

50/600

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

(DESTRUCTION OF RECORD RULES, 1990)

MP-141/97 ordersheet pg 1  
Dismissed date-15/5/97

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6

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SECTION OFFICER (Judl.)

57 No. 173196

Dr. R.K.S. Singh vs  
Union of Godda & Co. Respondent

Dr. N.K. Singh Advocates for the applicant  
Mr. H.A. Sankar

Mr. A.K. Choudhary A.C.S. Advocates for the Respondent

Office notes	Date	Content of the notes
<p>This application is in form and within time C. F. of Rs. 50,- deposited vide IPO.BD No 289100 Dated 22.8.96</p> <p><i>By Registrar, 22/8</i></p> <p><i>This is an unlikeli matter raised in court to by</i></p> <p><i>22/8</i></p>	22.8.96	<p>Learned counsel Dr. N.K.Singh for the applicant.</p> <p>Learned counsel Mr. A.K.Choudhary Addl.C.G.S.C. for the respondents.</p> <p>Dr. N.K. Singh submits that no application may be taken up listed today on the ground of urgency and his personal convenience. Prayer allowed.</p> <p>Heard Dr. Singh for admission. The main contention of the application is that similar benefit as provided in Circular No.2011-N-11/92-93 dated 2.12.93 be extended to the applicant who has exhausted the normal channels. Perused the contents of the application and relief sought. Application is admitted. Issue notice on the respondents by registered post. Written statement within six weeks.</p> <p>List on 3.10.96 for written statement and further order.</p> <p>Dr. N.K. Singh submits for interim order. He further submits that the applicant has not yet been relieved.</p> <p>Mr. A.K.Choudhary resists the prayer for interim order. Issue notice on the respondents why interim prayer should not be allowed. Returnable within six weeks. List on 07/10/96 for interim relief prayer on 11.10.96</p>

(2)

O.A. No. 173 of 1996

22.8.96 Pending disposal of the show cause on interim relief prayer the respondents are directed to keep the operation of the Order No.DA Cell/PC/RKSS/482 dated 25.6.96 in abeyance.

Member

22.8.96

Copy of order dt. 22.8.96 issued to the concerned parties on 23.8.96 vide O.No 27/10/22/96

Box

23.10.96

Notices issued to the concerned parties vide O.No. 3586 dt. 24.10.96.

3.10.96 Dr. N.K. Singh for the applicant. Mr A.K.Choudhury, Addl.C.G.S.C for the respondents seeks time for filing written statement.

List for written statement, and show cause and further orders on 14.11.1996.

Member

Service Reports are still awaited. Statement has not been filed.

14-11-96

Dr.N.K.Singh for the applicant. Addl.C.G.S.C. Mr.A.K.Choudhury for the respondents. Written statement has not been submitted.

List for written statement and further order on 13-12-96.

Member

Service Reports are still awaited. Statement has not been filed.

1m  
14/11

29-11-96

Letter of no objection dt. 15.12.96 in front page.

13.12.96 Dr N.K.Singh for the applicant. Mr A.K.Choudhury, Addl.C.G.S.C seeks time for filing written statement.

List for written statement and further orders on 8.1.97.

Member

1) Service Reports are still awaited  
2) W/Statement has not been filed.

pg. 11/12

OFFICE NOTE

DATE

ORDER

8.1.97

Learned counsel Dr N.K. Singh for the applicant. Learned Addl. C.G.S.C. Mr A.K. Choudhuri for the respondents. Written statement has not been submitted. Mr Choudhuri seeks time to file the same. However, this case is analogous with O.A.No.172/96.

List for hearing on 14.2.97. In the meantime the respondents may file written statement with copy to the applicant.

*ba*  
Member

Pe. put up with  
OA 172/96.

*an*  
8/11

13-2-97

nkm

*an*  
8/11

- 1/ Notice duly served on R.No-124.
- 2/ w/statement has not been filed.

14-2-97

This case is adjourned to 18-3-97.

*ba*  
Member

*ba*  
Vice-Chairman

*an*  
13-2

lm

*an*  
20/2

1) Notice duly served on R.No-124.

18.3.97

The respondents could not file written statement within the prescribed time. However, today written statement has been filed along with an application praying inter alia for acceptance of the written statement. Written statement is accepted.

Dr. N.K.Singh prays for one week time to file rejoinder as the written statement served on him only today. We allow one week time.

Let this case be listed for hearing on 26.3.1997.

*ba*  
Member

*ba*  
Vice-Chairman

2) w/statement has not been filed.

*an*  
18/3

trd

*an*  
20/3

OFFICE NOTE

DATE

ORDER

21-3-97

26.3.97

The Division Bench is not available as the Hon'ble Administrative Member is on leave.

Let this case be listed on 12.5.97.

Vice-Chairman

W/S filed on the A.R. no. 1 & 2 with a prayer for acceptance by filing a MP no. 72/97.

nkm

12.5.97

There is no representation on behalf of the applicant. Mr A.K.Choudhury, learned Addl.C.G.S.C is present for the respondents.

Case is dismissed for default of the applicant.

14.5.97

Cop of the order

has been sent to the D/Sec. for issuing the same to the L./Administr. of the ~~parties~~

pg

13/5

Member

Vice-Chairman

15.5.97

In view of the order passed in Misc. Petition No.141/97 this application is restored to file and listed for hearing on 16.7.97.

The interim order dated 22.8.1996 shall continue.

Member

Vice-Chairman

16.7.97

Due to over load on the case diary, this case is not listed today. Hence placed for orders for fixing a date of hearing.

nkm

21.7.97

There is no representation list on 4.8.97.

By order

1.8.97

4.8.97

This case is ready for hearing.

This case is ready for hearing. There is no sitting of Division Bench today. List on 11-11-97 for hearing.

11-11-97 Adjourned to 19-1-98 By order

⑤ QA 173/96

19-1-98

Case is ready for hearing

List on 21-4-98 for hearing.

  
Member

  
Vice-Chairman

This case is ready  
for hearing as  
regard service.

in

rs  
2/11

24  
20.4

21.4.98

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

  
Member

  
Vice-Chairman

nkm

15/5/98

Copies of the  
Judgment have been  
sent to the parties  
through Regd with  
A/D with 2 nos.  
1291 to 1296, on  
15.5.98.  
RS

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.172 of 1996  
Original Application No.173 of 1996  
and  
Original Application No.44 of 1997

Date of decision: This the 21st day of April 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

O.A.No.172/96

Shri Ch. Ibopishak Singh  
Divisional Accountant,  
Project Stores Division, IFC&D,  
Imphal, Manipur.

.....Applicant

By Advocate Dr N.K. Singh.

- versus -

1. The Union of India, represented by  
The Controller and Auditor General,  
Government of India, New Delhi.
2. The Accountant General (A&E),  
Manipur, Meghalaya, etc., Shillong.
3. The Chief Engineer, I&FC Department,  
Manipur, Imphal.
4. The Executive Engineer,  
Loktak Down Stream Civil Division,  
(Elect), Imphal, Manipur.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

O.A.No.173/96

Shri R.K. Sanajaoba Singh  
Divisional Accountant,  
Loktak Down Stream Civil Division,  
Electricity Department,  
Manipur, Imphal.

.....Applicant

By Advocate Dr N.K. Singh.

- versus -

1. The Union of India, represented by  
The Controller & Auditor General,  
Government of India, New Delhi.
2. The Accountant General (A&E)  
Manipur, Meghalaya etc., Shillong.
3. The Chief Engineer, I & FC Department,  
Manipur, Imphal.
4. The Executive Engineer,  
Loktak Down Stream Civil Division,  
(Elect), Imphal, Manipur.

