

30/100

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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 12/2000 OF 199

Applicant(s) *Sree Develove Dasgupta Medhi.*

Respondent(s) *Union of India and ORs.*

Advocate for Applicant(s) *Mr. M. Chandra.*
Mr. N. D. Goswami.

Advocate for Respondent(s) *C.G.S.C.*

Notes of the Registry	Date	Order of the Tribunal
<p>deposited with IPO ID No. 456747 Dated 11-1-2000</p> <p><i>By 18/1/2000</i></p> <p><i>By 18/1/2000</i></p>	19.1.2000	<p>Présent: Hon'ble Mr.G.L.Sanglyine, Administrative Member</p> <p>This application has been filed by the applicant seeking certain directions in regard to his transfer and posting in SISI,Guwahati. In this application the applicant has submitted representation dated.28.5.99. But no reply has been received from the respondents. The applicant is still serving as Skilled Worker Gr.I in S.I.S.I. at Imphal.</p> <p>I have heard learned counsel of both sides. I am of the view that there is no case for scrutiny and decision in the present O.A. I therefore, dispose of the application with direction to the respondents to dispose of the representation dated.28.5.99 submitted by the applicant. The applicant may also submit fresh representation. If the fresh representation is submitted by the applicant the</p>

✓

✓

Notes of the Registry

Date

Order of the Tribunal

19.1.2000

the respondents shall consider the representation also. They shall communicate a speaking order to the applicant within a period of two months from the date of receipt of this order. Application is disposed of. No order as to costs.


Member

lm

8-2-2000

Copy with application has been sent to the Despatch Section for issuing to the L/Advocates to the parties.

NS
8/2/2000

Issued vide Memo NO 414 dated 8-2-2000

NS
8/2/2000

13 JAN 2000

Guwahati Bench

Filed by the applicant
N.D. Goswami
Advocate
13.1.2000

In the Central Administrative Tribunal

Guwahati Bench :::: Guwahati.

O.A. No. 12 /2000.

Shri Durlove Chandra Medhi.

..... Applicant.
-Versus -

Union of India and others.

..... Respondents.

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Filed by

N.D. Goswami.
Advocate.

Durlove Medhi

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In the Central Administrative Tribunal

Guwahati Bench ::: Guwahati.

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

O.A. No. 12 /2000.

BETWEEN

Shri Durlove Chandra Medhi

Son of *Late R. Medhi*

Skilled Worker Grade-I

Small Industries Service Institute

Imphal - 795 001 (MANIPUR)

..... Applicant.

AND

1. The Union of India
Through the Secretary to the
Government of India,
Ministry of Industry,
Department of S.S.I.,
Agro & Rural Industries,
New Delhi.
2. The Development Commissioner
Small Scale Industries,
Nirman Bhawan, New Delhi-11.
3. The Director (Admn.)
Office of the Development Commissioner (SSI),
Nirman Bhawan, New Delhi -11.

Durlove Medhi

4. The Director,
Small Industries Service Institute,
Takyelpat Industrial Estate,
Imphal - 795001 (MANIPUR).

5. The Director,
Small Industries Service Institute,
Bamunimaidan, Guwahati-11.

..... Respondents.

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

This application is made not against any particular order but challenging the illegal and arbitrary action of the respondents in not transferring the applicant from Imphal to Guwahati.

2. Jurisdiction.

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

3. Limitation.

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

Durlove Mehta

4. Facts of the case.

4.1. That the applicant is a Citizen of India and as such entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2. That in pursuance to an interview held on 5.7.89, the applicant was appointed under the respondents in the post of Skilled Worker Grade-I vide memorandum dated 23/24-8-1990 issued by the Director, Small Industries-Service (for short, SISI), Guwahati. The scale of pay of the applicant was fixed at Rs. 1320-2040/- per month.

A copy of the aforesaid memorandum dated 23/24-8-1990 is annexed herewith as Annexure - 1.

