

FROM No. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. original Application No. 58/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Smti. Jayanti Malakar

Respondents Dr. O. P. Tora

Advocate for the Applicant(s) Mrs. M. D. M.

Dr. M. C. Sarma

Advocate for the Respondant(s) Mr. B. M. D.

Notes of the Registry	Date	Order of the Tribunal
	03.03.06	

Presents: Hon'ble Mr. K. V. Sachidandan,
Vice-Chairman.

This application is in form
is filed/Recd. on 03.03.06
d. pos
No. 266319367
Dated 23.2.06
By. Registrar
By

Steps taken with
envelops.

The husband of the applicant was
found missing on 02.10.01 and FIR lodged
by the applicant in the Lumding Police
station. The representations (Annexure
3 & 4) have been filed by the applicant
before the respondents for payment
dues for the missing husband, but the
representations has not yet been dispos-
ed of. The applicant is aggrieved and
she has filed this S.A.

Issue notice on the Respondents.

Post on 27.4.06.

Vice-Chairman

Dr. J. L. Sarkar, learned Standing
counsel for the Railways requests for
time to file reply statement. Let it
be done. Post on 29.5.2006.

Vice-Chairman

Other cost Rs. 5/- for

1m

Respondent NO. 6 not yet
deposit by the applicant

Please, remove the
above defect.

N. S. Sankar
21/3/06.

Pl. comply order dated
3.3.06.

N. S. Sankar
3.3.06

bb

29.05.2006 Dr. J.L. Sarkar, learned standing counsel for the railways requested further time to file reply statement.

Post on 09.06.2006.

Notice of order sent to D/section for issuing to resp. nos. 1 to 6 by regd. A/D post.

(Ans) 6. D/No= 300 to 305
8/3/06 DT= 10-3-06.

Vice-Chairman

mb

19.06.2006 Dr. M.C. Sarma, learned counsel for the respondents sought for four more weeks to file reply statement. Let it be done.

Post on 20.07.2006.

Notice duly served on resp. nos. 2, 3, 4, 5.

(A/D card at file 'e'
on 04/5/06)

Vice-Chairman

① Service report awaited.

mb

My
26.4.06

30.07.2006 Dr. M.C. Sarma, learned railway counsel submitted that he would like to have three weeks more time to file reply statement. Let it be done.

Post on 11.08.2006.

Power has been held

by Dr. M.C. Sarma

4/5/06

No. W.Ls have been

filed.

11-6-06

No. W.Ls have been filed.

19-7-06

No. W.Ls have been
filed.

No. W.Ls have been
filed.

26.8.06

11.08.2006

Post on 12.09.2006.

Member

by Mr
bb
co.

Vice-Chairman

12.09.2006 Post on 21.9.2006 granting time to the respondents to file reply statement as requested by Dr. M.C. Sharma, learned Railway counsel.

Vice-Chairman

bb

21.9.2006

Dr. M.C. Sharma, learned Railway
counsel has filed reply statement. Copy
of the same is furnished to the learned
counsel for the applicant Ms. U. Das.

The O.A. is admitted. Post on
14.11.2006 for orders.

Received
Abha Das
Add Chancery
22/9/06.

Vice-Chairman

bb

14.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

25.9.06
WTS Submitted
by the Respondents-

Dr. M.C. Sharma, learned Railway
Counsel submitted that he has filed reply
statement. Post on 12.12.2006. In the
meantime, the Applicant is given liberty to
file rejoinder, if any.

13-11-06
① WTS filed by the Respondents.
② no Rejoinder filed.

/mb/

Vice-Chairman

11.12.06

Counsel for the applicant wanted
to take instruction from the applicant
and prays for time.

Post on 10.1.07 for hearing.

No rejoinder has
been filed.

20
8.12.06.

No rejoinder has
been filed.

pg
10.1.07.

Post the matter on 22.1.07.

Vice-Chairman

lm

Vice-Chairman

22
9.1.07.
No rejoinder has
been filed.

22
19.1.07.

OA 58/06

22.1.2007

When the matter came up for hearing today Ms.U.Das, learned counsel for the Applicant submitted that in the reply statement filed by the Railways it is stated that the missing employee has taken treatment at Railway Hospital in 2004 and if that is the case she requested time to take instruction from her client. Let it be done.

Post on 21.2.2007.

WB has been filed.

33
5.2.07

✓
Vice-Chairman

/bb/

26.3.07

When the matter came up for hearing the learned counsel for the applicant has submitted that she does not want to pursue the matter and she prays for permission to withdraw the application. Permission is granted to withdraw the O.A. Accordingly, O.A. is dismissed on withdrawal.