.....Respondents

By Advocate, Mr. A.K. Choudhury, Addl. C.G.S.C.

*XB*

O.A.No.44/97

Shri Shasi Bhusan Sharma  
Divisional Accountant,  
Office of the Executive Engineer,  
Ukhrul Electrical Division,  
Ukhrul, Manipur.

.....Applicant

By Advocate Dr N.K. Singh.

- versus -

1. The Union of India, represented by  
The Controller & Auditor General,  
Government of India, New Delhi.
2. The Accountant General (A&E),  
Manipur, Meghalaya etc., Shillong.
3. The Chief Engineer, Power,  
Government of Manipur, Imphal.
4. The Executive Engineer,  
Ukhrul Electrical Division,  
Ukhrul, Manipur.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

ORDER

BARUAH.J. (V.C.)

All the three above cases involve common questions of law and facts. Therefore, we propose to dispose of all the three applications by this common order.

2. At the material time the applicants were working as Emergency (Unqualified) Junior Grade Divisional Accountant, on deputation, in Manipur under the administrative control of the Office of the Accountant General (Acctt), Meghalaya etc., Shillong. In the year 1987 all the applicants became eligible for sitting in the departmental examination for absorption as Divisional Accountant in the department in which they had been on deputation. The applicants failed to avail of the six chances they were entitled to. Thereafter, they

*[Handwritten signature]*

A

approached this Tribunal by filing original application No.258/93 (Ch.I. Singh -v- Union of India and others), original application No.1/92 (R.K.S. Singh -v- Union of India and others) and original application No.212/91 (S.B. Sharma -v- Union of India and others). This Tribunal disposed of original application Nos.1/92 and 212/91 by a common order dated 8.6.1993 giving direction to the respondents to allow six more chances to the applicants on the ground that the applicants had not been informed about the availability of chances. Original Application No.258/91 filed by Ch.I. Singh was also disposed of in a similar way by this Tribunal by order dated 10.12.1993.

3. Pursuant to the orders passed by this Tribunal, the respondents allowed the applicants to avail six chances. The respondents also filed a review application in O.A.No.258/93 and it was reviewed by this Tribunal by order dated 1.3.1994 in R.A.No.11/94. In that review order the number of chances were reduced to three. Pursuant to that the applicants appeared in the three chances. However, they could not come out successful. Hence the present applications.

4. We have heard Dr N.K. Singh, learned counsel for the applicants, Mr S. Ali, learned Sr. C.G.S.C. in O.A.No.44/97 and Mr A.K. Choudhury, learned Addl. C.G.S.C. in O.A.Nos.172/96 and 173/96. Dr Singh submits that in spite of their best effort the applicants could not come out successful. Dr Singh further submits that there is a provision of giving additional chances, which, however, the respondents did not consider. Mr Ali and Mr Choudhury, on the other hand, submit that the respondents had given the applicants enough opportunity.....

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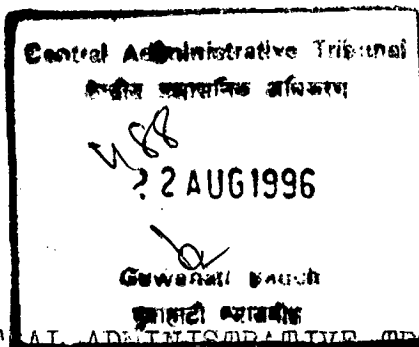
opportunity and in spite of that they failed to come out successful and no further chances should be given to them. As per rule there is a provision to give additional chances. However, it is for the authority to consider that aspect of the matter. We feel that for the ends of justice the respondents should consider whether one more chance can be given under the present facts and circumstances of the case as well as per the provisions in the rules which provide for additional chances.

5. In view of the above we dispose of the applications with direction to the respondents to consider the case of the applicants and if in the light of the provisions contained in the rules, in the opinion of the respondents one more chance can be given to the applicants to appear in the departmental examination such chance shall be given to the applicants. The respondents shall decide it as early as possible at any rate within a period of two months from the date of receipt of this order.

6. With the above observation all the three applications are accordingly disposed of. However, considering the facts and circumstances of the cases we make no order as to costs.

Sd/VICECHAIRMAN

Sd/MEMBER (A)



Filed by -  
H. A. Sarma  
Advocate  
20.8.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. NO. 172 /96

Sri R.K. Sanajaoba Singh ..... Applicant

-Vs.-

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

DETAILS OF THE APPLICATION :

1. Particulars of the applicants and designation and Office. : 1. Sri R.K. Sanajaoba Singh, Divisional Accountant, Loktok Down S-tream Civil Division, Electricity Deptt., Government of Manipur, Keishampat, Imphal, Manipur.
2. Particulars of the Respondents - Name, designation and address. : 1. The Union of India, Represented by - The Controller & Auditor, General, Govt. of India, 10 Bahadur Saha Zafar Marg, New Delhi - 110 002.  
2. The Accountant General(A&E) Manipur, Meghalaya etc. Shillong - 793 001.

2. ....

R.K. Sanajaoba Singh

Recd copy  
H.K. Choudhary  
Addl. Secy  
20/8/96

3. The Chief Engineer (I & FC)  
Department, Manipur,  
Imphal - 795 001.

4. The Executive Engineer,  
Loktak Down Stream Civil Divn.,  
(Elect.), Bishnupur, Keishampat,  
Imphal, Manipur.

3. Particulars of Order against which application is made. : 1. Order No.DA Cell/FC/RKSS/482 dated 25-6-96 issued by the Office of the Accountant General(A&E), Assam, Meghalaya etc., Shillong.

Subject in brief : The applicant prays for a direction to the Respondent to allow him to appear into the Divisional Accounts Grade Examination in view of the order dated 2-12-93 issued by the Office of the Controller and Auditor General of India.

4. Jurisdiction of the Tribunal. : The applicant is working in Office of the Executive Engr., Loktak Down Stream Civil Divn. (Electrical), Bishnupur, Keishampat, Imphal. the C.A.T., Guwahati Bench has the jurisdiction to decide the Case.

5. Limitation : This application is within the limitation prescribed under Section 21 of the Central Administrative Tribunal's Act, 1985.

6. Facts of the Case :-

(A) That the applicant who was working as Upper Division Clerk (U.D.C.) in the Office of the Executive Engineer, Flood Control and Drainage etc., I & F.C. Department, Manipur was appointed temporarily to officiate as Emergency (Unqualified) Junior Grade Divisional Accountant in the administrative control of the Office of the Accountant General (Acctt) Meghalaya, Shillong vide Establishment Order No. WM-1/84 dated 5-8-85 issued by the Deputy Accountant General (A&E), Shillong. As per the terms of the appointment, the applicant would be eligible to appear in the Divisional Test Examination after successful officiation for two years and they would be absorbed after passing the examination within the prescribed chances.

(B) At as per the existing circulars all Emergency Divisional Accountant can appear in the Examination six times and that the Respondent has the power to give additional chances beyond maximum of six.

(C) That....

12  
Engle  
R.R. Shrivastava

(C) That the applicant is not successful in qualifying in the departmental Test by availing the six chances available to him.

(D) That the Office of the Accountant General(A&E) Meghalaya etc. Shillong by Order/Letter No.DA Cell/PC/RKSS/482 dated 25-6-96 directed the Executive Engineer, Loktok Down Stream Civil Division(Elect.) Bismupur, Keishampet, Imphal, Manipur to repatriate the applicant to his parent department as he had failed to qualify himself within the prescribed chances available/offered to him.

