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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 98/2004

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SECTION OFFICER (Judl.)

Kahls
09.11.17

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH.

ORDER SHEET

Org. App./ Misc. Petn/ Cont. Petn/ Rev. Appl. 98/04

In O.A.

Name of the Applicant(s) Sanjeeb Kumar Bora

Name of the Respondent(s) Cor 2018

Advocate for the Applicant Mr A.C. Buragohain, Mr N. Borah

Counsel for the Railway/ C.G.S.C. Rly Counsel

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

28.4.2004

Heard Mr. A.C. Buragohain, learned counsel assisted by Mr. N. Borah, for the applicant and also Mr. S. Sarma, learned S.C. for the Railway.

This application is in form is filed/C. F. for Rs. 30/- deposited vide 119389/52
No. 119389/52
Dated 26/4/04

Dy. Registrar

The application is admitted, call for the records. Issue notice to the parties, returnable within four weeks List on 31.5.2004 for orders.

Steps Taken without
enquiry

W. B.
26/4/04

100/04
Member (A)

mb

Notice & order dt. 28/4/04 sent to D/Section for issuing to respondent nos. 1 to 5, by Regd. with A/D post.

On the plea of counsel for the respondents four weeks time is given to the respondents to file written statement. List on 28.6.2004.

100/04
Member (A)

mb

14/5/04

vide memo No-781 to 784

25/5/04 A/D card return from resp. No- 4. 11/6/04

26.7.2004

Three weeks time is granted to the respondents to file written statement as prayed by Mr.B.C.Pathak, learned Addl.C.G.S.C.

List on 17.8.2004 for written statement.

K.V. Prahladan
Member (A)

bb

17.8.2004

Heard Mr. A. C. Buragohain, learned counsel for the applicant and also Mr. B. C. Pathak, learned Addl. C.G.S.C. for the respondents.

List on 16.09.2004 for filing written statement.

Pendency of this application shall not be a bar on the respondents to give suitable posting to the applicant.

K.V. Prahladan
Member (A)

15-9-04

Notice duly served mb

On 2-10-04

No-obj. has been filed

16.9.04.

Present: Hon'ble Mr. Justice R.K. Batta
Vice-Chairman.
Hon'ble Mr. K.V. Prahladan,
Administrative Member.

Heard Mr. A.C. Buragohain learned counsel for the applicant and Mr. B.C. Pathak, learned Addl. Counsel for the Respondents. Mr. B.C. Pathak, learned Railway counsel has placed before us, remarks on Para 11 by Deputy CMD, N.F. Railway. On the basis of said remarks he has submitted before us that the direction be issued to DR.M. Tinsukia to forward duly completed in accordance with the law to the Director, Medical Board at Maligaon by routing through proper channel so that further action can be taken. The learned counsel for the applicant has no objection for such direction. Accordingly, we ordered that the aforesaid direction be issued to DRM, Tinsukia

contd/-

Notes of the Registry

Date

16.9.04.

Depute Despatch Rider
to deliver the order
dated 16.9.04 to Sri
B.C. Pathak learned
Railway counsel by
hand.

By Joseph

17.9.04

S.O. (C)
N.F. Railway
17/9/04

Recd
B.C. Pathak
17/9/04

Order of the Tribunal

Present: Hon'ble Mr. Justice R.K. Batta
Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administrative
Member.

Heard Mr. A.C. Buragohain learned
counsel for the applicant and Mr. B.C. Pathak
learned Railway counsel for the Respondents.
Mr. B.C. Pathak, learned Railway counsel
before us remarks on Para 11 by Deputy
CMD, N.F. Railway. On the basis of said
remarks he has submitted before us that
the direction be issued to DRM, Tinsukia
to forward G-37 form ~~forward~~ duly comple-
ted in accordance with the law to the
Director, Medical Board at Maligaon by
routing through proper channel so that
further action can be taken. The learned
counsel for the applicant has no objec-
tion for such direction. Accordingly, we
order that the aforesaid direction be
issued to DRM, Tinsukia for necessary
action. The matter be listed after Winter
Vacation on 8.11.04. The steno copy of
the order duly authentic^{ated} issued by
Deputy Registrar ^{and} be handed over to the
Railway counsel within three days from
to-day.

K. D. D. S.
Member

R.
Vice-Chairman

lm

8.11.2004

Mr. A.C. Buragohain, learned counsel
for the applicant and Mr. B.C. Pathak, lea-
rned counsel for the Railways were prese-
nt.

Mr. B.C. Pathak, learned counsel for
the Railways prays that further time of
two weeks be given to complete the forma-
lities for the purpose of placing the
applicant before Me/dical Board for exa-
mination as per rules. S.O. to 13.12.04.
No further adjournment shall be granted
in the matter. If the matter is adjourned

Contd.

Contd.

file comply order
dated 8/11/04.
m
9/10/04.

Received
Bm (Applicant)
9/11/04

Received
Bm (Applicant)
22/11/04

8.11.2004 once again, costs of adjournment shall be borne by the respondents and the costs shall be recovered from the personal pocket of the officer responsible in the matter.

Copy of the order duly authenticated by Deputy Registrar to be given to the learned Railway counsel Mr.B.C. Pathak within three days from today.

[Signature]
Member (A)

[Signature]
Vice-Chairman

bb

13.12.04.

Mr.A.C.Buragohain learned counsel for the applicant and Mr.B.C. Pathak, learned Railway counsel for the Respondents.

The learned counsel for the Respondents states that the written statement is ready, but is required to be signed and the same will be filed within two weeks from today with advance copy to the learned counsel for the applicant. The learned counsel for the applicant may file rejoinder if any, within three weeks from to-day. The matter be listed for hearing on 18th January, 2005.

[Signature]
Vice-Chairman

Notice duly served on
Respondents No. 1 to 5

Service of notice is still
awa of Respondents
1, 2, 3, 4, 5

Reply has not been

11.2.2005

Present: Hon'ble Shri M.K. Gupta,
Judicial Member

Hon'ble Shri K.V. Prahladan,
Administrative Member.

Request is made on behalf of Mr B.C. Pathak, learned counsel for the respondents. Adjourned to 10.3.05.

[Signature]
Member(A)

[Signature]
Member(J)

nkm

Case is ready for hearing.

14-12-04
W/S filed by the
Respondent Nos. 1 to 5.

[Signature]

Notes of the Registry	Date	Order of the Tribunal
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10.3.05

Present: Hon'ble Mr. Justice G. Sivarama
Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administra-
tive Member.

At the request of learned counsel
for the applicant as also learned Standin
counsel for the Railway, case is adjourn
to 22.3.05.

K.V. Prahladan
Member

G. Sivarama
Vice-Chairman

lm

22.3.05.

Judgment delivered in open Court.
Kept in separate sheets. Application is
disposed of.

K.V. Prahladan
Member

G. Sivarama
Vice-Chairman

lm

Case is set for hearing.
al

Received copy
N. Bala
Advocate
13/4/05

6.5.05
Copy of the Judgment
has been sent to the
Office for hearing the
case to the applicant as
well as to the Rly. Counsel
al

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 98 of 2004

DATE OF DECISION 22.3.2005

Shri S.K. BorahAPPLICANT(S)

Mr. A.C. Buragohain, Mr. N. BoraADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India & Ors.RESPONDENT(S)

Mr. B.C. Pathak, Rly. CounselADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. **JUSTICE G. SIVARAJAN, VICE-CHAIRMAN**

THE HON'BLE MR. **K.V. PRAHLADAN, ADMINISTRATIVE MEMBER**

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 ?

Judgment delivered by Hon'ble **VICE-CHAIRMAN**

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

ORIGINAL APPLICATION NO. 98 OF 2004.

Date of Order: This, the 22nd Day of March, 2005.

HON'BLE MR. JUSTICE G. SIVARAJAN, VICE-CHAIRMAN

HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Sanjeeb Kumar Bora,
Son of Sri Lila Kanta Bora,
Resident of zoo Narangi Road, Chinaki Path (1st bye lane)
Guwahati-24, Dist. Kamrup, Assam. Applicant.

By Advocates Mr. A. C. Buragohain and Mr. N. Bora.

-Versus-

1. Union of India
Represented by the General Manager,
N.F. Railway, Maligaon.
2. The Chief Signal and Telecommunication Engineer.
N.F. Railway, Maligaon (O&H).
3. The Chief Personnel Officer,
N.F. Railway, Maligaon
4. The Chief Medical Director,
N.F. Railway, Maligaon.
5. The Divisional Railway General Manager,
N.F. Railway, Tinsukia. ... Respondents.

By Advocate Mr. B. C. Pathak, Railway Standing Counsel.

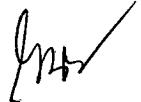
ORDER (ORAL)

SIVARAJAN J. (V.C):

The applicant is a Junior Engineer-II (Signal) in the N.F. Railway. Initially he was appointed at Mariani. It is stated that due to pain developed in his Spinal Cord, later diagnosed as Slip-Disc the applicant had undergone treatment initially at Mariani and later he was referred to Central Railway Hospital, Maligaon. The

applicant applied for medical leave with effect from 9.4.03, supported by Medical Certificate and Prescription. On 16.6.03 due to this ailment the applicant filed an appeal before the Railway authority informing his problem arising out of medically suffering disabilities and prayed for change of category and transfer to head office at Maligaon. He made a further representation to the Chief Signal & Telecommunication Engineer, Maligaon on 28.7.2003. He also prayed for extension of leave from 30.8.2003 to 15.9.03 (vide letter dated 29.8.2003) followed by another letter for further extension of the leave from 16.11.03 to 15.12.03 (Vide Annexures E & E 1). The General Manager (P), Maligaon considering his representation dated 29.8.2003 for change of category submitted by the applicant wrote to Railway Manager, Tinsukia to direct the applicant for Special Medical Test by Medical Board. The applicant appeared before the Medical Board. The Divisional Railway Manager (P), Maligaon struck off the applicant's name from the Sick List with effect from 9.8.03 and treated the leave period as "unauthorized absence" with retrospective effect. The applicant sent reply to the Divisional Railway Manager (P), Tinsukia. The applicant has stated that he had not been served with copy of the medical report of the Medical Board. However, the applicant subsequently got the Medical Report. Later, the applicant was posted at Marioni and the applicant had joined the said post.

2. Mr. A. C. Buragohain, learned counsel for the applicant submits that the leave period with effect from 9.4.03 till date of joining duty at Marioni was treated as unauthorized absence. Counsel submitted that in view of the fact that the Medical Report (Annexure R-6 to the written statement) has clearly stated that the applicant had some disabilities the leave period ought to have been regularized treating as eligible leave as per leave account of the applicant. The counsel also submits that in view of the opinion given by the Medical Board that the applicant



was suffering from some disabilities and that by physical exertions like prolong walking if will recur, the applicant should have been posted in a Station where medical facilities are available. The counsel further states that the applicant has not been given the salary for the period from 1.9.2003 for which a direction has to be issued by the Respondents.

3. The Respondents have filed their written statement on 14.2.04. They have also produced the Medical Report (Annexure R-6) and other communications. Mr. B.C. Pathak, learned Railway counsel, based on the averments made in the written statement and on the basis of the Medical Report (Annexure R-6) submitted that the applicant had undergone medical treatment at Maligaon and thereafter, instead of going back to Marioni after taking treatment at Maligaon, the applicant remained unauthorisedly absent at his place of posting for which the name of the applicant was struck off from the Sick List. However, the Railway counsel submits with reference to the opinion expressed by the Medical Board that the applicant has got some ailment for which the applicant should avoid exertion and accordingly had recommended to utilize the applicant's service in the office in the same category.

4. We have considered the rival submissions. Admittedly, the Medical Board (Annexure R-6, Para 7) had opined thus:

"Patient gets relief with conservative treatment but recur after physical exertion like prolong walking. Hence the member of the medical Board recommend to utilize his service in the office in the same category as there will be no exertion to Mr. Bora and his condition might improve. In the meantime he should continue physiotherapy. Case to be reviewed after one year."

Now it is seen that the above opinion is accepted and the applicant has been posted at Marioni to work in the office in the same category. It is also clear from the opinion of the Medical Board that the applicant has got some ailment and he



needs treatment. Thus the fact remains that even according to medical report accepted by the respondents the applicant has some medically related health problem which requires treatment, physiotherapy and special case. In such a situation, it cannot be said that the leave on medical ground applied for was totally without any bonafides. The respondents have a case that the applicant after taking treatment at Central Railway Hospital at Maligaon ought have gone back to Mariani and attended office but he remained at Maligaon unauthorisedly absenting from duty and therefore his name was struck off from the Sick List. There may be some justification for doing so. However, having regard to the fact that the Medical Board had recommended to utilize the services of the applicant in the office in the same category, the applicant might have thought that such an arrangement is made it is necessary to remain at Maligaon where effective treatment could have been obtained. Considering all the circumstances the respondents should have treated the period of absence from duty as eligible leave as per rules. This not having been done we direct the respondents to treat the period of absence from duty as eligible leave under the rules and to pay salary, if any due, for the said period on that basis.