21.3.07
Copy of the
order handed
over to the
Advocates
from the party
S.L.

✓
Vice-Chairman

lm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

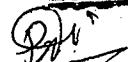
Original Application No.

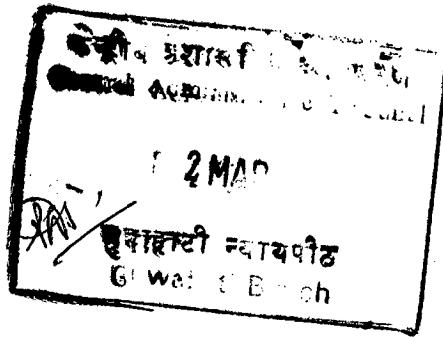
58 / 06

1. a) Name of the Applicant :- Smt. Jayanti Malakar
b) Respondents :- Union of India & Ors.
c) No. of Applicant (S) :-
2. Is the application in the proper form :- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application been duly signed and verified :- Yes / No.
5. Have the copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed : Yes / No.
7. Whether all the annexure parts are impleaded :- Yes / No.
8. Whether English translation of documents in the Language :- Yes / No.
9. Has the application is in time :- Yes / No.
10. Has the Vokatlatnama / Memo of appearance / Authorisation is filed: Yes / No.
11. Is the application by IPO / BD / for Rs. 50/- 266319367
12. Has the application is maintainable : Yes / No.
13. Has the Impugned order original duly attested been filed :- Yes / No.
14. Has the legible copies of the annexurea duly attested filed: Yes / No.
15. Has the Index of the documents been filed all available :- Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes / No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sough for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for :- Yes / No.
20. Is case of Condonation of delay is filed is it Supported :- Yes / No?
21. Whether this Case can be heard by Single Bench / Division Bench:
22. Any other pointd :-
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order

SECTION OFFICER (J)

DEPUTY REGISTRAR





BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case :

OA No. 58.....of 2006

BETWEEN
SMT. JAYANTI MALAKAR

.....APPLICANT.
AND

UNION OF INDIA & ORS
.....RESPONDENTS

I N D E X

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Filed by : Miss Usha Das
Advocate

Regn. No.:
Date :

K

LIST OF DATES

DATES	PARTICULARS
1) 02.10.2001	Husband of the applicant ^{W.M.} found missing
2) 25.12.2002	FIR lodged by the applicant in the Lumding Police Station
3) 28.12.2002	Lumding Police Station registered a Case GDE No.849
4) 21.3.2003	Certificate issued by the Officer-in-Charge, Lumding Police Station in respect of the missing of the husband of the applicant
5) 16.1.2002	Representation filed by the applicant before the respondent authority informing about the missing of her husband and made a request to take necessary action into the matter.
6) 1.3.2004	Representation preferred by the applicant request has been made to pay all settlement dues on account of missing of her husband and to consider her daughter's case for compassionate appointment under the light of the Railway Board's letters.
7) 25.5.2005	Another representation filed by the applicant reiterating her prayer for settlement dues as well as to consider her daughter's case for compassionate appointment.

PRAYER MADE BY THE APPLICANT

- 1) To direct the respondents to arrange payment of final settlement dues of the disappeared Railway employee named Shri Sukesh Malakar, the husband of

9

the applicant, in respect of Provident Fund, Gratuity, Leave Salary, Bonus, difference of pay fixation due to enhancement of D. A. and other reliefs time to time granted by the Central Government, Pension/ Pensionary benefits with commutation value and all other pay and allowances admissible as per prevailing system and Rules of the Railway.

- 2) To direct the respondents to pay the interest on market rate on the amount payable to the applicant on account of her husband's dues from the date of accrual till payment.
- 3) To direct the respondents to release the family pension to the surviving family of the disappeared Railway employee mentioned above.
- 4) Cost of the application
- 5) Any other relief or reliefs to which the applicant is entitled to, under the facts and circumstances of the case as this Hon'ble Tribunal may deem fit and proper.

Usha Devi

BEORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An Application Under Section 19 of the Administrative Tribunal Act, 1985)

OA NO. /05

BETWEEN

Smti Jayanti Malakar,
Wife of Shri Sukesh Malakar,
DTS Hill Colony, (near Children Park),
P.O. Lumding, Dist. Nagaon, Assam.
.....Applicant.

Versus

1. Union of India, represented by
General Manager, N. F. Railway, Maligaon,
Guwahati- 781011.
2. The Chief Engineer, N. F. Railway, Maligaon,
Guwahati-781011.
3. The Chief Personnel Officer, N. F. Railway,
Maligaon, Guwahati-781011.
4. The Divisional Railway Manager, N.F. Railway, Lumding,
Dist . Nagaon, Assam.
5. The Senior Divisional Engineer, N. F. Railway, Lumding,
P. O. Lumding, Dist. Nagaon, Assam.
6. The Senior Sectional Engineer/P.Way/Hill/N.F.Railway,
P.O.Lumding, Dist. Nagaon.
.....Respondents.