Annexure "A/1" the above order dated 25-6-92.

(E) That the applicant continued to hold the post of Emergency Divisional Accountant till date and he has not yet been repatriate to his original Department.

(F) That the Office of the Controller and Auditor General of India issued the Circular No.2011-N-III/92-93 dated 2-12-93 addressed to all the Accountant Generals (who were dealing Divisional Accounts) stating that it has been decided that as a one time measure, the Emergency Divisional Accountant who had exhausted their normal chances may be given a maximum of two special chances to pass the Divisional Accounts Grade Examination.

*R.R. Jaiswal*

Annexure "A/2" is the above Order dated 2-12-93.

(G) That the applicant state that he is entitled to two special chances to pass the Divisional Actt. Grade Examination after he has exhausted two normal chances. The applicant submits that he is entitled to the benefit extended by the above order dated 2-12-93.

7. RELIEF SOUGHT FOR :-

(I) That the Order No.DA Cell/PC/RKSS/482 dated 25-6-96 issued by the Office of the Accountant General (A&E), Meghalaya etc., Shillong is to be set aside being illegal and unconstitutional.

(II) That the Respondents may be directed to allow the applicant to avail the two special chances to pass the Divisional Accounts Grade Examination in view of the Order No.2011-N-III/92-93 dated 2-12-93 of the Office of the Controller and Auditor General of India.

(III) That the Respondents may be directed not to repatriate the applicant to the parent department.

8.  GROUNDS : -

(1) That the applicant is to be treated equally

with .. ....

14  
R.R. Jaiswal  
Gill

with others and as such he is entitled to the benefit of two special chances as provided by the circular No.2011-N-III/92-93 dated 2-12-93 issued by the Office of Controller and Auditor General of India.

(ii) That Order No.DA Cell/PC/RKSS/482 dated 25-6-96 is illegal and arbitrary being violative of Articles 14 and 16 of the Constitution of India and as such the same is liable to be set aside.

(iii) That at any rate the decision/action of the Respondents are not tenable in Law and as such the Order No.DA Cell/PC/RKSS/482 dated 25-6-95 is liable to be set aside.

9. INTERIM ORDER, if prayed for :-

That in view of the facts and legal submissions made hereinabove it is prayed that the Respondents may be directed not to repatriate the applicant to his parent Department.

10. DETAILS OF THE REMEDIES EXHAUSTED :-

The applicant declares that he has exhausted all the remedies available to him under the relevant provisions of Law.

11. MATTERS..

75  
D. K. S. Rao  
R. R. S. Rao

11. MATTERS NOT PENDING WITH ANY OTHER COURT ETC. :-

The applicants declare that the matter regarding which this application has been made is not pending before any Court of Law or any other authority or any other bench of the Tribunal.

12. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF APPLICATION FEE :-

I.P.O. No. : 03 884500  
Date 28/4 : August, 1996.  
Payable at : Guwahati G.P.O..

13. LIST OF ENCLOSURES :-

1. No.DA Cell/PC/RKSS/482 dated 25-6-96 issued in the office of the Accountant General(A&E) Assam, Meghalaya etc., Shillong.
2. Communication/Circular No.2001-N-III/92-93 dated 2-12-93 issued from the Office of the Controller and Auditor General Of India.

VERIFICATION

I, Shri R.K. Sanajaoba Singh, aged about 49 (forty-nine) years, Son of Sajayaiona Singh, resident

of . . .

of Singjami Chirom Leikai, Imphal, Manipur working in Loktak Down Stream Civil Division, Electricity Department, Government of Manipur, do hereby solemnly affirm and state that the contents of the foregoing application are true and correct to my personal knowledge and belief and that I have not suppressed any material facts.

And I sign this Verification on this the  
22<sup>nd</sup> day of August, 1996 at Guwahati

R. K. Sarajwala Singh

Annexure "A/1"

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

S H I L L O N G

No.DA Cell/PC/RKSS/482

Dated 25-6-96

To

The Executive Engineer,  
Loktak Down Stream Civil Division(Elecs.),  
Bismupur, Keishampat,  
Imphal, Manipur.

Subject :- Repatriation of Shri R.K. Sanajaoba Singh, Divisional Accountant to his parent Department as per Judgement of the Central Administrative Tribunal, Guwahati, ~~08.06.1993~~ dated 08.06.1993 on Case No.OA No.1 of 1992

Sir,

In pursuance to the judgement of Central Administrative Tribunal Guwahati a Judgement dated 8-6-93 Shri R.K. Sanajaoba Singh unqualified Divisional Accountant (File vide OA No.1 of 1992) was ~~not~~ allowed to avail of the remaining physical 4(four) chances for appearing in the Divisional Accountant's Grade Examination held in 6/94,12/94, 6/95 and 12/95. Shri Singh has exhausted his last chance in the Divisional Accountant Grade Examination held in 12/95. In this connection para 10 the aforesaid judgement dated 8-6-93 (copy of the para 10 of the Judgement enclosed) may also kindly be referred to, wherein it was specifically ordered that if a candidate does not avail of any future chance he would be deemed to

have . . . .

*R.K. Sanajaoba*

*Attested  
OK  
Adm Cont.*

have appeared for the purpose of counting the total number of chances and those who fail will be liable to be repatriate to their parent ~~cadre~~ cadre and departments. As Shri R.K. Sanajaoba Singh failed to qualify in the Divisional Accountant Grade Examination as per aforesaid CAT's judgement, he is liable to be repatriate to his parent cadre and Department with immediate effect.

You, are therefore, requested to release Shri R.K. Sanajaoba Singh, unqualified Divisional Accountant by 5-9-96 positively with the direction to report to his parent Department (i.e Chief Engineer, I&FC, Manipur, Imphal) under intimation to this office. Substitute will be posted within 15 days.

Yours faithfully,

Encl:- As stated

Sd/- x x x

Senior Accounts Officer,

Memo No.DA Cell/PC/RKSS/483-489 Dated 25-6-96.

Copy forwarded for information and necessary action to :-

1. The Chief Engineer, I&FC Department, Manipur, Imphal.
2. Shri R.K. Sanajaoba Singh, Unqualified Divisional Accountant, Office of the Executive Engineer, Loktak Down Stream Division (Elec), Bishnupur, Keishampat, Imphal.

3. The ....

Attended  
Advocate

19  
R.K. Sanajaoba

3. The Accountant General (A&E), Manipur, Imphal.
4. P.C. File of Shri R.K. Sanajaoba Singh.
5. Repatriation File No. DA Cell/2-41/90-91.
6. Spare copy.

Attested  
Off  
Admitted

Sd/- x x x  
25-6-96  
SR. ACCOUNTS OFFICER.  
I/C DA Cell.

20  
R.R. Sanajaoba

Annexure "2"

No.2001-N-III/92-93

Office of the Controller &  
Auditor General of India  
10- Bahadur Shah Zafar Marg  
New Delhi - 110 002.

Date : 2-12-93

To

All the Accountant Generals  
(who are dealing D.A.)

Sub:- Follow up action as per Minutes of the Meeting held on 14-10-93 between the Dy. C&AG of India and representatives of all India Federation of Divisional Accountant Association.

Sir,

I am directed to refer to this Office circular letter No.422-N/44-93-II dated 10-11-93 under which Minutes of the aforesaid Meeting were circulated.