4.3. That after his appointment as stated above, the applicant continued to discharge his duties with all sincerity and devotion. However, subsequently by virtue of an order dated 28.1.93 passed by the Director, SISI, Guwahati and order dated 2.2.93 passed by the Director, SISI, Imphal, the applicant was retrenched from service. He thereupon approached this Hon'ble Tribunal in O.A. No. 31/93 challenging the action of the respondents in retrenching him from services. The Hon'ble Tribunal, after considering the case of the applicant, disposed of the said application vide Judgment dated 24.8.94 with a direction upon the respondents to reinstate the applicant with

Dwirove Medhi

-4-

retrospective effect w.e.f. 1.6.92. The respondents thereafter, in compliance of the direction of this Hon'ble Tribunal, reinstated the applicant in the post of Skilled Worker Grade-I at SISI, Imphal with effect from 1.6.92 vide memorandum No. A/20113/92 dated 9.11.94. The entire period w.e.f. 1.6.92 was treated as on duty.

A copy of the aforesaid memorandum dated 9.11.94 is annexed herewith as Annexure- 1A.

4.3. That thereafter the applicant resumed his duties at SISI, Imphal and started to work as before. It may be pertinent to mention here that though the applicant was posted at Imphal, his family composing of minor children and wife was residing at Tinsukia and as such the applicant was finding it most difficult to manage his family at Tinsukia. Be mentioned that the wife of the applicant being a chronic heart patient was under constant medical treatment and was also advised to avoid trouble some journey. Under such circumstance, the applicant was thus required to stay with his family or alternatively at some place nearer to Tinsukia in order to run and manage the family smoothly. He therefore filed a representation before the Respondent No.4 on 5.1.96 narrating all the circumstances and praying for his transfer to SISI, Guwahati . But no favourable action was taken on the said representation and thus the applicant had to approach the Respondent No.2 through another representation dated 28.6.96 reiterating

Durlove Meethi

his prayer for transfer.

Copies of the aforesaid representations dated 5.1.96 and 26.6.96 are annexed herewith as Annexure - 2 and 3 respectively.

4.4. That the applicant states that even after filing of the abovementioned representations no fruitful action was taken by the respondents and the applicant had to continue at SISI, Imphal under compelling circumstances and on the verbal assurances of the respondents that his case would be considered. The applicant, however, did not lose hope and continued to press the matter hard seeking transfer in any place in Assam. Be mentioned that the appointment of the applicant carried liability to serve anywhere in the States of Assam, Meghalaya and Arunachal Pradesh. But surprisingly the applicant has been denied posting at any of those places due to the reasons best known to the Respondents. Nevertheless, the applicant being apprehensive of a favourable action, again approached the Respondent No.2 through representations dated 13.6.97 and 18.11.98. It may not be out of place to mention that during the last part of the year 1998 a vacancy of skilled worker Grade-I was available at Silchar and therefore the applicant in his representation dated 18.11.98 prayed for his transfer at Silchar. But unfortunately, the Respondent No.2 did not act on either of the representations filed and thus the grievances of the applicant was not redressed.

Durlove Mehta

The applicant does not annex copies of the said ~~xxxx~~ representations dated 13.6.97 and 18.11.98 for the sake of brevity. He, however, craves leave of this Hon'ble Tribunal to refer to and rely upon the same at the time of hearing, if need be.

4.5. That the applicant states that as none of his earlier representations yield any result, he lastly filed a representation to the Respondent No.3 on 28.5.99 praying for his transfer to SISI, Guwahati. But till date no action whatsoever has been taken by the Respondents to transfer the applicant to Guwahati. It may be stated herein that at present one post of Skilled Worker Grade-I is lying vacant at SISI, Guwahati (Assam) and the applicant can suitably be accomodated against this vacancy at Guwahati.

A copy of the aforesaid representation dated 28.5.99 is annexed herewith as Annexure-4.

4.6. That the applicant states that in view of ~~the~~ his appointment, he is entitled to be posted at any place in the States of Assam, Meghalaya and Arunachal Pradesh. But the respondents have denied this to the applicant without any just and reasonable ground. Moreover, they have not responded to the representations filed by the applicant. Under this circumstances, if this Hon'ble Tribunal do not protect the applicant by an appropriate order or direction, the would suffer irreparably.