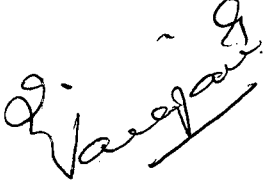
5. The applicant has got a further case that he requires treatment for his ailment and that there is no medical facilities at Mariani where he is at present working. In view of the Medical report it appears there is some justification for the request. However, it is for the applicant to bring to the notice of the authorities regarding the absence of medical facilities at Mariani. Accordingly, we direct the applicant to make a detailed representation before the Respondents requesting for a posting in a place where medical facilities are available within a period of six weeks from today. Since the learned counsel for the applicant states that the applicant has not been paid the salary for the period from 1.9.2003, this matter also can be

Jpr

projected in the representation to be filed as directed herein above. The Respondents will pass appropriate orders on the representation as early as possible at any rate within a period of two months from the date of receipt of the representation.

6. Application is disposed of as above.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE-CHAIRMAN

LM

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

IN THE MATTER OF :

O.A. No. 98/2004.

Sri Sanjib Kumar Bora

. . . Applicant.

- Versus -

Union of India & Ors.

. . . Respondents.

LIST OF DATES AND SYNOPSIS

The applicant above named most respectfully submits that this Original Application seeking a direction upon the respondents for set aside and quash the Order dated 17.02.2004 by which the Medical Leave of the applicant is converted to 'unauthorised absence' and unilaterally striking off the name of the applicant from the sick-list.

That some of the relevant dates with brief facts leading to filing of the present application are as under:-

- | | | |
|----|------------------------|---|
| 1. | 23.06.98 | Applicant joined the post of Junior Engineer (II) Signal, N.F. Railway 23.6.98 at Mariani, after passing the Railway Recruitment Board's Examination in the year 1997. He has completed 18th months training. |
| 2. | 09.04.03 | Applicant had to go on Medical leave w.e.f. 9.4.03 for acute back-pain caused by slip-Disc. and undergo medical treatment at Mariani and shifted to Railway Hospital, Maligaon. |
| 3. | 30.04.03 &
16.06.03 | Applicant filed an appeal before the Chief Signal & Telecommunication Engineer, N.F. Railway, Maligaon informing his problems arising out of medically suffered disabilities and prayed by change of category and transferred to Head Office at Maligaon. |

(Annexures- A & B, Pages - 17 to 18)

Contd...2

4. 23.07.03 &
04.07.03

Another representation to the Chief Signal & Telecommunication Engineer, N.F. Railway, Maligaon alongwith medical certificates dated 04.07.03 suffering as Inter Vertebral Disc prolapse of Lumber Spince since 01.11.2002.

(Annexures - C & D, Pages - 19 to 20)

5. 29.08.03

Prayer for further extension of leave w.e.f. 30.08.03 to 15.09.03 for a period of 17 days after non consideration of his representations

(Annexures - E & E2, Pages - 21 to 22)

6. 28.07.03

Circular/Office Memorandum dated 28.07.03 modifying the earlier provision, "for absorption of medically decatagorised staff in alternative employment, implementation of revised procedure prescribed in pursuance of the person with disabilities (Equal opportunities, protection of Rights and Full participation) Act, 1995.

(Annexure-F, Page - 23 to 24.)

7. 04.07.03

Medical Reports and with prescription issued by Sr. D.N.O., Central Hospital, N.F. Railway, Maligaon & further representation.

(Annexures - G & H, Pages - 25 to 32)

8. 14.11.03 &
09.12.03

Railway Administration considered the case of the applicant and the SPO(TEST) acting on behalf of the General Manger (P), N.F. Railway, Maligaon wrote on 14.11.03 to the DRM (P), N.F. Railway, Maligaon wrote to on 14.11.03 to the DRM (P), N.F. Railway, Tinsukia to conduct a special medical examination by Medical Board in the Central Hospital, Maligaon & ordered to do needful. Accordingly, the Divisional Rly. Manager (P), Tinsukia wrote to the applicant on 09.12.2003 and

accordingly got him examined but for some strong reasons the Medical Report is not sent to the Divisional Railway Manager (P) and to the appropriate authorities to take appropriate decision.

(Annexures -I & J, Pag. - 33 to 34)

9. 17.02.04

Applicant is surprised to receive a letter dated 17.2.04 issued by the Divisional Railway Manager, N.F. Railway, Tinsukia informed about the unilateral decision of striking out the name of the applicant 'Sick List' w.e.f. 9.8.03 and construed his medical leave period as unauthorised absent without prior notice.

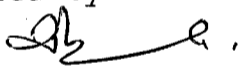
(Annexure - K, Page - 35)

10. 24.02.04

Reply letter/representation issued by the applicant.

(Annexure - L, Page-36)

Filed by


Advocate

15
Central Administrative Tribunal

26 APR 2004

গুৱাহাটী বেন্চ
Guwahati Bench

DISTRICT : JORHAT.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH .

O.A. NO. 98 OF 2004.

BETWEEN

Sri Sanjeeb Kumar Bora, ... Applicant.

AND

Union of India & Ors., ... Respondents.

- I N D E X -

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Filed by : N. Barah
(NIRAN BARAH)
Advocate.

File

Registration No:

Date :

DISTRICT : JORHAT.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

GUWAHATI.

CASE NO. O.A. 98 /2004.

IN THE MATTER OF :

Sri Sanjeeb Kumar Bora,
S/O Sri Nila Kanta Bora,
Resident of Zoo Narangi Road,
Chinaki Path (1st bye lane),
Guwahati-24, Dist. Kamrup, Assam.

LAST EMPLOYED :

As Junior Engineer-II Signal, N.F.Railway,
Moriani, Dist. Jorhat, Assam.

... Applicant.

- Versus -

1. The Union of India,
Represented by the General Manager,
N.F.Railway, Maligaon.
2. The Chief Signal and Telecommunication
Engineer, N.F.Railway, Maligaon (O&H).
3. The Chief Personal Officer,
N.F.Railway, Maligaon.

Filed by the applicant
in Sanjeeb Kumar Bora
Singh Niran Bora,
Assam.

Ab
(NIRAN BORA)
28/4/04

Sanjeeb K. Bora.

4. The Chief Medical Director,
N.F.Railway, Maligaon.

5. The Divisional Railway General
Manager, N.F.Rly., Tinsukia.

.. Respondents.

DETAILS OF APPLICATION :

1. Particulars of the Order against which the application is made. : Order dt. 17.2.04 bearing No. E/T-39/I/V(N) Sig/Pt-III, issued by Sri R.L.Bhagat (APO/I/TSK) for the D.M. Rly. Manager(P), N.F.Rly., Tinsukia striking off the name of the petitioner from the Sick List w.e.f. 9.8.03 and construing his leave period as unauthorised absent till date.

(Anx.- 'K').

2. Non-implemation of the Circular, (General Manager(P), Maligaon dt.28/7/03) bearing No.MD.211.E/205/2 Part V(C) regarding absorption of Medically decata-
gaised staff in alternative employment-Implementation of revised procedure prescribed in persuance of the provisions

Sanjeev K. Bora

with disabilities (Equal opportunities protection of rights and full participation Act. 1995).

3. Appearance of the petitioner for Special Medical Examination on 9.2.04 as per direction dt. 14.11.03 and 9.12.03 issued on behalf of G.M.(P), N.F.Rly., Maligaon and Divisional Rly. Manager(P), Tinsukia respectively, and non-communication of the Medical Report to the Concerned Authority.
4. Enforcement of the petitioner's right to be absorbed/placed in alternative employment in the same Department such as Drawing Branch of C.S.T.E. Office in equal status, he being medically handicapped to continue in the present employment as Junior Engineer Signal-II.
5. Non-consideration of the representations dt. 3/10/03 and 26/11/03 praying to place the petitioner in identical alternative service due to his problem of Slip-Disc and acute pain in the Spinal Cord.

- Sanjeeb W. Bora -

6. Non-payment of salary of
the petitioner since 1/9/03
and other Allowances etc.

2. Jurisdiction of the Tribunal. : The applicant declares that
the subject matter of the
order against which he wants
redressal is within the
Jurisdiction of the Hon'ble
Tribunal.

3. Limitation. : The applicant further
declares that the applica-
tion is within the limitation
period prescribed in Section
21 of the Administrative
Tribunal Act, 1985.

v Sanjeeb un. Bora.

FACTS OF THE CASE :

1. That, the petitioner is a citizen of India by birth and permanent resident of Zoo Narangi Road, Guwahati. He is also belonged to the Scheduled Caste Community.
2. That, the petitioner joined the post of Junior Engineer(II) Signal, N.F.Rly. on 23/6/98 at Mariani, after passing the Railway Recruitment Boards' Examination (both written & Oral) held in the year 1997. He has also successfully completed 18 months training, after his initial appointment as Junior Engineer-II.
3. That, thereafter, the petitioner has been discharging his duties sincerely to the satisfaction of all concerned as J.E.(II) signal at Mariani. It may be mentioned that the petitioner while performing his duties has to travel a lot in the Railway Tracts with lifting considerable hand-load of Equipments/Tools weighting several kilos. In the process, as ill-luck could have it, the petitioner developed a pain in his Spinal-Cord, which later on, developed to an accute back pain, which was diognised as Slip-Disc. This medical problem of this petitioner developed in the early part of Nov.2002.
4. That, the petitioner was confined to bed for accute back-pain caused by Slip-Disc and had to go on Medical Leave with effect from 9/4/03, and under gone Medical treatment 1st through the local doctors at Mariani and then shifted to the Railway Hospital, Maligaon and gone under treatment of Orthopedic Surgeon and thereafter, under gone specialised treatment under Orthopedic Professor of Gauhati Medical College at Guwahati. After prologed

Sanjeeb K. Bora

specialised treatment the petitioner was slightly cured but the doctor advised lighter duty, and preferably office work, not to take field duty and to avoid travel and lifting of heavy weights.

5. That, the petitioner, being suffered by Slip-Disc, has filed an appeal before the Chief Signal and Telecommunication Engineer, N.F.Railway, Maligaon on 30/4/03 and 16/6/03 informing his problems, arising out of medically-suffered disabilities and prayed for "change of Catagory" and transfer to Head Office at Maligaon and post at Drawing Branch in equivalent post which would give him protection from further aggrevation of his Slip-Disc problem.

(A copy of the representation dated 30/4/03 and 16/6/03 are annexed as Annexure- 'A' & 'B').

6. That, no action was taken on the said representations by the concerned authority. The petitioner having no alternative has filed another representation to the Chief Signal & Telecommunication Engineer, N.F.Railway, Maligaon on 28/7/03 and placed the relevant Medical Certificates dt. 4/7/03 from the Sr.D.M.O., Central Hospital, N.F.Rly., Maligaon, indicating the ailment of the petitioner, suffering from "Inter Vertebral Disc prolapse of Lumber Spine since 1-11-02" and indicated that the petitioner has been undergoing treatment of Orthopedic O.P.D. of Central Hospital.

(A copy of the representation dt.28/7/03 and the Medical Certificated dt.4/7/03 are annexed as Annexure - 'C' & 'D' respectively).

✓ Subject Mr. Bora.

7. That, the petitioner was not informed by the concerned authority as to whether his prayer for "change of Catagory" as prayed by him was considered or not. However, the petitioner by his representation/letter dt. 29/8/03 has prayed for extension of leave with effect from 30/8/03 to 15/9/03 for a period of 17 days, with a prayer to give him lighter duties in the Drawing Branch in the Head Office at Maligaon, by changing his Catagory. Later he applied for further extension of Medical-Leave.

(A copy of the letter/extension of Leave petition is annexed as Annexure-'E', E-1).

8. That, the Railway Board, with a view to facilitate the medically - infirm employees, has issued an Office-Circular/Office Memorandum dt. 28/7/03 modifying the earlier provisions, " for absorption of medically decatagorised staff in alternative employment-implementation of revised procedure prescribed in persuance of the persons with Disabilities (Equal opportunities, protection of Rights and Full participations) Act, 1995.

The provision indicated as follows :-

" In term of Para 1306 of IREM Vol.I 1989 as introduced vide Advance Correction Slip No.77 issued under Board's letter No.E(NG)1/96/RE 3/9(2) dt. 29/4/99 effort should first be made for absorption in alternative employment of staff medically decatagorised in the Unit of the Officer under whom he was working as it is primarily his responsibility to find suitable alternative employment for medically decatagorised staff".