2. It has been decided that as a one-time measure the Emergency Divisional Accountants who have exhausted their normal chances and who are in position as EDAs as on the date of receipt of this letter may be given a maximum of two special chances to pass the Divisional Accountants Grade Examination. This is subject to the conditions that those E.D.A.s who have filed applications or petitions before the CAT or High Court, the

*Attended  
CAG  
Advocate*

*R.R. Jindal*

the two special chances will be allowed only if they withdraw their cases and submit a copy of the order of the order of the Court or Tribunal allowing them to withdraw their cases , along with the request for the special chances. Further, the aforesaid Special chances will have to be availed of before 31st December 1994

3. These orders will be effective from the date of issue.

Yours faithfully,

Sd/-

(R.L. Kapoor)

Sr. Administrative Officer(N--.

(General Secretary Shri Tapan Das all India Federation of Divisional Accountant Association, who collected a copy of the Head Quarter's letter and No.2012-N-III/92-93 dated 2-12-93 addressed to all the Accountant General in India wherein it was stated that.)

Attended  
Csk →  
Advocate

R.L. Kapoor

(14)

389  
23 MAR 1997  
BENCH AT GUWAHATI

23  
Filed by:-  
A. K. Choudhury  
Add. Central Govt.  
Standing Council  
18.3.97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

Filed in Court  
on.....  
Court Master

BENCH AT GUWAHATI

IN THE MATTER OF :-

OA No. 173 of 1996

Shri R. K. Sanajaoba Singh

- Versus -

Comptroller and Auditor General  
of India and others

-- A N D --

IN THE MATTER OF :-

Written Statement submitted by the  
Respondent No. 1 and 2.

WRITTEN STATEMENTS

The humble Respondents submit their  
written Statements 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 regards to the statements made in paragraphs 6(A) of the application, the Respondents submit that they have no comments on them, the same being matters of record.

3. That with regards to the statements made in paragraph 6(B) of the application the Respondents submit that the applicant was appointed as Emergency (Unqualified) Junior Grade Divisional Accountant. The conditions of recruitment and confirmation relating to the Emergency Divisional Accountant and Divisional Accountants are laid down in Chapter VII of the Manual of Standing order (Admn.) Vol. I issued by the Comptroller and Auditor General of India, who is a high ranking Constitutional authority and can be expected to act according to the needs of the service and without arbitrariness. He is the Constitutional head of one of the most important departments of the State and is expected to know what the department requires and how best to fulfil these requirements and the validity of this has been upheld by the Hon'ble Supreme Court of India in the matter of Accountant General and others V/S Dorai Swamy and others reported in A.I.R. 1981 SC page 783.

In view of the submissions made above and the conditions of recruitment etc., in regard to the applicant are regulated in terms of the following paras laid down in Chapter VII of MSO(A) Vol. I (hereinafter called Manual) issued by the Comptroller and Auditor General of India. Para 316 of the Manual lays down as under :-

Reviewed  
etc etc  
18.3.97

"All departmental candidates who have officiated as E.D.As. for a period of not less than two years (including spells totalling two years) may be absorbed in the cadre on passing the Divisional Test alone.

Those who have reverted at their own request or as a disciplinary measures can not, however, be considered. Note:- Such E.D.As. may not ordinarily be allowed more than three chances to sit for Divisional Test but the Accountant General may allow, in special cases upto three additional chances in deserving cases."

Thus as per 316 of the manual the Respondents has no Power to grant additional chances, beyond six. What the applicant has stated in the paragraph 6(B) is completely wrong and misleading and mistatement of fact.

4. That with regard to the statements made in paragraph 6(C) of the application, the Respondent submits that the applicant was appointed as Emergency unqualified D.A. during 8/1985 and he joined as Emergency unqualified D.A. on 30.7.1985, in Water Suply Div. No.IV, P.H.E. Deptt., Tamenglang, Manipur. As per the terms of appointment the applicant was allowed to appear in the D.A. Grade Examination held in 12/1987, thereafter 6/88, 12/88, 6/89, 12/89, 6/90. Though altogether 6(six) chances were given to the applicant he had appeared only 2 times in the D.A. Grade Examination. The applicant exhausted his last chance by 6/91 and thereafter as per terms of the appointment the order of repatriation, repatriating the applicant to his parent Deptt, was issued vide this office E.O. No. DA Cell/148 dt. 14.10.1991. On receipt of the repatriation order the applicant moved to CAT Guwahati and obtained a stay order against the above mentioned office order. The CAT Guwahati passed a judgement in favour of the applicant, directing this office, to allow the applicant to avail all the chances, that he did not avail earlier. As per Hon'ble CAT's judgement, the applicant was allowed 4 more chances to appear at the D.A. Grade Examination, but he failed to pass the examination even after these 4 additional chances. As the applicant could not pass and exhausted his last chance by 6/96 examination, as per the CAT's judgement [Enclo A], the order of repatriation was issued vide this office letter No. DA Cell/PC/RKSS/482 dt. 25.6.1996 directing the Executive Engineer concerned to release him on or before 30.11.96, with the direction to join his parent Department where he holds a lien. On receipt of Repatriation order, the applicant has filed this present case in the CAT, Guwahati, against this office order.

5. That with regard to the statement made in Paragraph 6(D) of the application, the Respondent submit that, they have no comments on them, the same being matter of record.

6. That with regard to the statement made in para 6(E) of the application, the respondents submits that the order of repatriation was issued by this office when the applicant failed to qualify in the DA grade examination even availing after all six chances, allowed by the Hon'ble CAT. On receipt of repatriation order, the applicant moved to CAT Guwahati and filed a Case, D A NO.173/96. The Hon'ble CAT passed an order directing this office to keep in abeyance the order of repatriation issued by this office vide letter No. DACELL/PC/RKSS/482 dated 25-04-96. Thus due to the order passed by Hon'ble CAT, the applicant could not be repatriated.

7. That with regard to the statement made in Paragraph 6(F) of the application, the Respondent submit that Circular/letter No. 2011-N-111/92-93 dt. 2.12.93, [Annexure C] issued by the Comptroller and Auditor General of India, New Delhi, to the all Accountant General in India, as regards, grant of two special chances, was applicable to those Divisional Accountants who have exhausted their last chances but did not file application or petition before the High Court or CAT. The two special chances was also applicable only to those Divisional Accountants, who withdrew their cases and submitted a copy of the order of the Court or tribunal allowing them to withdraw their cases along with the request for the special chances,

The applicant Shri R. K. Seanaijaba Singh, filed a case in the CAT during 1992 [OA No. 1/92], [Enclo. No."B"] and did not withdraw the case. The CAT Guwahati passed a judgement in favour of the applicant and allowed him to avail the hitherto unavailed 4 more chances. [Enclo.No."A"]

So the question of operation of C.&A.G's. Order/Instruction to grant 2 special chances to the applicant does not arise. Moreover there was a time limit to avail 2 more special chances. It may please be seen from the last sentence of Para 2 of C.A.G's. letter that such special chances ought to have been availed of before 31.12.94. [Enclo. No."C"]

8. That with regard to the statement made in Paragraph 6(G), of the application the Respondent submits that the applicant is not entitled to get those two special chances as the applicant filed a case and also did not withdraw his case. Application/Operation of C.&A.G's order No.2011-N-III/92-93 dt. 2.12.93 was applicable only to those Divisional Accountants who did not file case or had withdrawn their cases.

Further, application of that order even for the eligible Divisional Accountants was fixed upto 31.12.94 i.e. the eligible candidates were supposed to avail the two special chances on or before 31.12.94. Thus the aforesaid order of the C.A.G. was not applicable to him on this account also.