Durlove Mishra

4.7. That this application is filed bonafide and in the interest of justice.

5. Grounds with Legal Provisions :

5.1. For that, the action of the respondents in not posting the applicant in any of the States of Assam, Meghalaya and Arunachal Pradesh in violation of the terms of appointment is illegal and unjustified.

5.2. For that, the respondents have acted illegally and arbitrarily in not disposing of the representations of the applicant.

5.3. For that, the respondents have acted in a glaringly arbitrary and unfair manner in not transferring the applicant to Guwahati considering his genuine problem and attending circumstances of the case.

5.4. For that, the action of the respondents is violative of Article 14 and 16 of the Constitution of India.

5.5. For that, in view of the order of appointment dated 23/14-8-1990, the applicant is entitled to be posted within the States of Assam, Meghalaya and Arunachal Pradesh.

Durlove Kethi

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5.6. For that, vacancy in the post of Skilled Worker-Grade-I is available at SISI, Guwahati and the applicant can suitably be accommodated against the same.

5.7. For that, in any view of the matter the action of the respondents is bad in law and liable to be declared illegal.

6. Details of Remedies Exhausted :

The applicant declare that they have no other alternative or efficacious remedy except by way of filing this application before the Hon'ble Tribunal.

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

The applicant further declare that he has not filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs Sought For :

Under the facts and circumstances narrated above, the applicant prays for the following reliefs :

8.1. That the applicant be declared entitled to be posted within the States of Assam, Meghalaya and

Durlove Medhi

and Arunachal Pradesh in terms of the order of his appointment issued vide memorandum dated 23/24.8.90.

- 8.2. That the Respondents be directed to transfer the applicant and post him in the available vacancy at SISI, Guwahati.

- alternatively -

The respondents may be directed to post the applicant at any place within the State of Assam.

- 8.3. Any other relief or reliefs which the applicant is entitled to in the facts and circumstances of the case.

- 8.4. Cost of the application.

9. Interim Relief Prayed for :

That the applicant prays for the following interim relief during pendency of the instant application.

- 9.1. That the respondents be restrained from filling up the post of Skilled Worker Grade-I lying vacant at SISI, Guwahati.

- 9.2. Any other interim relief which the applicant is entitled to in the facts and circumstances of the case.

10. The application is filed through Advocate

Durlove Medhi

-10-

11. Particulars of I.P.O.

- i. I.P.O. No. - 062 456747
- ii. Date - 11. I. 2000.
- iii. To whom Payable - The Registrar, CAT.
- iv. What office - G.P.O. Guwahati.

12. List of enclosures :

As per Index.

Verification...11/

Durove Medhi

V E R I F I C A T I O N

I, Durlove Chandra Medhi, son of *Late R. Medhi*
aged about *48* years, working in the office of the
~~Skilled~~ Small Industries Service Institute, Employees
Skilled Worker Grade-I, Imphal, Manipur, do hereby verify
that the statements made in paragraphs 1 to 4 and 6 to 12
are true to my knowledge and those made in paragraph 5
are true to my legal advice and I have not suppressed
any material fact.

And I sign this verification on this the day of
13th day January, 2000.

Durlove Medhi

Signature.

Gram: Smallind
Tlx : 235-2379 ASEX IN

REGISTERED

Phonds : 31949
31950

Government of India
Ministry of Industry
Small Industries Service Institute
Bamunimaidan
Guwahati-21

No. A-12021/2/86-Part-I/4639-

Date the 23-8-1990.