Sanjay K. Bora

(3) " The Board wish to clarify that besides the provision referred to above regarding absorption in the same department in the 1st instance the procedure also requires vide para 1304 of IREM ibid that the alternative employment should be in posts which the staff can adequately fill and as far as possible should broadly be in allied categories where the back ground and experience in earlier posts could be utilised. Accordingly, the Board would like to reiterate that serious efforts should be made to find alternative employment for medically decategorised staff in other wings of the same Department in posts carrying appropriate lower medical classification and only when it is not possible to do so the employee should be considered for absorption in other Departments ".

Sanjeeb

(A copy of the Office Memorandum dt.28/7/03 is annexed as Annexure - 'F').

9. That, the aforesaid policy decision of the Apex Body of the Indian Railways i.e. the Railway Board clearly indicates that the Medically infirm employees like that of the petitioner is to be accommodated in the same Department with lighter duties capable of undergoing by the Physically/Medically infirm employee in equivalent posts. This will ensure better service to the Railways from the employees having physical disadvantage due to medical ground. Countless Railway's employees are given these facilities of alternative employment/posting in

in the same Department but in case of the petitioner no such decision is taken by the Respondents and forced him to join in his original posting, against his physical-disadvantage due to medical ailment i.e. the problem of Slip-Disc.

10. That, the petitioner is discriminated by ordering him to join in his original post after unilaterally deciding to remove his name from the 'Sick-list' against the medical-report which advise him to undergo lighter-duties only. The petitioner has placed before the respondents the Medical Reports and prayed for posting in the alternative duties/posts in the Drawing Division.

(The copies of the Medical Reports dt.4/7/03 with prescription and the further representation dt.26/11/03 are annexed as Annexure-'G' & 'H').

11. That, it may be mentioned that the Railway Administration has actively considered the case of the petitioner at the appropriate level to change the 'Category' of the petitioner. The S.P.O.(TEST) acting on behalf of the General Manager(P), N.F.Rly., Maligaon wrote on 14/11/03 to the D.R.M.(P), N.F.Rly., Tinsukia to conduct a Special Medical Examination by Medical Board in the Central Hospital, Maligaon and advised to do the needful. Accordingly, the Divisional Railway Manager(P), Tinsukia wrote to the petitioner on 9/12/03 to report before the Medical Board of the Central Hospital, Maligaon for Special Medical Examination and the petitioner accordingly got him examined by the Medical Board at the Central Hospital, Maligaon. But for some strange reasons, the Medical Report is not

v. Sanyeeb M. Bora.

sent to the Divisional Railway Manager(P) and to the appropriate authorities to take appropriate decision. The petitioner could gather this information from the office.

(A copy of the letter dt.14/11/03 of the SPO (TEST) and dt.9/12/03 of the DRM(P) are annexed as Annexure - 'I' and 'J').

12. That, inspite of these positive actions at the appropriate level, the petitioner is surprised to receive a letter dt. 17/2/04 bearing No.E/T-39/I/V(N)Sig/Pt-III issued by the Divisional Rly. Manager(P), N.F.Rly., Tinsukia informed about the unilateral decision of striking out the name of the petitioner from the 'Sick-list' w.e.f. 9/8/03 and construed his Medical Leave period as "unauthorised absent" without prior notice or show cause in a very arbitrary manner.

(A copy of the letter dt.17/2/04 is annexed as Annexure - 'K').

13. That, on receipt of the letter dt.17/2/04, the petitioner replied that the question of the petitioner being sick is established as the Railway Administration/ Superior Officer directed him to appear before the Central Hospital for Special Medical Examination which he appeared on 9/2/04 and the result is still awaited. Hence, the striking out his name from the sick-list w.e.f. 9/8/03 and construing the period as 'unauthorised absence' is uncalled for and prejudicial to the petitioner, and he requested for alternative posting.

(A copy of the letter dt.24/2/04 is annexed as Annexure - 'L').

Sanjeeb w. Ban.

14. GROUND FOR RELIEF WITH LEGAL PROVISION :

- a) For that, Prima-facie the action/inaction on the part of the Respondents is illegal in as much as the petitioner is not accommodated in alternative/equivalent posting by 'change of Category' as per Railway Rules and Office Memorandum on medically decategorised grounds.
- b) For that, the denial of the benefit of the Medically decategorised scheme to the petitioner is an extreme case of discrimination, arbitrary and prima-facie illegal.
- c) For that, the conversion of the Medical Leave period of the petitioner to 'unauthorised absence' by unilateral striking-off his name from 'Sick-List' is illegal, arbitrary and against the principles of administrative fair play, in as much as the same authority has advised the petitioner to face the Special Medical Examination Board for ascertaining the gravity of his injury for medical categorisation.
- d) For that, the Respondents has failed to show proper interest and concern to the medical problem faced by the petitioner and unnecessarily delayed in solving the problem pushing the petitioner to disadvantageous position and putting him in a position warranting legal intervention. So far his salaries and other dues are concerned, which is apparently illegal.
- e) For that, the discrimination caused to the applicant/petitioner in not extending the benefit of the Office - Memorandum (Annexure-'F') is violative of the provisions of Article 14 and 16 of the constitution.

- Sanjeev K. Bora

f) For that, the Respondents should not have deprived the applicant of the benefit of 'change of Category' and alternative official duties, without going through the 'Medical-Report' of the Medical Board to which he was subjected to.

g) For that, administrative fair-play demands that the result of the Special Medical Examination is ought to be revealed and made known to the petitioner and at least, sent to the 'appropriate authority' for favour of taking necessary actions. The Respondents have committed illegality and arbitrariness by not sending or revealing the medical-report by the Respondent No. 4 to Respondent No.5.

h) For that, the issuance of the impugned order dated 17.2.04 unilateral striking out his name from the Sick-List and holding his medical leave period as 'unauthorised absence' with retrospective effect from 9.8.03 is absolutely arbitrary, illegal and liable to be quashed.

i) For that, the order dt. 17/2/04 (Anex.-'K') is totally uncalled for and passed without proper application of mind, in as much as, the Divisional Rly. Manager(P), who vide letter dt. 9/12/03 (Anx.-'J') has directed the petitioner/applicant to appear before the Medical Board in the Central Hospital, Maligaon for Special Medical Examination, (which he did) has passed the Order dt. 17/2/04 without revealing the 'Medical-Report' in a very arbitrary manner. The copy of the Report has not given to the applicant either. Moreover, the decision has been taken without notice or without show cause notice to the applicant, which is violative of the Rules and Article 311 of the Constitution of India and therefore liable to be quashed.

j) For that, the applicant has been denied the legally entitled dues on being his medically handicapped to be accommodated in alternative-equivalent-light duties and to get his salaries, allowances for the Medical Leave period and get his medical bills etc. reembranssed, but the Respondents has become harass to the applicant and committed illegality by not paying his salaries w.e.f. 9/8/03 unilaterally construing his medical-leave-period as "unauthorised abosence".

k) For that, in any view of the matter the action/inaction of the Respondents are not sustainable in the eye of law and liable to be set aside and quashed.

15. DETAILS OF REMADIES EXHAUSTED :

That, the applicant declare that he have exhausted all the remedies available to him and there is no alternative remedy available to him.

16. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

That, the applicant filed a Writ-Petition in the Hon'ble Gauhati High Court and withdrew the same on the ground of 'Alternative remedy' available in the Hon'ble Central Administrative Tribunal.

17. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above the applicant/petitioner most respectfully prays that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, the Hon'ble Tribunal be pleased to grant the following reliefs to

V Sanjeeb W. Bora

N. F. Railway

Office of the Medical Director
Maligaon, Guwahati-781011
Dated. 12-04-2004.

No.H/5/80(A)/Pt.II

To
Sr.DSTE/Tinsukia
N.F.Railway,

Sub:- Sri Sanjib Kr. Bora, JE/II/Signal/MXN/N.F.Railway

Please submit the service particulars G-37 form (Blank) duly filled in to deal with the case to initiate the Medical Board.

Encl:- One G-37 (Blank) form

[Signature]
(Medical Director/CH/MLC)

[Handwritten signature]

n/a

[Handwritten signature]

to the applicant.

i) To set-aside and quash the order dt.17.2.04 by which the 'Medical Leave' of the petitioner is converted to 'unauthorised-absence' and unilaterally striking off the name of application from the Sick-list.

ii) To direct the respondent No. 4, the Chief Medical Director to send the 'Medical Report' prepared by the Special Medical Board on examination of the applicant on 9/2/04 for taking necessary action regarding his 'change of Catagory' and alternative posting in office duties, as per Annexure -'F' (Office-Memorandum of the Railway Board).

iii) To direct the Respondents (Respondent No. 4 & 5) to put the applicant in the sick-list until a decision is taken by the concerned authority after perusal of the Medical Report of the Special Medical Examination Board and treat the applicant as 'Sick' and pay the Salaries and Allowances etc. with other medical benifits, w.e.f. 1.9.03.

iv) To direct the Respondents to extend the benefit of the Annexure -'F' (Medical Board's directives) to the applicant and allow him to join in the Drawing Branch of the C.S.T.E's Office equivalant post as per Annexure-'F'.

v) To pay the salaries and allowances to the applicant w.e.f.1.9.2003 without any break of service.

vi) Const of the application.

✓ Sanjeev W. Bora

vii) To grant any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case as deem fit and proper by this Hon'ble Tribunal.

18. BE PLEASE TO PASS INTERIM ORDER :

Pending disposal of this application the applicant prays for interim orders- (i) To stay the operation of the order dt. 17.2.04 (Anx.-'K') passed by the Divisional Railway Manager(P), Tinsukia and direct the respondents to put back his name in the Sick-List till disposal of this application and (ii) pay his salaries and allowances etc. w.e.f. 1-9-2003.

19.

20. PARTICULARS OF I.P.O.

- | | |
|---------------|-------------|
| 1) I.P.O. No. | : 119389152 |
| 2) Date | : 26-4-04 |
| 3) Payable at | : Guwahati. |

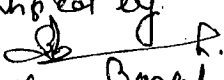
21. LIST OF ENCLOSURES :

As stated in the ' INDEX '.

- VERIFICATION -

I, Sri Sanjeeb Kumar Bora, S/O Sri Nila Kanta Bora, aged about 35 years, resident of Chinaki Path (1st bye lane), Zoo Narangi Road, Guwahati-24, Dist - Kamrup, Assam, do hereby verify and state that the statements made in paras 1 to 7, 9, 10, 13, 15, 16, 17 are true to my knowledge, and those made in paras 8, 11, 12 are matter of records which I believe to be true and rests are my humble submission before the Hon^{ble} Tribunal. I have not suppressed any material facts.

And I sign this verification on this 26th day of April, 2004 at Guwahati.

Identified by

Niranjan Baruah
Advocate.

Sanjeeb K. Bora

APPLICANT

ANNEXURE - 'A'.

To,

The Chief Signal and Telecommunication Engineer,
Engineer, N.F.Railway, Maligaon, Guwahati.

Sub:- Transfer.

Sir,

I have the honour to state that I am appointed as J.E. Signal II and serving at Marioni after training in the Deptt. on 18/02/2000. I have put my service there to the best of my ability and to the entire satisfaction of my superior. But in the meantime I have suffered severe backache for which I am undergoing treatment from specialist of Orthopaedic Deptt. of Maligaon Railway Hospital and other specialist at Guwahati. Doctors have now advised me to take rest till recovery and thereafter to engage in light duty not involving strain to the spine.

I therefore request you to kindly transfer and post me at Gauhati/Maligaon to enable me to have treatment and check up whenever required and render my service effectively.

Dated:30.4.03

Yours faithfully,

Sd/-(Sanjeeb Kr. Bora)
J.E.Signal II
Marioni.

Copy forwarded to

1. D.S.T.E. N.F.Railway TSK for information.
2. C.S.I. N.F.Railway MRN for information.

Sd/- (Sanjeeb Kr. Bora)
J.E.Signal II

Certified to be
True Copy.
[Signature]
A.
New Delhi.

-18-

ANNEXURE - 'B'.

To,

The Chief Signal and Telecommunication Engineer,
N.F.Railway, Maligaon.

Sub:- Change of Category and Transfer.

Sir,

I have the honour to state that I am working as Junior Engineer II, Signal, N.F.Railway, Mariani. In the course of discharge of my duty in various outdoor locations sometime continuously for hours, travelling by extremely bad roads and carrying loads of instruments and gadgets, I suffered pain in the Spinal Cord and Leg as a result of Slip-disc. Now I am under treatment from Orthopedic Surgeon of Railway Hospital Maligaon and Professor of Guwahati Medical College availing Medical leave from 9.04.03 and the disease is slightly cured. But I apprehend that the illness may relapse and therefore engagement in a lighter duty i.e. Office work is advised.