9. That with regard to the statement made in paragraph 7(I) (II) (III) and 8(I) (II) (III) of the application, regarding reliefs sought for and the grounds for relief, the Respondents submit that the applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed. The Respondents further submit that none of the grounds mentioned in this paragraph is maintainable in law as well as in fact and hence, the application is liable to be dismissed with costs.

10. That with regard to the statements made in Paragraph 9 of the application, regarding interim orders, the Respondents submit that in view of the facts and circumstances of the case, as stated in the preceding paragraphs, the interim order granted in this case, deserves vacation forthwith and as such the Respondents pray that the same may be vacated forthwith.

11. That with regard to the statements made in paragraph 10, 11, 12 and 13 of the application, the Respondents submit that they have no comments on them.

12. That the Respondents humbly submit that the applicant has been given as many as ten chances to qualify the examination for absorption as Divisional Accountant out of which he had actually availed of six chances which shows that the applicant was not interested or serious in passing the said examination. The applicant has not been able to qualify within the six chances and as such he is not eligible to hold the post of Divisional Accountant, which require a certain level of knowledge and skill which is tested in the examination. Hence, the application is liable to be dismissed.

13. That the Respondents submit that the applicant being not serious, alert, and interested about the examination, has not been able to pass in the Divisional Accountant Grade Examination within ten chances and as such the department has no option but to revert him to his parent department as Per CAT's judgement. [Enclo. "A"]

14. That the Respondents submit that in repatriating the applicant to his parent department no illegality, impropriety or irregularity or arbitrariness has been committed by the department and as such the application has no merit at all, the same is therefore liable to be dismissed with costs.

VERIFICATION

I, Shri G. Bhattacharjee, Senior Deputy Accountant General (Admn.) O/o the Accountant General (A & E) Meghalaya, Mizoram and Arunachal Pradesh, Shillong, do hereby solemnly declare that the statements made above in the Written Statements are true to my knowledge, belief and information and I sign the verification on the 25 th day of February 1997 at Shillong.

DEPONENT.  
उप महालेखाकार (लिखा व हकदारी)  
Sr. Deputy Accountant General (A&E)  
महालेखाकार का कार्यालय  
Office of the Accountant General  
मेघालय, मिजोरम और अरुणाचल प्रदेश  
Meghalaya, Mizoram & Arunachal Pradesh  
शिलॉंग- 793001.  
Shillong-793001.



Enelo No. A.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Date of decision: The 8th day of June 1993

O.A.No. 208 of 1991

1. Shri M. Heramani Singh ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 209 of 1991

2. Shri S. Bipin Chandra Singh ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 210 of 1991

3. Shri Shongkhodun Chongloi ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 211 of 1991

4. Shri O. Ibomeha Singh ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 212 of 1991

5. Shri A. Shashibhuson Sharma ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 213 of 1991

6. Shri B. Ibotomba Sharma ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 214 of 1991

7. Shri M. Rohini Kumar Singh ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

O.A.No. 215 of 1991

8. Shri TH. Lalkhomang ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents

8

O.A.No. 217 of 1991

9. Shri N. Joykumar Singh	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 218 of 1991

10. Shri P. Kenshong Naga	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 219 of 1991

11. Shri O. Manigum Singh	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 220 of 1991

12. Shri D. Khamza Chin	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 251 of 1991

13. Shri L. Tomba Singh	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 252 of 1991

14. Shri M. Krishnamoni Singh	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 260 of 1991

15. Shri Dinabandhu Roy	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

O.A.No. 1 of 1992

AV 16. Shri R.K. Sanajaoba Singh	: Applicant
-Versus-	
Union of India & Ors.	: Respondents

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J U D G M E N T

HAQUE .J.

The facts of these 19(nineteen) cases and the reliefs sought for by each of the applicants in the cases are similar and the considerations for decisions on facts and law will be similar. So all these nineteen cases are taken up analogously for disposal by this single judgment.

2. The applicants in the above cases while serving as UDA Clerks in different departments under the Government of Manipur, had been appointed by respondent No.2, Accountant General (A & E), Assam, Meghalaya etc., Shillong and officiating as Emergency Divisional Accountants (EDA) under the terms and conditions vide separate orders in respect of each of the applicants. They are serving as officiating Divisional Accountants under the said Accountant General since appointment. Now the Accountant General (A & E), Assam, Meghalaya etc., Shillong by separate orders <sup>with</sup> reverted the applicants to their respective parent departments on the ground that they could not qualify in the Departmental Tests within six <sup>in the Departmental Tests</sup> chances as per terms of appointment. <sup>Relevant</sup> The particulars of each of the applicants are described hereunder:-

Applicant	Appointment Order to EDA	Reversion Order
1. Sri Heramani Singh	E.ostt. Order No. WM. I/78 dated 5.8.1985	E.O. No. DA-Cell/14 dated 14.10.1991
2. Sri S. Bipin Chandra Singh	E.O. No. WM. I/79 dated 5.8.1985	E.O. No. DA-Cell/13 dated 11.10.1991

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O.A.No. 112 of 1992

17. Md Noor Rahman : Applicant  
-Versus-  
Union of India & Ors. : Respondents

O.A.No. 157 of 1992

18. Shri N. Kesho Singh : Applicant  
-Versus-  
Union of India & Ors. : Respondents

O.A.No. 203 of 1992

19. Shri L. Krishna Gopal Singh : Applicant  
-Versus-  
Union of India & Ors. : Respondents

For the applicants : Mr P.C. Katak, Mr G.K. Bhattacharjee, Mr R. Barua, Ms G.D. Mazumdar and Mr G.N. Das, Advocates

For the respondents : Mr G. Sarma, Addl. C.G.S.C. & Mr A.K. Choudhury, Addl. C.G.S.C.

C O R A M:

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (A).

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment is to be circulated to the other Benches of the Tribunal?

.....

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3. It was stated in the appointment orders that the applicants would be eligible to appear in the Divisional test examinations after successful officiation for two years and then they would be absorbed after passing the examination within the prescribed chances. As per the existing circulars, an EDA can appear in the examination six times and the respondent No.1 has power to give additional chances beyond the maximum of six.

It was stated that in spite of such requirements of passing in examinations for absorption as Divisional Accountant, the applicants (Deptt) were not seriously insisting on the same. The applicants to appear in the tests and there were a large number of unqualified DA serving in the Department. But suddenly from 1990 the Respondent No.2 (AG) passed an order reverting some of the EDA back to their parent departments on the ground that they failed to qualify in the departmental tests within maximum numbers of chances. Some of these EDA approached this Tribunal against such orders in O.A.No.196/90 and series which were decided in a direction vide judgment dated 17.5.1991 with directions that they (EDA - applicants) should be given six chances positively/physically to qualify in the tests and on their successful completion be considered for absorption as Divisional Accountants and further holding that in counting the number of chances, the number of opportunities offered, though not availed of should be ignored. Again this Tribunal has subsequently in another set of nine (9) similar applications namely O.A.No.72/91 and series passed similar direction vide judgment dated 12.9.1991.