MEMORANDUM

- 8 Set
1. With reference to his interview, dated 5-7-1989 the Director, Small Industries Service Institute, Guwahati is pleased to offer Shri/~~Shrimati~~ Dunlora chandra Medhi Registration No. 354/76-Tinsukia, Em. Ex. temporary post of Skilled Worker (w.T. (M.T.)) in ~~Small Industries Service Institute, Guwahati/~~Branch Institute, Shillong, Jura (Meghalaya), Diphu, Tezpur, Silchar (Assam), New Itanagar (Arunachal Pradesh)/Extension Centre, Tinsukia/Jorhat (Assam) & P.T.S Tinsukia in the scale of pay Rs. 1320-30-1560-EB-40-2040/. The appointee will also be entitled to draw dearness and other allowances at the rates admissible under and subject to the conditions laid down in rules the orders governing the grant of such allowances in force from time to time.
 2. THE TERMS OF APPOINTMENT ARE AS UNDER :
 - i) The appointment is temporary and will not confer any title to permanent employment.
 - ii) The appointment will be on trial for Two years, the period is liable to be extended or curtailed at the discretion of the appointing authority. During this period his/her services may be terminated at any time without assigning any reasons.
 - iii) If during trial period Shri/~~Smt.~~ Dunlora chandra Medhi may desire to leave the Organisation, one months' clear notice will be necessary.
 - iv) On completion of the trial period the appointment may be terminated at any time by a month's notice given by either side. The appointing authority reserves the right of terminating his services forthwith or before the expiry of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
 - v) The appointment carries with it the liability to serve anywhere in Assam, Meghalaya & Arunachal Pradesh.
 - vi) He will have to attain the speed of 30(thirty) words per minute in type within 6(six) months from the date of appointment. Other conditions of services will be governed by the relevant rules and orders in force from time to time.
 3. THE APPOINTMENT WILL BE FURTHER SUBJECT TO :
 - 1) Production of Certificate of Fitness from the Civil Surgeon.

- 2) Submission of a declaration in the form enclosed and in the event of the candidate having more than one wife living the appointment will be subject to his/her being exempted from the enforcement of the requirement in his behalf.
- 3) Taking on Oath of Allegiance/Fidelity to the Constitution of India.
- 4) Production of the following original certificates together with one attested copy.
 - (a) Degree/Diplomas/Certificates of educational and other Technical qualification, if any.
 - (b) Certificate of age.
 - (c) Character Certificate from the Gazetted officer of the Central/State Government.
 - (d) Service Certificate of previous employment, if any.
 - (e) Certificate in the prescribed form in support of candidate's claim to belong to Scheduled Castes or Tribes/Anglo Indian Communities. (The Certificate should be signed by the District Officer or the Sub-Divisional Officer or any other officer of the District in which his/her parents ordinarily reside, who has been assigned by the State Govt. concerned as competent to issue such Certificate, if both parents are dead, of the District in which he himself resided otherwise than for the purpose of his own education. Where the Certificates are issued by Gazetted Officer of the Union Government or State Govt., they should be countersigned by the District Magistrate or Deputy Commissioner or Sub-Divisional Officer.)

It may please be stated whether the candidate is serving or is under obligation to serve another Central Government Department or State Government or In public authority.

5) If any declaration given or information furnished by the candidate, is found to be false or if the candidate is found to have removed from service and such other action as Government may deem necessary.

6) If Shri/Smt./Miss Durlava Chandra Medhi accepts the offer on the above terms he/she should report for duty to the Director, SISI, Bamunimaidan, Guwahati-21/ Dy. Director/Asstt. Director Incharge, Branch SISI/Extn. Centre F.T.S. TINSUKIA immediately but not later than 24-9-1990 failing which the offer will be treated as cancelled. While reporting for duty he/she should produce the documents mentioned in para 3 above.

7) No travelling allowance will be allowed for joining the appointment or on termination thereof unless otherwise admissible under rules.

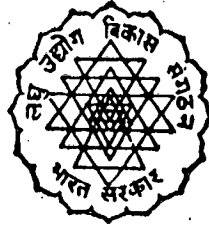
C.P. Choudhary
27/8/90
(C.P. Choudhary)
ASSISTANT DIRECTOR (ADMN.)
FOR DIRECTOR
ब.क.सं. गुवाहाटी (प्रशासन)
Assistant Director (Admn.)
ब.क.सं. गुवाहाटी-21
U.I.S.I., Guwahati-21.