I therefore request you to kindly transfer and post me in the Drawing Branch of your office at Maligaon with necessary Change of Category protecting pay, status and promotional prospects etc.

For this act of your kindness I shall remain ever grateful to you.

Dated:- 16.06.03

Yours faithfully,

Sd/- (S.K. Bora)
J.E.Signal II, Mariani.

Copy forwarded to -

1. Chief Signal Engineer, N.F.Railway, Maligaon for favour of information and necessary action.
2. D.S.T.E., N.F.Railway, Tinsukia for favour of information.
3. S.S.E., Signal, N.F.Railway, Mariani for information.

Sd/- (S.K. Bora)
J.E.Signal II, Mariani.

Certified to be
true copy.
Ab
Sawadeh.

To,

The Chief Signal and Telecommunication Engineer,
N.F.Railway, Maligaon.

Sub:- Transfer and posting with change of Category.

Ref:- My letter dated 16.06.03.

Sir,

I have the honour to state that I applied for change of Category of my post from J.E.Signal to an identical post in Drawing Branch of your office at Maligaon vide my letter cited above. But till today I have not received any favourable order from your in this regard resulting in delay for joining after partial recovery of my illness. It may be mentioned that I am suffering from Slip Discs of Lumber Spine and therefore advised not to engage in strenuous work involving strain to the Spinal Chord.

I have you would kindly issue necessary order early so as to enable me to join in Drawing Branch and serve the department efficiently.

Dated Guwahati the
28th July, 2003.

Yours faithfully,

Sd/- (S.K. Bora)
J.E.Signal II, Mariani,
Camp-Guwahati.

Address-

S.K.Bora,
C/O N.K.Bora
Chinaki Path, 1st bye lane
Zoo Narangi Road,
Guwahati-781024.

Copy forwarded to - 1. The Chief Signal Engineer, N.F.Railway,
Maligaon for favour of necessary action.
2. The D.S.T.E., N.F.Railway TSK for
necessary action.
3. The C.S.I., N.F.Railway, Mxn for necessary
action.

Sd/- (S.K. Bora)
J.E., Signal II, MXN.

Certified to be
True copy.
[Signature]
Sd/-
Sd/-

NO. H/17/9 (Misc),

Dated 04/7/03

TO WHOM IT MAY CONCERN

This is to certify that Shri Sanjib Kumar Bora, J.E., Signal MXN at MLG has been suffering from Inter Vertebral Disc prolapse of Lumber Spine since 1.11.02. He has been under treatment of Orthopedics OPD of Central Hospital since 10.04.03.

He is advised to avoid prolong walking, prolong standing, carrying and lifting Heavy weight.

Sd/- Illegible
4/7/2003

Medical Director,
N.F.Railway, Central Hospital,
Maligaon, Guwahati-11.

Sd/- (Dr. D.K. Ghose, M.S. (Orth.)
Sr. D.M.O., Central Hospital,
N.F. Railway, Maligaon,
Guwahati-11.

Certified to be
True Copy.
Sb _____
Deputy Secy.

To,

The Divisional Signal & Telecommunication Engineer,
N.F.Railway, Tinsukia.

Sub:- Extension of Leave.

Sir,

I request you to kindly refer to my leave application dtd. 28/07/03 and extend leave on medical ground for further period of 17 days w.e.f. 30/8/03 to 15/09/03 as I am not yet fully recovered.

Sir, I would like to inform you that I applied for change of category of my post from J.E.Signal to an indentical post in drawing branch of C.S.T.E's Office at Maligaon vide my letter dtd. 16/06/03 and remied vide my letter dtd. 28/07/03. But till today I have not received any favourable order from Head-Quarter, Maligaon resulting in delay in joining after partial recovery of my ~~xx~~ illness. It may be mentioned that I am suffering from slip discs of Lumber spine and therefore doctor advised me not to engage in strenuous work involving strain to the spinal chord.

Dated Guwahati the
29th August, 2003.

Yours faithfully,

Sd/- (S.K. Bora)
J.E., Signal II, Mariani,
Camp-Guwahati.

Address-

S.K.Bora,
C/O N.K.Bora,
Chinaki Path, 1st Bye lane,
Zoo Narangi Road, Guwahati-781024.

Copy forwarded to :-

1. The Chief Signal and Telecommunication Engineer, N.F.Railway, Maligaon for information and necessary action.
2. The Chief Signal Engineer, N.F.Railway, Maligaon for favour of information and necessary action. He is requested to kindly issue necessary order as early as possible so as to enable me to join in the new category post at the earliest.
3. The Chief Personnel Officer, N.F.Railway, Maligaon, for favour of information and necessary action.
4. The Senior Section Engineer(Signal), N.F.Railway, Mariani, for information.

Sd/- (S.K. Bora)
J.E., Signal II, MXN.

*Certified to be
True copy.
Sd/-
Sd/-*

- 22 -

To,

The Divisional Signal & Telecommunication Engineer,
N.F.Railway, Tinsukia.

Subject: Extension of Leave.

Sir,

I request you to kindly refer to my leave application dated 28.10.2003 and extend leave on Medical ground for further period of 30 days with effect from 16.11.03 to 15.12.03 as I have not received any order from C.S.E. allowing decategorisation of service from J.E. Signal to identical post of J.E. in Drawing branch of C.S.T.E's office for which I applied on 16-06-2003 followed by no of reminders.

Dated: 14.11.2003

Yours faithfully,

Sd/- (S.K. Bora)

J.E.Signal-II, Mariani.

Address:-

S.K.Bora,
C/O N.K.Bora,
Chinaki Path, 1st Bye lane,
Zoo Narangi Road,
Guwahati-781024.

Copy forwarded to :-

1. The Chief Signal Engineer - for favour of information and necessary action. This has reference to my application dated 16-06-2003.
N.F.Railway, Maligaon.
2. The Senior Section Engineer(Signal)- for information and necessary action.
N.F.Railway, Mariani.

Yours faithfully,

Sd/- (S.K. Bora)

J.E.II, Signal Mariani,
N.F.Railway.

Certified to be
True copy.
[Signature]
Advocate.

GENERAL MANAGER (P)

MED-211

MALIGAON

E/205/2 Pt-V(C)

Dated 28/07/03.

To,

GM/MLG, GM (Con)/MLG, AGM/MLG,
All PHODs, DRMs, ADRMs, Sr. DPO/DPCs, DAOs, SAO/NJP
CWM, DRWS & NECs, WAP/DBWS & NBGS
DEN/DBRT/ All Area Managers, Sr. DME(D)s, AENs,
APO/GHY, DRWS, NBOs & NJP, All Non-divisionalised Units,
Dy. CE/Br. Line/MLG, Dy. CSTS (MW)/MLG,
Dy. CSTE (TC)/MLG, Dy. CAO/Cash & Pay/MLG,
Sr. DEN/MLG, All SPOS & APOS of P. Branch/MLG
The GS/NFRU, NFRMU, AISCTREA & NBROBCEA.

Sub:- Absorption of Medically decategorised staff in
alternative employment-Implementation of revised
procedure prescribed in pursuance of the persons
with disabilities (Equal opportunities protection
of rights and full participation) Act, 1995.

A copy of Railway Board's letter No.E(NG)1-2002/RE 3/10
dated 30/6/2003 (RDE No.112/2003) on the above subject is forwarded
for information and necessary action. Board's earlier letter dated
29/4/99 as referred to in their present letter was circulated
under GM(P)/MLGs No. 496E/33(C)M Pt-III dated 23/6/99.

Sd/- (A.K. ROY)

25/7/03

SPO/MPP

For GENERAL MANAGER (P)/MALIGAON.

(Copy of Rly.Bd's letter No.E(NG)1-2002/RE-3/10 dtd.30/6/03)

Sub: Absorption of medically decategorised staff in alternative
employment-implementation of revised procedure prescribed in
pursuance of the persons with Disabilities (Equal Opportunities,
Protection of Rights and Full Participation) Act, 1995.

In terms of para 1306 of IREM Volume 1,1989, as introduced
vide Advance Correction Slip No.77 issued under Board's letter No.
E(NG)1/96/RE2/9(2) dt.29.4.99 efforts should first be made for
absorption in alternative employment of staff medically decate-
gorised in the Unit of the officer under whom he was working as
it is primarily his responsibility to find suitable alternative
employment for medically decategorised staff.

Certified to be

True copy.

[Signature]

[Signature]

2. In the PNM-NFIR meeting held on 20/21-05-03 the Federation pointed out that despite the above provision medically decategorised staff are straight away being absorbed in posts filled entirely by promotion in other Departments without making efforts to find an alternative employment for him in the Department in which the medically decategorised staff was working. They cited an example of a Technical Supervisor in higher promotional grade, who, on medical decategorisation was absorbed in Ticket Checking cadre in 8 post entirely filled by promotion without considering the possibility of his absorption in other Wings of the Department in posts carrying appropriate lower medical classification.

3. The Board wish to clarify that besides the provision referred to above regarding absorption in the same department in the first instance, the procedure also requires, vide para 1304 of IREM ibid that the alternative employment should be in posts which the staff can adequately fill and as far as possible should broadly be in allied categories where their background and experience in earlier posts could be utilised. Accordingly, the Board would like to reiterate that serious efforts should be made to find alternative employment for medically decategorised staff in other wings of the same department in posts carrying appropriate lower medical classification and only when it is not possible to do so the employee should be considered for absorption in other departments.

Please acknowledge receipt.

Sd/- (J.S. Gusain)
Joint Director (A).

ANNEXURE- 'G' Series

NO. H/17/9 (Misc).

Dated 04/7/03

TO WHOM IT MAY CONCERN

This is to certify that Shri Sanjib Kumar Bora, J.E.,
Signal MXN at MLG has been suffering from Inter Vertebare Disc
prolapse of Lumber Spine since 1.11.02. He has been under
treatment of Orthopedics OPD of Central Hospital since 10.4.03.

He is advised to avoid prolong walking, prolong standing,
carrying and lifting Heavy weight.

Sd/- (Dr.D.K.Ghose, M.S. (Orth.)

4/7/03

Sr.D.M.O., Central Hospital,
N.F.Railway, Maligaon,
GUWAHATI-11.

Sd/- Illegible

4/7/2003

Medical Director,
N.F.Rly., Central Hospital,
Maligaon, Guwahati-11.

Certified to be
True copy.

[Signature]
Kewadeh.

Aug - 61 - 26 -

-24-

42

आ परिवार मन्त्री परिवार / SMALL FAMILY HAPPY FAMILY

पु. को. रेलवे / N. P. Railway

वार. बी. मे. / R. B. MIDP 6

पु. सी. ए. ए. / P. S. E. A

चिकित्सा विभाग / Medical department

पुस्तिका पत्र / Prescription Memo

Re / 2 case from HXN

अस्पताल / Hospital
अस्पताल / Dispensary

कम सं. / S. No.

Sm. S. K. Bhat.

कर्मचारी का नाम और विभाग / Name of employee and Department

पद / Post J. E. Signal / HXN. at NLS

साथी का कर्मचारी से सम्बन्ध / Relationship to employee if dependent

साथी का पेशा यदि हो / Occupation if any of Dependent

कर्मचारी का पदनाम और विभाग / Designation of Employee and department

पता निवास स्थान / Address (Res.)

भेदन / Pay रा. / Date राशि / Admission

निदान / Diagnosis

दिनांक / Date	टिप्पणी और उपचार / Notes and Treatment	अस्पताल / Hospital
12/11/03	Back pain in (L) side. Relieved by sitting. Phonetic and much of improvement.	Relieved on 12/11/03
12/11/03	Please bring Mr. R. K. Bhatnagar from Lecturer Spine Mr. R. K. Bhatnagar at ELS Room	

Certified to be

True copy.

Signature

Signature

~~25~~

4

(2) use in Lumber belt

(1) Two cars
 (2) 1000
 (3) 1000
 (4) 1000
 (5) 1000
 (6) 1000
 (7) 1000
 (8) 1000
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7-11-34/5 (R)

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① lifting heavy wt

40 Exercises to continue

2.3/106/105

Certified to be
true copy.

26 R.

Schwarz.

Ann 'G' m
 28
 28

170
 Sri S. K. Borah
 Inspector/Sing/MXX
 9/4/03

Ref No	Ref No. of Report/Date and Treatment	Ref No. of Report
170	Sr DMO/ortho/CH/MZG	

P/Sir The above named pt for attended MXX
 /HU consult -

- ① Rt. side of the neck = 15 days.
- ② Pain radiate towards ft leg.
- ③ Inability to walk

NB: He had this problem off and on since
 last 3 yrs.