4. It was stated that the instant cases of 19 (nineteen) applicants are similar to those series

Applicant	Appointment Order to EDA	Reversion Order
3. Shri Shongkhodun Shongloi	E.O.No.WM.I/45 dated 5.8.1985	E.O.No.DA-Cell/139 dated 11.10.1991
4. Shri O. Ibomsha Singh	E.O.No.WM.I/144 dated 5.8.1985	E.O.No.DA-Cell/145 dated 14.10.1991
5. Shri A. Shashi-bhuson Sharma	E.O.No.WM.I/54 dated 5.8.1985	E.O.No.DA-Cell/150 dated 14.10.1991
6. Shri B. Idotomba Sharma	E.O.No.WM.I/69 dated 5.8.1985	E.O.No.DA-Cell/149 dated 14.10.1991
7. Shri M. Rohini Kumar Singh	E.O.No.WM.I/41 dated 5.8.1985	E.O.No.DA-Cell/135 dated 11.10.1991
8. Shri TH. Lalkhomang	E.O.No.WM.I/62 dated 5.8.1985	E.O.No.DA-Cell/134 dated 11.10.1991
9. Shri N. Joykumar Singh	E.O.No.WM.I/72 dated 5.8.1985	E.O.No.DA-Cell/142 dated 14.10.1991
10. Shri P. Kenshong Naga	E.O.No.WM.I/70 dated 5.8.1985	E.O.No.DA-Cell/147 dated 14.10.1991
11. Shri O. Manigun Singh	E.O.No.WM.I/80 dated 5.8.1985	E.O.No.DA-Cell/140 dated 11.10.1991
12. Shri D Khamza Chin	E.O.No.WM.I/92 dated 5.8.1985	E.O.No.DA-Cell/141 dated 19.10.1991
13. Shri L. Tomba Singh	E.O.No.WM.I/89 dated 5.8.1985	E.O.No.DA-Cell/138 dated 11.10.1991
14. Shri M. Krishna- moni Singh	E.O.No.WM.I/68 dated 5.8.1985	E.O.No.DA-Cell/143 dated 14.10.1991
15. Shri Dinabandhu Roy	E.O.No.WM.I/63 dated 5.8.1985	E.O.No.DA-Cell/151 dated 14.10.1991
16. Shri R.K. Sana- jaoba Singh	E.O.No.WM.I/84 dated 5.8.1985	E.O.No.DA-Cell/148 dated 14.10.1991
17. Md. Noor Rahman	E.O.No.WM-I/162 dated 12.3.1987	E.O.No.DA-Cell/30 dated 29.4.1992
18. Shri N. Kesho Singh	E.O.No.WM.I/65 dated 5.8.1985	E.O.No.DA-Cell/56 dated 23.6.1992
19. Shri L. Krishna Gopal Singh	E.O.No.WM.I/158 dated 12.3.1987	E.O.No.DA-Cell/111 dated 1.10.1992

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(196/90 and 72/91) decided vide judgment dated 17.5.1991 and 12.9.1991 and therefore, these applications under Section 19 of the Administrative Tribunals Act, 1985 praying for similar reliefs. These 19 (nineteen) applicants of the instant cases are now serving as Divisional Accountants on the strength of stay orders passed in each of the cases.

5. The respondents by written statements besides mentioning requirement of passing the examinations it was further stated that the test is held twice a year and the unqualified EOAs are required to sit for each of the test till they qualify and they can avail maximum six chances. Whether they sit or not, unless get a specific exemption order from appearing in a particular test, every abstention from the test, when held, is counted as one of the six chances for the EOA. The AG (Respondent No.2) by a circular dated 8.2.1979 had warned the unqualified EOA who are eligible to sit in the departmental test should take the test and pass it within the earliest available chances, otherwise they would run the risk of reversion to their parent departments.

6. Learned counsel Mr G.K. Bhattacharjee for the applicants submits that these cases are covered by the previous judgments dated 17.5.1991 and 12.9.1991 of this Tribunal in series of cases namely O.A.No.196/90 and O.A.No.72/91 respectively. It is further submitted that this Tribunal relied upon the judgment dated 29.10.1990 of the Jabalpur Bench (C.A.T.) in O.A.Nos. 172/88 and series (15 cases) in rendering judgments in the previous two series of cases (O.A.No.196/90 and 72/91) and that the said judgment of Jabalpur Bench case be safely relied

upon.....

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upon for disposing the present 19 (nineteen) cases. Learned Addl. Central Government Standing Counsel, Mr G. Sarma and Mr A.K. Choudhury submit that as per terms of appointment as EDA when they failed to qualify in the departmental tests by availing consecutive six chances, the orders of reversion are justified. They further submitted that the Divisional Accountants should be technically qualified and fully conversant in Rules/Regulations for efficient discharge of duties and therefore, fixed chances are given to the unqualified (EDA) to get qualified within the prescribed period, else they are supposed to be treated as inefficient and liable for reversion. It is further submitted that the judgment passed by the Allahabad Bench (CAT) dated 12.2.1991 in O.A.No.906/90,, O.A.No.912/90 and O.A.No.914/90 dismissing those applications is fully applicable in the instant nineteen cases and the facts are similar to the Allahabad cases.

7. In our previous judgments dated 17.5.1991 and dated 12.9.1991 in two sets(series) cases, we had discussed the merits of both Jabalpur and Allahabad decisions in order to eliminate one and accept the other for actual fitting on facts and law to the cases before us for decision in May 1991 and September 1991 and there we held that the decision of Jabalpur Bench (CAT) stood completely similar on facts and law and acted relying on that decision of the Jabalpur Bench (CAT). We do not find any reason to change our views. Therefore, the decision of Jabalpur Bench dated 29.10.1990 is relied upon for, effectively disposing the instant nineteen cases.

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8. Learned Addl. C.S.S.C. submit that some of the applicants (in O.A.Nos. 212/91, 213/91, 215/91, 220/91, 251/91 and 260/91) did not avail any of the last six chances and, therefore, they deserve no sympathy in regard to their order of reversion. Mr G.K. Bhattacharjee submits that such instances arose in the previously decided cases (2 sets) and they were allowed to avail six chances and the same may be maintained. We accept the submission of Mr Bhattacharjee.

9. We hold that these nineteen cases of the nineteen applicants are fully covered by our previous judgments dated 17.5.1991 and 12.9.1991 (O.A.No.196/90 series and O.A.No.72/91 series) and deserve similar reliefs.

10. These nineteen applications are allowed with the following orders/directions on the respondents:

Firstly, all the impugned orders of repatriation of the applicants(19) in these nineteen cases are quashed.

Secondly, to count the number of chances already physically taken by each of the applicants. The number of opportunities offered, but not availed of, should be ignored.

Thirdly, after counting the number of chances in this manner those who have physically availed of all the six chances shall be given one additional special chance for appearing in the test to be held in 1993 with at least one months prior notice for preparations, and if no examination is held in 1993 hereafter, then in 1994 in the first examination with one months notice.

38/6

Fourthly, those who have not availed of six physical chances shall be given the remaining chances so as to make a total of six chances for passing the departmental test. In their cases if they do not avail of any future chance they would be deemed to have appeared for the purpose of counting the total number of chances.

Fifthly, if any of these applicants succeed in the test to be held in future within the chances computed in sub-paragraphs, (secondly, thirdly and fourthly) above he shall be considered for absorption as Divisional Accountant. Those who fail will be liable to be repatriated to their parent cadre and departments.

Sixthly, the stay order passed in each of the nineteen cases are now made absolute.

11. Intimate all concerned with copy of the judgment for implementation.

SD/ S.HAQE,  
VICE CHAIRMAN  
SD/G.L.SANGLYINE  
MEMBER (ADMN)

*Attested*  
*[Signature]*  
Addl. Central Secy  
Standing Committee

TRUE COPY  
*[Signature]*  
Deputy Registrar (Judicial)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati  
*[Signature]*  
22/6

Encl No. B

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Central Administrative Tribunal  
Guwahati Bench, Guwahati  
17

A.K.S. SINHA... petitioner - vs - U.G.I.S. Orgs... respondents.