To
Shri/Smt./Miss Durlava Chandra Medhi,
Parbatia Road,
P.O. - TINSUKIA (Assam)

- Copy to :-
- 1) The Asstt. Director/Dy. Director I/c, SISI Branch/Extn. Centre F.T.S. TINSUKIA (Assam).
 - 2) The Asstt. Employment Officer, Dist. Employment Exchange, TINSUKIA (Assam)
 - 3) Personal file of Shri Durlava Chandra Medhi
 - 4) Recruitment File of Class employees/staff, SISI, Ghy
 - 5) Office Suplt. (Accounts,) SISI, Ghy
 - 6) P.A.O. (SSI), Calcutta-35.
 - 7) File no. A-16011(3) 190-Adm (C.P. Choudhary) Assistant Director (Admn.) for Director

तार : स्मालइन्ड
फोन : 220584, 223096

उद्योग सेवा संस्थान
कृषि एवं ग्रामीण उद्योग विभाग
उद्योग मंत्रालय, भारत सरकार
सी - 17/18 ताक्येत्पात इन्डस्ट्रियल इस्टेट
इम्फाल - 795001, मणिपुर



Gram : SMALLIND
Phone : 220584, 223096

SMALL INDUSTRIES SERVICE INSTITUTE
Deptt. of SSI, Agro & Rural Industries
Ministry of Industry, Govt. of India
C-17/18 Takyelpat Industrial Estate
Imphal - 795001, Manipur

संख्या/No A/20113/92/

दिनांक/Dated, the 09/11/94

M E M O R A N D U M

In pursuance of Development Commissioner (SSI), New Delhi's letter No.C-18013/2/93-A(NG) dated 23/9/94 and to implement the Hon'ble "Central ADMINISTRATIVE TRIBUNAL", Guwahati Bench judgement dated 24/8/94 regarding OA 31/93 Shri D.C.Medhi, Skilled Worker Gr.I -Vs- U.O.I., the Director, Small Industries Service Institute, Industrial Estate, Takyelpat, Imphal-795001 is pleased to reinstate Shri D.C.Medhi in the post of Skilled Worker Gr.I at SISI, Imphal with retrospective effect from 01/6/92, who is retrenched from service vide order No.A/11011(2)/92 dated 28/1/93 of Director, SISI, Guwahati and No.A/20113/93/6553 dated 2/2/93 of Director, SISI, Imphal.

Shri Medhi will be entitled for full pay and allowances admissible to him as per rule w.e.f. 01/6/92 treating the entire period as on duty.

(V.S. MURTY)
DIRECTOR

To
Shri D.C.Medhi,
Parbotia Road,
P.O.Tinsukia,
Assam.

Copy to:-

1. The Development Commissioner (SSI), Nirman Bhavan, New Delhi-11 for favour of kind information. This has reference to his letter No.C-18013/2/93-A(NG) dt.23/9/94 addressed to Director, SISI, Calcutta and copy endorsed to this Institute please.
2. The Director, SISI, Indl. Estate, Bamuni Maidan, Guwahati-21 for information and necessary action please. This has reference to his letter No.C-14014(13)/93/3967 dated 7/10/94.
3. The Accounts Officer, Pay & Accounts Office (SSI), 111/112 B.T.Road, Calcutta for information.
4. The Director, SISI, Hospital Road, Agartala for information.

(V.S. MURTY)
DIRECTOR

R/m

From : Sri Durlova Ch. Madhi,
S.I.S.I., Imphal.

To : The Director,
S.I.S.I., Imphal,
Takyelpat Industrial Estate Imphal/Manipur.

Sub : In the matter of application for transfer
to Guwahati Centre.

Respected Sir,

The, undersigned respectfully begs to state the following and hope to receive due consideration and necessary order for the same.

1. That sir, the undersigned has been presently in service at S.I.S.I. in its Imphal Centre in the capacity of skilled worker Grade-I, since 1992 and has been properly discharging his duties thereof with due ability.

2. That the ordinary residence of the undersigned is at Tinsukia (Assam) and is domicile in the state of Assam. Further the family of the undersigned is at present residing at Tinsukia with her three little school going (under Assamese-medium school) children having no male guardian to constantly look after them.

3. That due to his service in Imphal the undersigned has to simultaneously manage his ordinary residence at Tinsukia so his wife has been under medical advice to avoid troublesome journey for her developing hypertension.

4. That for above reasons, the undersigned considers it reasonable to file before your Honour an application seeking for his transfer to Guwahati centre. Further your honour may be pleased to see that his appointment carries the liability to serve anywhere in Assam.