PJO

Certified to be
 True copy.
 [Signature]
 School.

46

- 30 -

ANNEXURE - 'G-1'.

NO.

Dated : 10.02.04

TO WHOM IT MAY CONCERN

This is to certify that Sri Sanjib Kr. Bora, J.E. Signal MXN at Maligaon has been suffering from Prolapsed Inter Vertebral Disc of L4-5-L5-S1. He is advised to avoid prolong standing, prolong walking and forward bending for rest of his life.

He needs physiotherapy time to time at regular intervals.

Sd/- Dr.D.K.Ghose, M.S. (Ortho),
Sr.D.M.O., Central Hospital,
N.F. Railway, Maligaon,
Gawahati-11.

Certified to be
true copy
Sb
Sawade

To,
The Chief Signal & Telecommunication Engineer,
N.E. Rly. Maligaon

Ann-H

-31-

26.11.2003

-29-

42

Sub : Prayer for change of Category of Post.

Annex-H

Ref : my application dtd. 16-06-03

Sir,

With due respect I humbly beg to state that I have been serving as J.E. Signal II at Mariani and discharging my duty with utmost sincerity, honestly and without blemish from any corner.

That due to my ill luck I have been suffering from Inter Vertibral Disc prolapse of Lumber spine since 01-11-02 and as a result I had to manage my duty with great pain and sufferings. Ultimately I was compelled to take medical treatment at Rly. Hospital, Maligaon and GMCH at Gauhati availing leave on Medical ground. As suggested by the physician not to engage in work of arduous nature, I submitted an application for change of category of my post in the drawing branch of CSTE's Office at Maligaon on 16-06-03. But no favourable order from the Head Office at Maligaon is received till date. In this connection I enclose herewith the copies of correspondences for ready reference.

That the duty I am to perform, is not at all congenial to the disease I am suffering, in as much as my present duty involves strenuous physical labour and on being advised by physicians I have prayed for change of nature of my work before your honour for kind consideration and favourable order.


That as on today all leave at credit is exhausted and I am now running without pay w.e.f. September '03 and non admissibility of pay has adversely affected my treatment too.

That further I beg to reiterate that my present physical condition does not permit me to take the strenuous duty to which I am attached to.

That in this connection I would like to mention that I would have no objection, to serve in the present post if I would not have been suffering from the disease, that had made me susceptible to injury to ~~work hard~~ and my person and apprehension of further deterioration. Hence this humble prayer was submitted before your honour for the change of category of my post.

Contd...2

Certified to be
true copy.


Sd/-

The entire matter of mine is in the knowledge of the C.S.E. Maligaon, DSTE Tinsukia and DRM Tinsukia.

In view of the above I deem prudent and necessary that I should be attached to a job which I will be able to perform efficiently with my present physical condition. Posting at Maligaon is also required to enable me to pursue a course of physio therapy in a clinic located at Guwahati which I am to attend every alternate month.

In the light of the above, I humbly request your honour to be kind enough to realise my difficulties and to pass order allowing me to resume my duty at Maligaon as prayed for, at an early date as I am already on leave without pay.

And for this act of kindness I shall remain ever grateful to you

enclos - as above

Yours faithfully,

Sanjib K. Bora

(S.K. BORA)

J.E. Signal-II, Mariani.

Copy to :

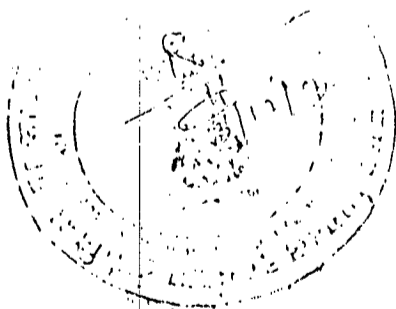
1. Chief Signal Engineer,
N. F. Rly, Maligaon.
2. Chief Personnel Officer,
N. F. Rly., Maligaon
3. Divisional Rly. Manager, 2-12-03
N. F. Rly, Tinsukia
4. Divisional Signal and Telecommunication Engineer,
N. F. Rly., Tinsukia. 2-12-03
5. Senior Section Engineer (Signal), 2-12-03
N. F. Rly, Mariani.

For favour of information.
They are requested to take
necessary action as early
as possible.

For
30/12/03
J.E.

(S.K. BORA)

J.E. Signal-II, Mariani



ANNEXURE - 'I'.

N. F. Railway.

Office of the
General Manager (P)
Maligaon, Guwahati-11.

No.E/283/158(N)Pt.V.

Dated 14.11.2003.

DRM(P)/TSK.

Sub:- Change of category of Shri Sanjib Kr. Bora,
J.E/11/Sig/Mariani of TSK division.

Ref:- Shri Sanjib Kr.Borah, JE/11/Sig/Mariani's
appeal No. Nil dated 29.8.03.

Shri Sanjib Kumar Bora, J.E./II/Signal/Marian vide his
appeal cited under reference has requested to change his category
from JE/II/Signal to JE/II/Drawing.

Decision could not be taken regarding the same as he has
submitted some prescriptions of his disease which do not indicate
his inability of performing job as JE/II/Sig.

Competent authority desires a special Medical Examination
of Shri Borah in Central Hospital, Maligaon is to be done.

It is therefore, requested to direct Shri Sanjib Borah
JE/II/Signal/MXN to Central Hospital, Maligaon for special
Medical Examination and the report of Medical Authority in
original may please to sent to this office, so that necessary
action can be taken regarding the same issue.

Sd/-(N.N. Thakur)
SPO(TEST)

For General Manager(P)MLG.

Copy to : 1. DSTE/TSK.

2. SSE/Sig/MXN.

3. Staff concerned through DSTE/TSK.

Sd/- Illegible,

14.11.03

For General Manager(P)MLG.

Certified to be
True copy,
[Signature]
[Name]

ANNEXURE - 'J'.

N.F. Railway.

Office of the
Divl. Railway Manager(P),
Tinsukia, Dated 9.12.2003.

No.E/283/158(N)Pt.V.

To,

Shri Sanjib Kumar Bora,
JE/II/SIG/MXN.

Sub: Change of category of Shri Sanjib Kr. Bora,
JE/II/SIG/MXN of Tinsukia Division.

Ref: GM(P)/MLG8s T.No.E/283/158(N)Pt.V
dt. 14/18.11.03.

In reference to the above your appeal which was submitted by you to GM(P)/MLG for your transfer to MLG with a change of designation showing the course of inability of performing job of JE/II/SIG alongwith some prescriptions in support of change of designation, GM(P)/MLG has directed for your special Medical examination in Central Hospital/Maligaon vide his letter under reference.

Hence you are hereby advised to attend Central Hospital, Maligaon for special Medical Examination without fail and soon after getting the report necessary action can be taken regarding the issue.

This may be treated as urgent.

Sd/- Illegible

9/12/03

APO/I/TSK

For Divl. Railway Manager(P),
N.F.Railway, Tinsukia.

Copy to :-

- 1.MD/CH/MLG for kind information and necessary action in ref No. GM(P)/MLG8s T/No.E/283/158(N)Pt.V dt. 14/18.11.03(copy enclosed).
- 2.GM(P)/MLG for kind information in ref. to his letter dated 14/18.11.03 as quoted above.

for Divl. Railway Manager (P),
N.F.Railway, Tinsukia.

Certified to be
True copy.
[Signature]
Sanjib Kumar Bora

ANNEXURE - 'K'.

N. F. Railway

Office of the
Divl. Railway Manager(P),
Tinsukia Dated-17.2.04

No.E/T-39/I/V(N)Sig/Pt-III

To,
Shri Sanjib Borah, JE/II/Sig/MXN
Under SSE/Sig/MXN
C/O Nilkanta Borah (CE/PWD, Assam)
Zoo Narangi Road, Chinaki Path (1st bye lane)
Guwahati-24.

Sub:- Unauthorised absent from 09.08.2003.

On receipt of sick memo issued by DMO/MXN, it is observed that you were under sick list of Sr.DMO/MXN w.e.f. 9.4.2003 (RMC No. 5 Dt.9.4.03) but your name had been struck off from the sick list w.e.f. 9.8.03. Since then i.e. from 9.8.03 you remained unauthorised absent till date without any intimation to this office.

Hence you are hereby advised to join duty within a week otherwise DAR action will be initiated against you.

Sd/- Illegible
17/2/04

(APO/I/TSK)

For DM, Railway Manager(P),
N.F.Railway, Tinsukia.

Copy to :-

1. GM(P)/MLG for kind information please.
2. Sr.DMO/MXN. } For kind information and necessary action please.
3. DSTE/TSK } 1
4. SSE/SIG/MXN for necessary action please.
5. Spare copy for P/Case.

Sd/-(R.L.Bhagat, APO/I/TSK)
For DM, Railway Manager(P)
N.F.Railway, Tinsukia.

Certified to be

true copy.

Sd/-
Devoid.

To
The Divisional Railway Manager (P)
N.F.Railway, Tinsukia

Sub: Unauthorised absent

Ref: Your letter NO E/T - 39/I/V (N) sig./Pt III dtd 17/02/04

Sir,

I have the honour to state that, on receipt of your letter No - E/T - 39/I/V (N) Sig./Pt - III - dtd 17/02/04, I came to know that my name had been struck off from the sick list w.e.f. 09/08/03, as a result of which I am considered as unauthorized absentee. But I want to state that I was advised by you to attend Central Hospital, Maligaon by your letter No - E/283/158 (N) Pt - (V) dtd 09/12/03, for special Medical examination so that necessary action can be taken on my appeal for change of category applied on 16/06/03. It makes me puzzle.

As per direction of the Deptt, I attended Medical Board at Central Hospital Maligaon for special examination which was held on 09/02/04 and it's result is still awaited. Therefore joining at this stage in the present post at MXN doesn't arise.

However it may be mentioned that I am informing time to time all concerned about my inability to perform the duties of the present post. Doctors advised me to avoid strenuous job and necessary certificates to that effect had already been produced.

You are now requested to send the report of the Medical Board to GM (P) MLG as requested vide letter No - E/283/158 (N) Pt - V dtd 14/11/03 at your earliest.

Dated: - Guwahati the
24th February, 2004

Your's faithfully

Sanjib K. Bora
(S.K. Bora)

J.E. II Signal, Mariani

Copy forwarded to: -

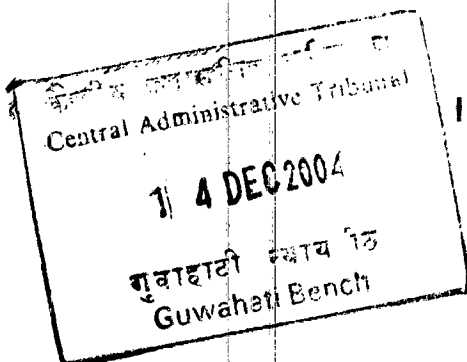
1. G.M (P)/MLG for favour of information.
2. Chief Signal & Telecommunication Engineer, N.F.Railway, MLG, for favour of information.
3. Chief Signal Engineer, N.F.Railway, MLG for kind information.
4. Medical Director, Central Hospital, N.F.Railway, MLG, for favour of information and necessary action. He is requested to send the report of Medical Board to D R M (P) TSK without further delay.
5. Divisional Signal & Telecommunication Engineer, NF Railway, TSK, for kind information.
6. Sr DM MXN, for kind information.
7. SSE/Signal MXN, for kind information.

Date

Sanjib K. Bora
(S.K. Bora)
J.E. II Signal, Mariani

Certified to be
true copy.

Ab
Secretary



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : AT GUWAHATI

O.A No.98/2004

Shri Sanjeeb Kumar Borah.....Applicant

-VS-

Union of India & Others.....Respondents

(Written statements filed by the respondent No. 1 to 5)

The written statements of the above noted respondents are as follows:

1. That a copy of the O.A No.98/2004 (referred to as the "Application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except those statements made in the applicant which are specifically admitted, the respondents hereby deny all the statements made in the application.
3. That with regard to the statements made in para 1 (1) to 1 (6) of the application, the respondents state that there is no cause of action justifying for filing of the application and therefore the application is liable to be dismissed. It is the applicant who is to be blamed for not complying with the formalities in getting the benefits under the scheme/rules.
4. That the answering respondents have no comment to offer to the statements made in para 2 and 3 of the application.

REPLY TO THE FACTS OF THE CASE (AS IN THE APPLICATION):

5. That with regard to the statements made in para 1, the respondents state that these are matter of record and the same are limited to

Filed by:-

[Signature]

14/12/04 B.C. Pattnaik Railway
advocate.

Palchowa Lohar 58

Dy Chief Personnel Officer / R.O.
M.F. Railway, Maligaon
Guwahati-781011

Dr. Rockefeller LaSca
Social Officer, R.R.