For the petitioner :- P.K.C. Kheski,  
A.K. S. Sinha, Advocate,  
A.K. S. Sinha, Advocate.

For the respondent :- P.K.C. Kheski,  
A.K. S. Sinha, Advocate,  
A.K. S. Sinha, Advocate.

For the respondent :- P.K.C. Kheski,  
A.K. S. Sinha, Advocate,  
A.K. S. Sinha, Advocate.

Date  
6.1.92

C.A.T.R.

Heard learned counsel Mr. G.K. Shattacharjee on behalf of the applicant. Perused the grievance and prayer in the application.

This application is admitted. Issue notice on the respondents under registered post. Learned Addl. C.S.C. Mr. G. Sarma takes notice of this case.

Fix 13.1.92 for further orders.

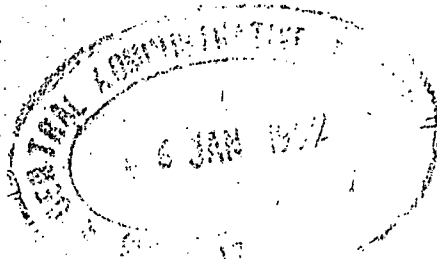
Heard counsel of the parties on the interim prayer. The operation of the impugned order No. DA Cell/148 dated 15.10.91 and the order under telegram dated 28.12.91 relieving the applicant from 15.1.92 are stayed and the applicant shall not be reverted to the parent department until further orders from the Court.

Sd/- S. Sarma,  
Vice-Chairman.

TRUE COPY

Deputy Registrar (Judicial)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

17/1/92  
Sd/- S. Sarma



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI.

Shri R.K. Sanajaoba Singh

..... Applicant

-Versus-

Union of India & others

..... Respondents.

1. Particulars of the applicant.

- (i) Shri R.K. Sanajaoba Singh
- (ii) Son of Shri Sanayama Singh.
- (iii) aged about 42 years.
- (iv) Divisional Accountant,  
Office of Executive Engineer,  
Mechanical Division No.2, P.W.D.,  
Porompat, Imphal.

2. Particulars of the Respondents.

- (i) Comptroller and Auditor General of India,  
New Delhi.
- (ii) Accountant General (A & S), Meghalaya etc. Shillong.
- (iii) Chief Engineer,  
Irrigation & Flood Control Department,  
Imphal, Manipur.

3. ...

3. The application is against the following orders:

Order No. D.A. Cell <sup>dt</sup> 14.10.91 passed by Respondent No.2 reverting the applicant to his parent Department and Telegram from Respondent No.2 directing that the applicant will be deemed to have been relieved with effect from 15.1.92.

4. The applicant declares that the subject matters of the orders are within the jurisdiction of this Tribunal.

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

6. Facts of the case:

1) That the applicant was originally serving as a Upper Division Clerk in the office of the Executive Engineer, Flood Control and Drainage Division, Imphal under the State Government of Manipur. While serving as such, the Respondent No.2 by his order No. Estt. Order No. WM.1/84 dated 5.8.85 appointed the applicant to officiate as Emergency Divisional Accountant under certain terms and conditions.

A copy of the said order is annexed herewith and marked as Annexure-1.

(ii) That the applicant duly joined his new post under the Accountant General and he is continuously serving in the said post and getting all the benefits given to the employees of the Accountant General in the Central Government scale of pay. The applicant has appeared in two Divisional Test Examinations and he has been exempted in (1) English, Praces etc. and (2) P.W. Account (Practical).

(iii) That the Respondents did not take any steps for getting the applicant qualified in the Divisional Test Examination although the appointment order specifically mentioned that the applicant would be eligible to appear in the said examination after successful officiation for two years and that he would be absorbed after passing the examination within the prescribed chances. In point of fact though the passing of the examination was a pre-condition, many Emergency Divisional Accountants were retained without insisting on their qualifying in the Departmental Tests. Moreover, no training or coaching facilities were given to the Divisional Accountants for appearing and passing the said examination. The applicant, however, was carrying out his duties as Divisional Accountant sincerely and to the satisfaction of all concerned and not clearing the test was not an impediment while serving as Divisional Accountant.

(iv)...

(iv) That, as per the existing circulars, an Emergency Divisional Accountant can appear in the examination six times and the Respondent No.2 has powers to give additional chances beyond the maximum of six chances.

(v) That, as stated above, inspite of the requirements of passing the examination, the Department was not seriously insisting on the Divisional Accountants to appear in the examinations and there were a large number of unqualified Divisional Accountant serving in the Department. Suddenly from October, 1990 some Emergency Divisional Accountants were reverted back to their parent Department on the ground that they had failed to qualify in the Departmental Tests within the maximum number of chances. These Divisional Accountants approached this Hon'ble Tribunal against their order of reversion and this Hon'ble Tribunal was pleased to stay the operation of the reversion orders. Thereafter, this Hon'ble Tribunal, after hearing the parties, by judgement dated 17.5.91 in OA No.196/90 and others disposed of the cases by directing that the applicants be given six chances physically to pass the examinations and on successful completion be considered for absorption as Divisional Accountants. This number of chances, the number of opportunities offered but not availed...

availed of should be ignored. This Hon'ble Tribunal subsequently, in another set of nine similar application being OA 72/91, by judgement dated 12.9.91, passed similar directions.

(vi) That the applicant who is similarly situated and is covered by the decision of the aforesaid judgements was expecting that he would be getting the similar chances and as such he was surprised to receive the impugned order No.DA.Cell/148 dated 14.10.91 communicated vide Memo No.DA Cell/3-6/87-65/Vol.1027-37 dated 2.9.85, whereby the applicant was reverted to his parent Department on the ground that he failed to qualify, himself in the Divisional Test Examination within the prescribed six chances.

(vii) That as similar cases had been disposed off by this Hon'ble Tribunal, the applicant was expecting that as he was similarly situated he would get the same benefit as others but the Respondent No.2 has now by telegram received by the applicant on 28.12.91 directed that the applicant ~~xxx2xx18x91~~ would be deemed to have been relieved with effect from 15.1.92 and as such he is approaching this Hon'ble Tribunal.

A copy of the telegram is annexed herewith and marked as Annexure-II.

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7. Details of the remedies exhausted.

The applicant does not have any remedies under the Rules.

8. The applicant further declares that he has 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 no such application/writ petition or suit is pending.

9. Relief sought and grounds:

I. For that the impugned order reverting the applicant to his parent department after he had put in several years of continuous service was passed in a most arbitrary manner in violation of all principles of natural justice and Rules and as such the impugned order is bad in law and liable to be set aside.

II. For that the applicant did not avail of all the number of chances available to him and as such the authorities ought to have given the applicant a chance to appear in the examinations and that having not been done the impugned order is bad in law and liable to be set aside.

III...

III. For that this Hon'ble Tribunal in CA 195/90 and others decided on 17.5.91 and CA 72/91 and others decided on 12.9.91 held that persons similarly situated were entitled to get six physical chances to pass the examinations and as such the applicant ought to have been given the six chances before being reverted to his parent Department.

IV. For that the applicant who is similarly situated ought to have been given the benefit of the judgment of this Hon'ble Tribunal in Case No. CA 195/90 and CA 72/91 before being reverted to his parent Department and that not having been done the impugned order is bad in law and liable to be set aside.

V. For that in any view of the matter the impugned order is bad in law and liable to be set aside.

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the opposite parties to show cause as to why the impugned order (Annexure-II) should not be set aside and after hearing the parties set aside the impugned order and/or pass any other order/orders as Your Lordships would

deem...

