12-1941		
	Debit	credit
To Opening stock	89680	By Sales
" Purchase	256,590	Less return 2780
" Manufacturing wages 4,0970	39770	356,430
" Less wages for erection 1200	39770	3153,650
" Less & Machinery 1200	39770	128,960
" Gross Profit Carried forward	96570	
	<u>4,82,610</u>	<u>(4,82,610)</u>
Profit & Loss Account		
Oct 1		Oct 31
To Salaries & wages	11000	By Gross Profit brought forward
" Rent and Taxes	5620	" Commission received
" Travelling expenses	1880	And carried over to next
" Insurance 400	250	6240
" Less Premium 150	250	
" Interest and dividend 5,570	5,570	
Less Bank interest carried over 1000	1000	
Gold Reserve on hand 5,270	5,270	
" Rent and Taxes	6070	
	<u>22,040</u>	
	3,370	
		P:10

Attest
M. Chaudhury
M. C. S. & C. Standing Committee

23

61

" Reserve for	
decreased charges	
in Rs. 6,100.00	
2 5/8 3050	
Total bad debt 3620	
total debited	
transferred 500	
off	7170
Depreciation 5/8	
Plant & Machinery	
Reserve 1440	
4 6 4/8 2227	
897	2337
" Net Profit	
transfer	
to capital	65113
account.	59785

1,02,810

1,02,810

R>
NT TO
EXCUSE

~~P. K. Keurhout P. T. O.~~
~~P. Keurhout~~
~~Roll. Q.~~