6. That with regard to the statements made in para 2, the respondents state that the petitioner joined as apprentice JE/II (Signal) on 23.06.1998 at Maligaon and not at Moriani. During apprenticeship period he had undergone various trainings at several places and after completion of successful training he was finally appointed in Railway as JE/II (Signal) at Moriani on 22-02-2000 in Tinsukia Division.
7. That with regard to the statements made in para 3, the respondents state that the allegations are false and baseless. Carrying weight of several kilograms of tools/ equipments by the petitioner is not correct. The applicant is a supervisory staff so he moves line duty with artisan staff and Khalasi's who carries loads of tools/equipments. It is also not correct that he has to travel a lot on Railway Track because Motor Trolley is already available under SSE (Signal)/Moriani for moving for distance places. Regarding his physical problem he informed the Railway administration at the time of submitting application for inter divisional transfer as applied on 11-09-2003.
8. That with regard to the statements made in para 4, the respondents state that the applicant had reported sick under DMO/Ortho/Central Hospital Maligaon without approval of CMS/Dibrugarh who is the sole in-charge of Medical department of Tinsukia Division. Actually the applicant had to come back from Maligaon immediately after checking and diagnosis of his ailment that is why he was informally sent to Maligaon keeping his name in Sick List at DMO/Moriani. When it is observed that the applicant was not coming back from Maligaon up to 08-08-2003 then his name was stuck off from the Sick List of DMO/Moriani from 09-08-2003 vide DMO/Moriani's letter No.MXN/SF/8/03 dated 09-08-2003 (*Copy enclosed Annexure – R1*). As per norms of medical department, every patient has to

attend to the concerning Railway Doctor on every alternate day where he has reported sick but the applicant had failed to maintain the attendance at his work place.

As per directives of GM (P)/Maligaon letter No. E283/158(N) Pt.V dated 14/18-11-2003 (*copy enclosed as Annexure-R2*), the applicant was directed to attend the Central Hospital Maligaon for special medical examination not for special treatment, vide this office letter No.E/283/155(N)Pt.V dated 09-12-2003 (*copy enclosed as Annexure-R3*). At that time, the applicant was unauthorized absent since his name was struck off from the Railway Sick List by DMO/Moriani from 09-08-2003 but the applicant was present in the Divisional Office, Tinsukia for receiving the above letter regarding his directive to Central Hospital/Maligaon. After special medical examination at Maligaon he had to come back and to report for his duty at Moriani but he did not do so and remained absent unauthorizedly.

The copy of the letter dated 9.8.2003, 14/18.11.2003 and 9.12.2003 are enclosed hereto as **Annexure R1, R2 and R3** respectively.

9. That with regard to the statements made in para 5, the respondents state that the case of change of category of the applicant was already under process. In this regard GM(P)/Maligaon had issued letter to direct the applicant for his special medical examination as mentioned hereinabove.
10. That with regard to the statements made in para 6, the respondents state that the allegations made in this para are not correct and hence the same are denied by the respondents. It is not correct that no action was initiated for consideration of the representation submitted by the applicant on 16-06-2003. It is made clear here that the action has already been initiated as mentioned above. Moreover, the drawing cadre for which the applicant has applied for his redesignation/ decategorisation, belongs to diminishing category

Dy. P. K. Laha
 Chief Personnel Officer R &
 B.P. Railway, Maligaon
 Guwa. 11

as notified vide CPO/A/Maligaon letter No.E/59/III/4(C) Pt.V-13 dated 16-10-2000 (*copy enclosed as Annexure -R4*).

The copy of the letter dated 16.10.2000 is enclosed hereto as **Annexure R4**.

11. That with regard to the statements made in para 7, the respondents state that the change of category from JE/II(Signal) to drawing side pertains to the jurisdiction of the Hq. since it is a post controlled by the Head quarter. The respondents state that no such application for extension of leave from 30-08-2003 to 15-09-2003 was received by the respondents. However, the salary has already been paid to him regularly since his reporting of sickness to DMO/Moriani up to (i.e. 09-04-03 to till Aug/03) as per balance of his leave. In the month of Aug/03 his name was struck off from Railway sick list w.e.f.09-08-2003 but he got salary up to 31-08-2003. Hence, a total amount of Rs.3303/ has been paid to the applicant as over payment for the absent period from 9-08-2003 to 31-08-2003, which he has to refund to the respondents. However, there are only 16(sixteen) days leave as balance at credit in the leave account of the applicant.
12. That with regard to the statements made in para 8, the respondents state that the applicant has not yet been medically decategorised and therefore the question of his absorption in alternative category/post does not arise at this stage.
13. That with regard to the statements made in para 9, the respondents reassert the forgoing statements and further state that the applicant was advised to join his duty because he had been unauthorisely absent since 9-8-2003 after struck off his name from Railway Sick List of DMO/Moriani. His absence from duty amounts to violation of service conduct Rule 3(I)(II)&(III) and he is liable to be taken up under disciplinary action.
14. That with regard to the statements made in para 10, the respondents state that until and unless his change of category is

Dy. Chief Personnel Officer R.P.
 M.F. Railway, Maligaon
 Guwahati-781001

finalized, till such time he should continue in his present job and grade/ category and he should remain under Sick List of the proper Medical authority but he had not attended to his jurisdictional HQ. Medical authority (DMO/Moriani) regularly as required by law and therefore his name was stuck off from Railway Sick List w.e.f. 9-8-2003.

15. That with regard to the statements made in para 11, the respondents state that the Medical Director/Central Hospital, Maligaon sent the report of Medical Board held at Central Hospital/NF Railway/MLG on 9.2.2004 in respect of the applicant as in JE/II/Sign/MXN in reference to 1:GN(P)/MLG'sL/No.E/283/158(N)Pt.V dtd.14/18.11.2003 & (2):DRM(P)/TSK'sL/No.E/283/158(N)Pt.V dtd.9.12.2003 to CMD, vide his L/No.H/580/A(Loose) dtd 21.2.2004 [signed on 23.3.2004]. The case was put up to CMD on 25.3.2004.

It is pertinent to state here that at the time of going through the case, the CMD observed that the case was incomplete and also that the same was not forwarded through the proper channel and official hierarchy as per the existing rules of Indian Rly Medical Manual. It was observed that-

- (a) Neither service particulars of the employee nor the Form G-37 furnishing the employee's date of birth, date of appointment, medical category, identification marks etc were attached with his case.
- (b) The case was not forwarded through proper channels. Moriani is in Tinsukia Division and therefore, appropriate authority for holding the Medical Board was CMS/Dibrugarh, who would have arranged the Medical Board on the referral of DMO / Moriani and then the report of Medical Board should have been sent to the CMD for acceptance.

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P. Lalchandra Laha
Dy. Chief Personnel Officer
M.F. Railway, Maligaon
Guwahati-11

- (c) Reference of GM/P/MLG or DRM/P/TSK for conducting Medical Board of an employee without knowledge of the controlling officer concerned of the employee is not appropriate.

In this particular case, the applicant after reporting sick was undergoing treatment under his authorized Medical Officer (DMO/Moriani) for sometimes. Had it been a case that the Medical Officer concerned had any doubt about the fitness of the applicant during the period of his treatment, he would have referred the case to the appropriate medical authority of the Division (CMS/DBRT) for arranging Medical Board to examine his fitness for further Railway service. In all such cases, not only the Medical Officer concerned had to intimate the controlling officer concerned of the employee but also had to get all relevant documents like Form G-37, service particulars etc of the employee filled up by them for onward referral to the appropriate authority for arranging Medical Board. But in this particular case, these formalities were not followed as required by law.

During the period of his treatment at Moriani, the applicant also attended Central Hospital/ MLG for treatment. However, the records indicate that the applicant remained absent at his place of posting beyond the period for which he was allowed by his authorized Medical Officer for which the name of the applicant was struck off from the Sick List.

In this connection it is also be stated here that the MD/CH/MLG only mentioned the reference of GM (P)/ MLG and DRM(P)/TSK, which could not be accepted as appropriate. Since Form G-37 or service particulars from the department concerned were not attached with the case, important data like, date of birth, identification marks, present medical category etc. of the employee were not available with the case.

In view of the above, CMD could not take a decision on acceptance of the report of the medical board submitted by MD/CH/MLG and

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J
P. K. S. Ladda
Chief Personnel Officer R.R.
M.F. Railway, Maligaon
Guwahati-11

suggested that the case might be resubmitted after complying all guidelines as laid down in IIRMM [vide CMD's L/No.HM/Medical Board(Loose) dated 26.3.2004] to MD/CH/MLG.

In response to the above letter, MD/CH.MLG vide his L/No.H/5/80(A)Pt.II dated 4.6.2004 intimated that they had asked the department of the employee concerned to submit the Form G-37 and the service particulars of the applicant. The compliance of the said requirement were yet to be received by them from the respective department of the applicant.

It is clear from the above that until and unless the case is resubmitted, complying all laid down guidelines, no decision could be taken at the level of CMD.

16. That with regard to the statements made in Para 12 and 13, the respondents state that the reason for placing the applicant as an unauthorized absentee has already been mentioned in the above para -4 and 9. Further it is mentioned in terms DRM(P)/TSK's letter No. E/283/155(N)Pt.V dated 9.12.2003, the applicant was directed to Central Hospital/ MLG for special medical examination only and not for medical treatment. After completion of the medical examination (i.e. maximum with a week) he should have been reported to his working Hq Moriani but he did not do so and remained unauthorisedly absent. So he was informed for joining his duty within a week vide DRM(P)/TSK's letter No.E/T-39/I/V (N) SIG Pt.III dated 17.2.2004 (*Copy enclosed as ANNEXURE-R5*).

In the meantime, the process of examination by the Medical Board has been completed and the final report/opinion has been given as on 10.11.2004. According to the said medical opinion of the Board "the patient gets relief with conservative treatment but recur after physical exertion like prolonged walking. Hence, the member of the medical board recommend to utilize his service in the office in the same category, as there will be exertion to Mr. Bora and his condition might improve. In the meantime he should continue physiotherapy. Case to be reviewed after one year." On receipt of

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J
Dr. Chandra Mohan
N.F. Railway, Maligaon
Guwahati-781005

the said report of the Medical Board, the Chief Medical Superintendent, Dibrugarh advised the DMO to direct the employee for fitness certificate to be taken from the Chief Medical Superintendent, Dibrugarh. This was done vide Order No. H/219/1 dated 27.11.2004. in compliance with the said direction, the competent authority directed the applicant to attend the Chief Medical Superintendent, Dibrugarh immediately for fitness certificate. This was communicated vide office order No. E/T-39/I/V(N)SIG/Pt.III dated 2.12.2004.

In view of the above facts and circumstances, the present application has become infructuous as the Medical Board has indicated that the case of the applicant could be finally considered only after 1 year and he has been accordingly directed to resume his duty.

The copy of the letter-dated 17.2.2004, report of the Medical Board dated 10.11.2004, letter dated 27.11.2004 and 2.12.2004 are annexed hereto as Annexure R5, R6, R7 and R8 respectively.

17. That with regard to the statements made in Para 14 (a) to (k), the respondents state that in view of the facts and circumstances of the case and the provisions of law, the grounds shown by the applicant are not tenable in law and therefore the application is liable to be dismissed with cost as the application has been filed without any merit.
18. That with regard to the statements made in para 15, the respondents state that as stated hereinabove, the applicant could not exhaust the remedy available to him and he miserably failed to comply with requirements of law in applying for decategorisation. As such, the application is liable to be dismissed as not maintainable under the law.

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P. K. Lakshmi
Chief Personnel Officer R.P.
N.F. Railway, Imphal
Gowahati-11

19. That the answering respondents have no comments to offer to the statements made in para 16 of the application.
20. That with regard to the statements made in para 17(i) to 17(vii) and 18, the respondents state that in any view of the matter, facts and circumstances of the case and the provisions of law, the applicant is not entitled to any relief whatsoever as sought for and the application being devoid of any merit is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, perused the records and after hearing the parties and perusing the records shall also be pleased to dismissed the application with cost.

VERIFICATION

I, Smt. Pulcheria Laksa d/o Late Julius Khan,
 aged about 59 $\frac{1}{2}$ years resident of
 Maligaon working as
 in the office of the
 do hereby
 solemnly affirm and state that the statement made in the para
 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 15 and 17 are true to my knowledge and
 belief, those made in para 8, 10 and 16 being matter of
 records, are true to my information derived there from and the rest
 are my humble submission before this Hon'ble Court. I have not
 suppressed any material facts.

And I sign this verification on This 14th day
 of December, 2014 at Guwahati.