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deem fit and proper so as to grant adequate relief to the applicant.

10. Interim Orders:

It is further prayed that pending disposal of the application Your Lordships would be pleased to stay the operation of the impugned order Annexure-II.

11. Does not arise.

12. Bank Draft No. 182321 dt. 31.12.21

Verification...

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VERIFICATION

I, Shri R.K. Sanjaya Singh, son of Shri Sanayama Singh, aged about 42 years, at present posted as Divisional Accountant, Office of the Executive Engineer, Mechanical Division No.2, P.W.D. Porompat, Imphal, Manipur, do hereby verify that the contents of paragraphs 1, 2, 3, 6, 8, 10, 11 and 12 are true to my knowledge and those made in paragraphs 4, 5, 7 and 9 are believed to be true as legal advice and that I have not suppressed any material fact.

Signature.

27

-32-

1/28/85

OFFICE OF THE ACCOUNTANT GENERAL (ACCOUNTS)  
REGULATIONS: SILLONG,

....

Ref. Under No. WM. 1/84

DL SILLONG, the 5-8-85

Srri/Srri. RK Sanjaya Singh, UDC

Office of the FF Flood Control & Drainage Division S-2, JFE

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.

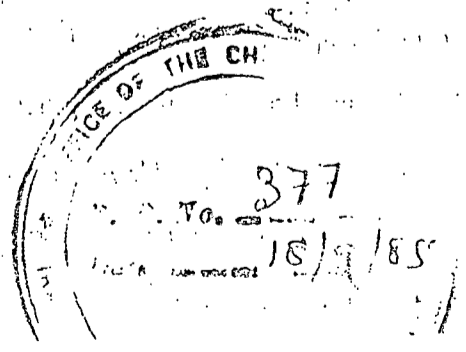
(b) That in case of any change made subsequently in the mode of fixation of pay by the Govt. of India, his pay will be re-fixed on that basis.

(c) 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 Accountants 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 Engineers 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 officiate as Emergency (Unqualified) Junior Grade Divisional Accountant will be effective from the date(s) he/she takes over charge as such in

Water Supply Division No. VI, P. H. E. Deptt. Manipal  
Tamenglong

Division to which he/she is posted.

6. Before Shri/Smt. R. Sanjasa 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 endorsed to this office. Unless Shri/Smt. R. Sanjasa Singh

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

Sd/-  
Deputy Accountant General (AcE).  
Dt. Shillong  
the

REGISTERED/  
Memo. No. WM. I. / (D.A. Cell) / 3-6/87-63 / Vol. V / 1027-37

Copy to:-

(78)

- 1) The Accountant General, (Accounts) Manipur, Imphal
- 2) The Chief Engineer, P. H. E. Deptt. Manipal, Imphal
- 3) The Superintending Engineer P. H. E. Deptt. Manipal, Imphal

Contd....3....

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- 4) The Executive Engineer, Flood Control and Drainage Division No. I,  
LuF.C. Deptt., Manipur, Imphal. He is requested to obtain the  
Undertaking mentioned at para 6 above from Shri/~~xxxxx~~  
R.K. Sanajoba Singh, U.D.C. and forward the same to this  
office immediately.
- 5) The Executive Engineer, Water Supply Division No. VI, P.H.E.,  
Deptt., Manipur, Imanglong. He is requested to forward the  
joining report along with the Service Book and copy of the Last  
Pay Certificate of Shri/~~xxxxx~~ R.K. Sanajoba Singh  
to this office immediately, for fixation of his/~~xxx~~ pay.
- 6) Shri R.K. Sanajoba Singh, U.D.C., Office of the Executive  
Engineer, Flood Control & Drainage Division, No. I, LuF.C. Deptt.,  
Manipur, Imphal.
- 7) P.A. to D.A.G. (Accounts),
- 8) P.C. File.
- 9) S.O. File.
- 10) S.C. File.
- 11) File No. WA.I/2-1/79-30/Vol. III.

Deputy Accountant General (AcE).

*[Handwritten signature]*

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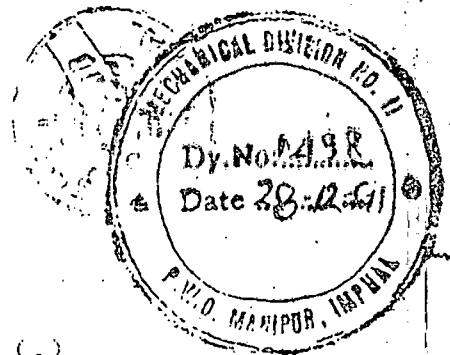
Annex = 11

DE Supt. (ii)  
ZCZC EIPIA0044 PPP EIPIA

34/26

X 1050 D 63 SHILLONG 20 UTE 102  
EXENGER

MECHANICAL DIVN NO 2 ( PWD )  
IMPHAL *of paramed -*



DA CELL/3971 (.) REFOUR EO NO 148 DATED 14/10/91 (.)  
RELEASE R K SANOJA OBA SINGH E D A IMMEDIATELY WITHOUT WAITING FOR A SU

STITUTE

(.) HE MAY BE DIRECTED TO REPORT TO CHIEF ENGINEER

*Acct*  
*25/12*  
AND FC DEPTT IMPHAL (.) IF NOT RELIEVED BY THEN HE WILL BE DEEMED  
TO

HAVE BEEN RELIEVED WITH EFFECT FROM 15/1/92 (.) ~~SHRI A K KUNDU DAO~~

~~IMPHAL STORE~~ ~~ERE~~ ~~AT~~ ~~SHRI A K KUNDU DAO II IMPHAL STORE PWD~~  
DIVISION DIRECTED TO LOOK AFTER THE WORK OF YOUR DIVISION (.)

ACCOUNTS JMEGHALAYA SHILLONG

COL 2 3971-148 14 10 91 L DAO II 15 1 92

=== ESHSHCO319  
NNNN

*Attested*  
*AK Chawla*  
Addl. Control Govt  
Standing Counsel

Encl No. C

- C O P Y -  
E N C L O N O . C -

BY SPEED POST

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NO 2011-N-III/99-93

OFFICE OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA  
10, BAHADUR SHAH ZAFAR MARG  
New Delhi-110002  
DATE 2.12.93

To

The Accountant General(A&E)  
(Dealing with DA's cadre)  
( as per list enclosed)

Subject:- Follow-up action as per Minutes of the Meeting held on 14.10.93 between the Dy. Comptroller & Auditor General of India and the representative of All India Federation of Divisional Accounts Association

Sir,

I directed to refer to this office circular letter No.422-N.4/44-93-II dated 10.11.93 under which Minutes of the aforesaid Meeting were circulated.

2. It has been decided that as a one-time measure the Emergency Divisional Accountants who have exhausted their normal chances and who are in position as EDAs as on the date of receipt of this letter may be given a maximum of two special chances to pass the Divisional Accountants Grade Examination. This is subject to the conditions that those EDAs who have filed applications or petitions before the CAT of High Court, the two special chances will be allowed only if they withdraw their cases and submit a copy of the order of the Court or Tribunal allowing them to withdraw their cases, along with the request for the Special chances. Further, the aforesaid ~~chances will~~ special chances will have to be availed of before 31st December 1994.
3. These orders will be effective from the date of issue.

Yours faithfully,

Sd/-  
( R.L. KAPOOR )  
SR. ADMINISTRATIVE OFFICER ( N-I)

Attended  
A. K. Choudhary  
Addl. Central Govt.  
Standing Counsel