Under the above circumstances your honour is requested to be pleased to transfer the undersigned from Imphal to Guwahati centre or to kindly make necessary arrangement for his transfer to Guwahati. And for this act of your kindness, the undersigned shall be ever grateful.

Yours faithfully,

Dated/Imphal.
The 5th June, 1996.

(D. Madhi)
(Durlova Ch. Madhi)
S.I.S.I., Imphal.

To,
The Development Commissioner,
Small Scale Industries,
Nirman Bhavan, 7th Floor,
Maulana Azad Road,
NEW DELHI - 110 011.

.....

(SHRISHANKER BROTHAR CHANDRA)

Subject :- Request for transfer from SISI Imphal
to Gauhati.

Sir,

With due respect, I have the honour to request you
the following few facts for your kind consideration and
sympathetic action.

That, I am working as Skill Worker Gr-I in SISI
Imphal since 1992. I am the only male member in my family
and my family consists of my ailing wife and minor school
going children. My wife is a chronic heart patient who
needs medical care and required prolong treatment. I being
far away from my home, It is very difficult to ^{concentrate}
perform my normal duties at SISI, Imphal.

There is no male members to look after my ailing
wife and I am to rush towards my home for her treatment
as and when required.

In fore-running circumstances may I earnestly
request you to consider my posting at SISI, Gauhati from
SISI, Imphal to look after my ailing wife and children
as well as to devote myself towards the service.

Thanking you.

Yours faithfully,

(Signature)

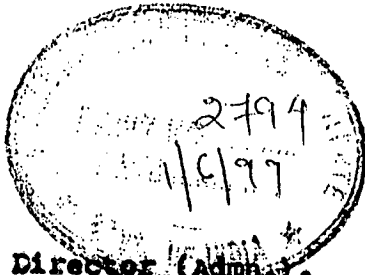
Encl : Undertaken.

(D.C. MEZHI)
SKILL WORKER GR. I.
SISI, IMPHAL

Date : 20/6/96

Enclosure

Photo copy of Medical certificate for your kind
consideration.



From : Shri D.C. Medhi,
Skilled Worker Gr-I,
S.I.S.I., Imphal-795001

To,

The Director (Admin.),
Office of the Development Commissioner,
Small Scale Industries,
Nirman Bhawan, 7th Floor,
New Delhi - 110011.

(Through Proper Channel)

Respected Sir,

I beg to represent my transfer case expecting favour from you, Sir.

I joined your organisation as Skilled Worker, Gr-I at F.T.S. Tinsukia on 31.8.1990 on closing the F.T.S. I was transferred to SISI, Imphal in the same capacity in 1992.

My appointment order states to serve the states of Assam, Arunachal Pradesh & Meghalaya. When I was transferred to SISI, Imphal, I was given assurance that as and when the post of Skilled Worker, Gr-I, will be vacant in any one of these three states, your request for transfer will be considered.

I have come to know from the reliable sources that there is a vacancy for the post of Skilled Workers Gr-I at SISI, Guwahati (Assam).

Sir, I am sending my representation for transfer since 1995 but no response or no favour. Really I am having family problems at my native. My wife is sick and suffering with heart problem and there is non-body to look after her at Tinsukia, my native place. And every now and then to visit my place is very costly affair. Once again I request you to help me by transferring me to SISI, Guwahati a nearer place to my native before I proceed to CAT.

Thanking you,

Yours faithfully,

Medhi
(D.C. MEDHI)

Date : 28/5/99

Dr. Rubul Ch. Baruah

M.B.B.S., M.D. (Medicine)
Specialist in Medicine & Heart Diseases

Phone : 22882

CONSULTANT PHYSICIAN
G.N.B. Road, TINSUKIA
Near L.I.C. Building

Date 16/5/97

To a whom it may concern

Certify that Mrs
Hemi Meachhi, aged 40 yrs, wife
of Mr. Dorlov Ch. Meachhi,
is under my treatment for
"Paroxysmal Supraventricular
Tachycardia" since April, 1996
till.

[Signature]
16/5/97

Consulting Time - 12 Noon - 2 p.m.
5 p.m. - 8 p.m.
Closed

E.C.G. on Appointment