Pulcheria Laksa

Deponent

Dy. Chief Personnel Officer R.P.
 N.E. Railway, Maligaon
 Guwahati-11

10/10 09/80
 M700/81/803
 R.C. K. Chandel
 356/81/803
 M700/81/803

46-
ANNEXURE: R

Rajib Mr. Bora JE/SF
 M700
 R.C. NO - 5 waf
 09/403

Vide above reference this is for
 your information that the above name
 has been struck off from the sick list
 waf- 09/803 due to non-attendance
 after confining his case with mother
 or the ward/cot NCH over telephone. This
 is for your reference.

Attended:-

Sgt
 24/8/04
 (A20/175/04)

27/7/04
 27/7/04
 27/7/04

No. 74

ANNEXURE

No. E/283/153(N)Pt. V.

Dated: 7/11/2003.

DTM(P)/TAX.

Sub:- Change of category of Shri Sanjib
Kr. Borade/II/SAG/Warrant of TDR
division.

Ref: Shrd. Sample, Kr. Porah, JE/II/SIG/
Marland's appeal No. M1 dated
29.8.05.

Shri Sanjib Kumar Bora, JE/II/Signal/Mariani vide his appeal cited under reference has requested to change his category from JE/II/Signal to JE/II/Drawing.

Final Decision could not be taken regarding the same as he has submitted some prescriptions of his disease which do not indicate his inability of performing job as JE/IT/Sig.

Competent authority desires a special Medical Examination of Shri Borah in Central Hospital, Maligaon is to be done.

It is therefore, requested to direct Shri. Sanjib Barah NE/II/Signal/MXN to Central Hospital, Maligaon for special Medical Examination and the report of Medical Authority in original may please be sent to this office, so that necessary action can be taken regarding the same issue.

(N. N. Thakur)
SFO (TEST)
For General Manager (P) M.L.G.

Copy to: 1. DSTE/TSK.
2. SSE/Sig/MXN.
3. Staff concerned through DSTE/TSK.

for General Manager(P)MLC.

25(9) 525

For 2/11/01

Heart

180011752

Asserted

[Handwritten signature]

1 APR 11 1954

8/10/73
20/1/73
आवास न्यायिक अधिकारी
Assistant Personnel Officer
पु. व. रेलवे, दिसपुर क्वार्टर
P. & R. Railway, Tinsukhya

Office of the
Divl. Railway Manager (P),
Tinsukia, Dated 0.2.2004.

No. Y/233/153 (R) Pt. V.

To,

Shri Sanjib Kumar Dora,
JF/II/SIG/EXM.

Sub: Change of category of Shri Sanjib K. Dora,
JF/II/SIG/EXM of Tinsukia Division.

Ref: OM(P)/M/G's T.No. Y/233/153 (R) Pt. V
dt. 14/10.11.03.

-00000-

In reference to the above your appeal which was submitted by you to OM(P)/M/G for your transfer to M/G with a change of designation showing the course of inability of performing job of JF/II/SIG strength with some prescriptions in support of change of designation, OM(P)/M/G has directed for your special Medical examination in Central Hospital, Paligaon vide his letter under reference.

Hence you are hereby advised to attend Central Hospital, Paligaon for special Medical examination without fail and upon after getting the report necessary action can be taken regarding the issue.

This may be treated as urgent.

for Divl. Railway Manager (P),
D. F. Railway, Tinsukia.

Copy to: 1) OM(P)/M/G for kind information and necessary action in ref. to OM(P)/M/G's T.No. Y/233/153 (R) Pt. V dt. 14/10.11.03 (Copy enclosed).

2) OM(P)/M/G for kind information in ref. to his letter dt. 14/10.11.03 as quoted above.

for Divl. Railway Manager (P),
D. F. Railway, Tinsukia.

Advised

B. Sub

24/8/04

OFFICE OF THE
DIVISIONAL MANAGER
TINSUKIA
24/8/04

dated the 16th Oct 2000

Subj: MANPOWER PLANNING - Action Plan to reduce obsolete categories on P.E.R. Railway.

There are large number of categories which have already become redundant or are likely to be redundant obsolete in the coming years due to upgradation of technology, ongoing system improvements, closing of certain activities or work centers and geographical changes in the pattern of Railway operations.

However, due to lack of clear vision we continue to fill up vacancies in such categories from various modes. This results ultimately in unproductive and surplus manpower which leads to an unpleasant scenario of redundancy by changing categories or work place. It is therefore thought necessary for categories which are already redundant or are going to be redundant obsolete in the near future should be taken out of the sanctioned strength.

Due to present financial condition it is not possible to create situations akin to steam surplus.

To start with, we have identified 57 such dead, dying and redundant categories as per List A and List B. It has been decided that vacancies in these categories will be filled up only with the personal approval of GM. The person who find difficulty with reduction in sanctioned strength of these categories should approach Headquarters Office for permission of GM to fill up even a single vacancy in these categories even by lateral transfer. On the other hand all out efforts should be made to motivate staff to opt out of these dead categories & move to other similar categories where job satisfaction is comparatively richer. While sending the proposal to fill up a vacancy in these categories following details are required to be given:-

- (1) The present sanctioned strength, on roll position and vacancy position of the category.
- (2) The functions being performed by the staff in the category.
- (3) The justification for the employment of staff in the category.
- (4) The efforts have been made for redeployment of staff in other categories or for rationalisation of work procedure to reduce the number of staff in the category.
- (5) The efforts have been made for redeployment of staff in other categories or for rationalisation of work procedure to reduce the number of staff in the category.

The proposal should be sent with the personal approval of GM.

Attended.

[Signature]
(A801/10/10)

Approved by
Assistant
G.M.

Approved by
G.M.

14

50

26

ANNEXURE I

A. ALL DEPARTMENTS

- (a) Peons (Office & Field)
- (b) Record Sorter
- (c) Book Binder
- (d) Panwala/Water Carrier/Waterman
- (e) Ministerial staff
- (f) Vehicle Driver
- (g) Vehicle Cleaner
- (h) Chowkidar
- (i) Trolleyman
- (j) Daulhiy
- (k) Hot Porter
- (l) Valvan
- (m) Parcel Clerk
- (n) Draftsman
- (o) Design Assistant
- (p) Typist
- (q) Messenger/Courier
- (r) Mali
- (s) Time Keeper

- (a) Bill Poster

(C) ACCOUNTS DEPT.

- (a) Cashier
- (b) Shroff

(D) CIVIL ENGINEERING DEPT.

- (a) ^{Wm} LOW and all workers & maintenance staff

(E) COMMERCIAL DEPT.

- (a) Coach Attendant
- (b) Bill Poster
- (c) Parcel Clerk
- (d) Marker
- (e) Sealman
- (f) Parcel Porter
- (g) Traffic Porter
- (h) Tracer
- (i) Claims Inspector

P.T.O.

15

- (G) MECHANICAL DEPT.

- (11) MEDICAL DEPT.

- (D) PERSONNEL DEPT.

- (J) STORES DEPT

- (K) SIGNAL & TELE-COMM DEPTT

- (1) TRAFFIC DEPT

- (a) Cypher Operator
(b) Signaller
(c) Train Clerk.

Admitted

6 put
24/8/09
LAbol/10312

12/01/2017
A0011103K
प्रतिष्ठापना Office-1
प्रमुख अधिकारी
प्रमुख अधिकारी

16
ANNEXURE : 125

By Regd Post With A.D

N.F. Railway

Office of the
Divl Railway Manager (P)
Tinsukia Dated-17.2.04

No:- E/T-39/I/V(N)Sig/PI-III

To
Sh Sanjib Borah, JE/III/Sig/MXN
Under SSE/Sig/MXN
C/O Nikanta Borah (CE/PWD Assam)
200 Narangi Road, Chinaki Path (1st bye lane)
Guwahati - 24

Sub :- Unauthorised absent from 09-08-2003

On receipt of sick memo issued by DMO/MXN, it is observed that you were under sick list of DMO/MXN w.e.f. 9-4-003(RMC NO.5 DT 9-4-03) but your name has been struck off from the sick list wef 9-8-03. Since then i.e. from 9-8-03 you remained unauthorized absent till date without any intimation to this office.

Hence you are hereby advised to join duty with in a week other wise DAR action will be initiated against you.

(R.L. Bhagat, APO/1/TSK)
For Divl Railway Manager (P)
N. F. Railway, Tinsukia.

Copy to:-

1. GM (P)/MLG. for kind information please.
2. Sr.DMO / MXN
3. DSTE/TSK } for kind information and necessary action please.
4. SSE/SIG/MXN for necessary action please.
5. Spare copy for P/case

Bhagat
17/2/04
(R.L. Bhagat, APO/1/TSK)
For Divl Railway Manager (P)
N. F. Railway, Tinsukia.

U:\P\39\I\V(N)\Sig\PI-III.doc
2/1/04 4:32 PM

Attended

Light
14/2/04
(A/O/1)

RECEIVED
Sd/-
17/2/04
Tinsukia

Confidential

N. F. Railway
Medical Department
Report of Medical Board

Medical Board held at Central Hospital/N F Railway/Maligaon on 09.02.2004

Name of the employee Shri Sanjib Kumar Bora

Age-33 Yrs. Sex- Male Designation-JF-II/Signal/MXN

Ref: 1) GM(P)/MLG's letter No.E/283/158(N)Pt.V dt.1/18.11.2003
2) DRM(P)/TSK's letter No.E/283/158(N)Pt.V dt.9.12.2003

Medical Board is constituted by MD/CH/MLG on 15.1.2004.

Members of the Medical Board:-

- 1) CHAIRMAN - Dr. K. Das, Chief Physician/CH/MLG
- 2) MEMBER - Dr. B. R. Deka, Sr.DMO/Ophthal/CH/MLG
- 3) MEMBER - Dr. D K. Das, Sr.DMO/S/CH/MLG
- 4) MEMBER - Dr. D.K. Ghose, Sr.DMO/Ortho/CH/MLG

1) History:-

Pain lower back on the left side 15 days
HPI-Patient complains that he is having pain in the back radiating to both the lower limbs for last 3 Yrs. The pain increases on prolong standing or prolong walking. No history of trauma. According to the patient pain is due to lifting of heavy weight while working.
Non-hypertensive, non-diabetic.
Bladder & Bowel not involved

2) Physical Findings:-

Pallopr(-)
Icterus(-)
Oedema(-)
Pulse-78/min.
B.P.-130/70 mm of Hg.
Local Examination:-
Lumbar spine-deformity-left sided tilt.
Tenderness-not significant

10/11/04

10/11/04

10/11/04

10/11/04

30% restricted-forward flexion

Others fair

Anterioterminal degree of forward flexion causes pain at the
Sacro coccygeal region

SLRT - 90 degree bilateral

S1 Joint(-)

Hip - fair

Extensor hallucis longus 4/5 - bilateral

Syst. Examination:-

Chest-Normal vesicular B.S. No accompaniments

C.V.S. - S1 S2 heard normally without any added sound.

Abdomen-Liver/Spleen/Kidney-not palpable

CNS-No wasting or weakness in any group of muscles of all the four

Extremities with normal power.

Jerks - normal Planter- Flexor bilaterally

Eye Examination:

Vision(Rt.)6/9 N/6) without glass

(Lt)6/9 N/6)

(Rt)1.00 Dcy.90 degree-6/6 N/6) with glass

Lt.)1.00 Dcy. 90 degree - 6/6 N/6)

Squint & cataract - absent

Colour vision - normal

Fundus of the eyes - normal

3) Investigations:-

Blood: T.C. - 6,500 cells/mm³ DLC-P62, L-36, M1, E1

Hb-12.5Gm% ESR-05mm AEFH Blood Sugar@ 96mg.

Urine R/E-NAD

ECG-NAD

C.T.Scan of Lumbar Spine(on 12.4.2003) Central buldge of L4-L5 and L5-S1
Discs with posterior osteophytes causing thecal impingement. Postal osteophytes
and Schmorl's nodes in L1 and L2 inferior and plate. MRI of Lumbo sacral spine(
on 3.5.03) Study reveals right paracentral extruded disc at L4-L5 level with
significant thecal and right emerging nerve root impingement. Central disc
protrusion at L5-S1 and right paracentral disc protrusion at L1-L2 is also with mild
thecal impingement. There are disc desiccations, anterior and posterior
osteophytes as described in the text.

4) Complete Diagnosis:-

Prolapsed Inter Vertebral disc L4-L5, L5-S1 with radiculopathy.

5) Treatment received:-

1) Complete rest

2) 2) Tab. Tizan(4mg.) 1 Tab at 7 pm

[Signature]
11/11/04

[Signature]
10/11/04

[Signature]
19/11/04

[Signature]
10/11/04

19

- 84 -

3) Tab. Libotryp- 1 tab at bed time & other supportive treatment with physiotherapy, Tab. Analgesic (Voveran, Mofrofy)

6) **Summary of the Medical Board:-**

Shri S.K. Bora, 33 Yrs. Male non hypertensive, non diabetic attended hospital with low back ache off and on for last 3 yrs. without any history of trauma. Investigation reveal prolapse intervertebral disc L4-L5 and L5-S1 with radiculopathy.

7) **Opinion of the Medical Board**

Patient gets relief with conservative treatment but recur after physical exertion like prolong walking. Hence the member of the medical Board recommend to utilize his service in the office in the same category, as there will be no exertion to Mr. Bora and his condition might improve. In the meantime he should continue physiotherapy. Case to be reviewed after one year.

Signature

[Signature]

Name : DR. K. Das

Design : Chief Physician/CH/MLG

Signature

[Signature]

Name : DR. D.K. Ghose

Design : Sr. DMO/Ortho/CH/MLG

Signature

[Signature]

Name : DR. B.R. Deka

Design : Sr. DMO/Ophthalm/CH/MLG

Signature

[Signature]

Name : DR. D.K. Das

Design : Sr. DMO/Sr. CH/MLG

[Signature]

12.11.04

[Signature]

Chief Physician

g. H. S.

N. S. P.

12/11/04

12/11/04

20

- 55 -

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No. HM/Medical Board (Loose)

N.F. Railway.

Confidential


To, ✓
Cms/DBRT

Office of the
Chief Medical Director
N.F. Railway
New Delhi
Date 23.11.64

Sub- Sanjiv Bana, JE/21/381/MXN.

Ref: MD/mr's L/N. H/5/40/A (L...), Chd. 11.11.64.

Finding of Medical Board of above named employee is returned herewith duly accepted
By CMD/Maligaon.


Dy. Chief Medical Director
N.F. Railway/MLG

21

ANNEXURE : R7
73

N.F. RAILWAY

Office of the
Chief Medical Supdt (IC)
Dibrugarh

NO : H/213/1

Dtd : 27.11.2004

To
DMP/MXN

Sub : Sri. Sanjib Kr. Bora
JE/II/SAI/MXN

Ref : CMS/MLG L/No. HM/Medical Board/(L)
dated 23.11.2004

The above named employee may be advised to attend
to the undersigned immediately, regarding his fitness certificate
as advise by Medical Board/MLG.

CMS/IC/DOBT

Copy forwarded for information and necessary action to :-

- ✓ 1. SGM(P)/TSK
- 2. SGE/SIG/MXN
- 3. BSTE/TSK

Mr. Rangpur

Pl. intimate to the
employee with regard
that and copy to Sr. Subordinate
BSTE, APG, legal/MS, CMS/DOBT

2. Am Eno
02/12
DPO

22/11/04
CMS/IC/DOBT



22

56-
ANNEXURE : R8

N.F. RAILWAY

OFFICE OF THE
DIVL. RAILWAY MANAGER (P)
N.F. RAILWAY, TINSUKIA
Date :- 2 Dec 04

NO. E/T-33/1/V(N)SIG/PT.III

10.

Shri Sanjib Kr. Borah, JE/II/SIG/MXN
Under SSE (SIG)/MXN
C/o Nila Kanta Borah (Ex. CE/PWD, Assam)
200 Narangi Road Chinaki path (1st by lane)
Gawahati -24

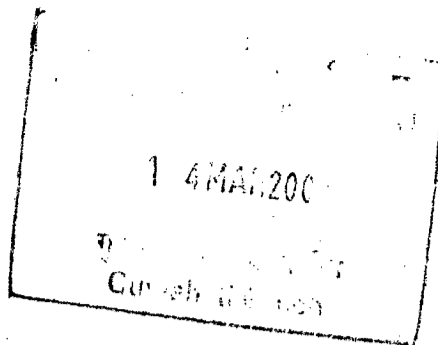
As advised by CMS/IC/DBRT you are hereby directed to attend
CMS/IC/DBRT's office to obtain fitness certificate immediately. This is as per directive
of Medical Board/MLG

(R.L. Bhagat)
Asst. Personnel Officer/I
for Divl. Railway Manager (P)
N.F. Railway, Tinsukia

Copy forwarded for information and necessary action please.

1. CMS/DBRT
2. DSTE/TSK
3. APO/LEGAL CELL/MLG
4. SSE (SIG)/MXN
5. Spare copy for p/case

(R.L. Bhagat)
Asst. Personnel Officer/I
for Divl. Railway Manager (P)
N.F. Railway, Tinsukia



*Filed by the applicant
Sri Sanjeeb Bora
through —
N. L. Singh. Adv.
10.8.05*

IN THE CENTRAL ADMINISTRATION TRIBUNAL :

GUWAHATI BENCH.

O.A. NO. 98/2004.

Sanjeeb Kr. Bora,

-Vs-

Union of India & Ors.

- AND -

IN THE MATTER OF :

A Rejoinder/reply filed on behalf of
the applicant Shri Sanjeeb Kr. Bora
against the Written Statement filed by
the Respondent No.1 to 5.

1. That, as regard paras 1 & 2, this deponent do not have any comments to make.

2. That, as regard para 3, the deponent beg to state that the applicant has to submit applications for getting his grevancy redressed due to his incapability to serve in the same post due to his ailment and therefore submissions of the application is justified.

All formalities are observed by the applicant as far as practicable. The applicant tried to get his application moved from the office of D.S.T.E., C.P.O., G.M.D., M.D. at Maligaon upto office of the S.S.E. at Mariani to DRM(P) TSK.

On the other hand, the (department) the process was delayed in the office level for no fault of the Applicant.

As for example :

- 1) That, the applicant submitted application for change of category on 16.06.03.
- 2) The department i.e. the G.M.(P) instructed D.R.M.(P) Tinsukia to direct the applicant to attend Central Hospital Maligaon for special Medical Examination on 14.11.03.
- 3) The D.R.M.(P) Tinsukia informed the applicant to comply with on 9.12.03.
- 4) The Special Medical examination was conducted by constituting a Board on 09.02.04.
- 5) The Board report was published on 23.11.04.
- 6) The C.M.S./Dibrugarh instructed the applicant to attend his office for issue of fitness certificate on 27.11.04.

And the process is still continuing, as contemplated vide letter No.E/283/158(N) Pt-V dt. 14.11.03. by G.M.(P).

3. That, as regard paras 4 & 5, this deponent do not have any comments to make.

4. That, as regards para 6, the applicant beg to state that initially the applicant joined in H.Q. at Maligaon as per accepted procedure for new recruitment and finally posted at Mariani after training which is not mentioned in detail being not relevent.

5. That, as regards para 7, the deponent beg to state that theoretically it is correct. But practically the senior officials want that the supervisor should go to site with all equipments like metre, tools and instruments and manuals to rectify the failure as soon as possible. There is always shortage of staff and therefore not even a Khalasi is available at the time of emergency.

Similarly, in case of use of motor trolley also, it is not easily available as it is generally used by S.S.E. (Signal) during senior officer's inspection or by R.P.F. which remain idle for break-down most of the time. A (responsible) officer cannot evade duty on the plea of non-availability of official conveyance. As the motor-trolley is seldom available, the applicant was required to walk from Selenghat to Anguri a distance of about 5 KM at dead of night after rectifying failure as the mail trains operating at night do not stop at such small stations. In case of attending faults at Nanti, Selenghat etc. the applicant had to travel by public bus where the road condition is not fit for travel by a healthy person even.

6. That, as regards para 8, the deponent beg to state that the applicant took initial treatment of his disease from DMO Mariani who referred the case to D.M.O./Ortho/ Central Hospital, Maligaon considering the gravity of the illness or there might not have such specialist at Railway Hospital at Dibrugarh. As his ailment is only partially cured i.e. he only got relief from severe pain of the lower back and leg but not permanently cured of the disease of the slip-Disc which might relapse at exertion, it was not possible on the part of the applicant

to return back to Mariani due to his ailment.

As he partially recovered from the first stage of the ailment i.e. severe ~~xxx~~ unbearable pain of the back and leg passing sleepless nights, he immediately applied for change of his category on 16.06.03.

As the disease still remains i.e. the Slip-Disc episode and he is unable to continue to serve in the present nature of duty, returning back to Mariani.

As the job in which the applicant may serve is solely dependant on the out come of the Medical Board's report which is held on 9.02.04, it was not medically adtisable on the part of the applicant to revert back to the original post and take re-course to the same nature of duty as till Dec.,04 the applicant is unaware of the result.

7. That, as regards paras 9 & 10, the deponent beg to state that it is for undue delay in disposal of the application submitted on 16.06.03, the applicant had to sought relief from the Hon'ble CAT on 26.04.04 as his pay is stopped w.e.f. September, 2003, and is facing financial hatdship and mental stresses.

8. That, as regards para 11, the deponent beg to state that the drawing cadre may fall in the diminishing category, reportedally, but considerable vacancies are still there to accommodate the applicant and there would be no likelihood of any extra burden on the part of the department. Moreover, such accommodation is by virtue of the department's welfare scheme as indicated in circular No.MED-211 dt. 28.07.03.

E/205/2 Pt-V(C) (ANNEXURE-E) one is to be absorbed in alternative job if he is medically not fit/suitable to continue in the present post.

9. That, as regards para 12 the deponent beg to state that the petitioner duly submitted leave application (copy enclosed as Annexure-'A'). Therefore refund of the amount of Rs.3303/- does not arise.

& 14
10. That, as regards para 13 the deponent ~~says~~ beg to state that the Medical Board recommended to "Utilise applicant's service in the office in the same category as there will be no exertion to Mr.Bora and his condition might improve.

Therefore, reverting back to the original post of attending to field duty which is of arduous nature involving prolong walking, bending, standing is not conducive to the health condition of the applicant therefore, taking disciplinary action does not arise.

11. That, as regards para 15, the deponent beg to state that the Special Medical Examination by a Medical Board of the applicant was done on 9.02.04 and sent to C.M.D. on 23.03.04 at the behest of G.M.(P) vide his letter to D.R.M.(P), Tinsukia E/283/158(N)-Pt-V dated 14.11.03 who was asked to instruct the applicant to appear before the Medical Board which was constituted on 15.1.04. The D.M.O. Mariani is not competent to treat the patient who is suffering from Orthopadic ailments and therefore referring to the Central Hospital, Maligaon for treatment is proper as it is mentioned in Sl.No.8. The applicant had requested the D.R.M.(P), Tinsukia, D.S.T.E., Tinsukia,

S.S.E.(Signal) Mariani, vide his letter No. Nil dated 05.08.04 to forward the G-37 form but no response was found. The M.D. Maligaon also wrote to D.S.T.E./Tinsukia vide his letter H/5/80(A)/Pt-II dt.12.04.04 and wrote to D.R.M.(P) Tinsukia vide his letter No.H/5/80(A)/Pt.II dt. 19.05.04, but no response was made.

Ultimately the form i.e. G-37 was sent by D.R.M.(P) Tinsukia in about 1.11.04 based on which the Board's report was published on 12.11.04.

The department has not took timely action to finalise the relief to the applicant and put him into a position seeking redress from court with utmost humility.

12. That, as regards para 16, the deponent reiterates the statements made against para 8 above, and beg to state that the applicant attended office of C.M.S./DBRT on 14.12.04 and 15.12.04 for obtaining fitness certificate which is to be sent to C.M.D. Maligaon for counter signature and further action is awaited.

It is not correct to say that the Medical Board has recommended to resume his present duty but only recommended to utilise the service in office as there will be no exertion which might improve the condition which is not the same job of attending field duty at present. Further, it cautioned that any physical exertion might aggravate the ailment and may recur and therefore the conclusion is not acceptable.

13. That, as regards paras 17 & 18, the applicant beg to say that it followed all the procedures and therefore not guilty of any violation of procedure.

It is therefore, prayed that your Lordships may be pleased to direct the Respondents to (i) change the 'category' of the applicant on Medical ground and direct to post him in equivalent post in the Drawing Division or on any official Duty at Guwahati or around for the interest of getting better medical treatment, (ii) Regularise the leave period and pay the salary for the said period and grant further relief considering the facts and circumstances of the case.

VERIFICATION

I, Sri Sanjeeb Kumar Bora, S/o Sri Nila Kanta Bora, aged about 36 years, resident of Chinaki Path(1st Bye Lane), Zoo Narangi Road, Guwahati-24, Dist:Kamrup, Assam, do hereby verify and state that the statements made in paras 1 to 7, 9, 12, 13 are true to my knowledge, and those made in paras 8, 10, 11, 2 (Sub para 1 to 6) are matter of records which I believe to be true and rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 10th day of January, 2005 at Guwahati.

Sanjeeb Kumar Bora.
APPLICANT 5/3/05