1. Details of Application against which the Application is made:

This application is made against the action of the respondents in not finalizing the settlement dues inspite of repeated requests and the representations preferred by the applicant dated 16.1.2002, 1.03.04 & 25.5.2005 before the respondents for her husband Sri Sukesh Malakar, a senior Watchman under SSE/P.Way/Hill/Lumding,

Filed by
the applicant through
Alka Das
Advocate
28/2/2006

52/2/2006

found missing at different times in the year 2000 and completely disappeared with effect from 02.10.2001.

2. Jurisdiction.

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

3. Limitation:

The applicant further declares that the application has been filed within the limitation period prescribed Under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1. That the applicant is a citizen of India and as such is entitled to the rights, protections, and privileges guaranteed under the Constitution of India.

4.2. That the applicant begs to state that her husband Sri Sukesh Malakar had been working in the capacity of a Senior Store Watchman under Senior Sectional Engineer/P. Way/Hill/Lumding, respondent No.6, under the exclusive control of the respondent No.4.

4.3. That the applicant begs to state, albeit it is her family affair, nevertheless it has since reasoned to be focused under the sun, that her husband Sri Sukesh Malakar mentioned above was found missing at different times in the year 2000 and 20001 for the reasoned best known to him and the efforts made by the applicant for the peaceful and happy conjugal life with her husband Sri Sukesh Malakar were of no fruitful result prior to the period of his occasional disappearance in 2000-2001, rather her husband Sri Sukesh Malakar was found to be missing complete since 02.10.2001 and hereafter there was no whereabouts known to this applicant nor any sort communication made by the husband of the applicant till date.

4.4. That the applicant begs to submit that after waiting considerable period of time for return of her husband Sri Sukesh Malakar and on being totally disappointed for his not returning to his family, it became the painful necessity for the applicant to make an FIR lodge with the Lumding Police Station which was registered on 25.12.2002

under Lumding Police Station GDE No.849 dated 28.12.2002 so as to make a through probe into the matter by the Protectors of Law and order.

4.5. That the Lumding Police Station after getting the FIR in respect of the missing of the husband of the applicant, Shri Sukesh Malakar, took all necessary steps in the matter, but as ill-luck would have it, all efforts were in vain. Eventually the Lumding Police Station gave a certificate in this context to the applicant on 21.03.03.

Copies of certificate issued by the Officer-in Charge, Lumding Police Station mentioned above is annexed herewith and marked as Annexure-1.

4.6. That the applicant begs to state that the disappearance of her husband Shri Sukesh Malakar put the family consisting of the applicant, his wife and the only daughter aged about 23 years to innumerable sufferings and immense hardships as there is no guardian to look after and no other alternative sources of income by the family for their survival.

4.7. That it is submitted that being faced by the dire consequences of the disappearance of the husband of the applicant, the applicant made countless approaches to the various authorities, mainly the respondents No.4, 5, & 6, for the settlement of the dues of Shri Sukesh Malakar pending with the respondents for final settlement and early payment to the applicant, but it is a matter of peculiar grief and great regret that till date no communication has been received by the applicant. The respondents are quite silent in regard to the rightful dues of Shri Sukesh Malakar, who has culminated a good span of sterling services under the cause of the N. F. Railway Administration, and, to the best knowledge and information of the applicant, the services rendered by her husband were satisfactory to all concerned.

Copies of the representations dated 16.01.2002; 01.3.2004 and 25.5.2005 submitted to the respondents are annexed as Annexure-2, 3 & 4 respectively.

(S) 5/1/2005
5/1/2005
5/1/2005

4.8. That the applicant begs to submit that even after submitting written prayers to the respondents Nos.4, 5,6 mentioned above vide her applications dated 16/1/2002, 1/3/2004 and 25/5/2005 for the good conscience of the respondents but, it felt those prayers were devoid of acridity and for which they had not made them felt for a moment to realize the circumstances faced by the applicant that how she along with her daughter has been passing the days the applicant that how she along with her daughter has been passing the days in this severe economic crisis, specially when there has been no forceful earning -member in the family on account of the disappearance of her husband.

4.9. That the approached by the applicant and her daughter from pillar to post of all these years have become completely futile and now they are almost on the position of starvation and edge of their survival. The respondents by their chilly silence on the matter skewed the applicant to be condemned to fight a losing battle. Finally the applicant has come to this Hon'ble Tribunal praying for justice finding no other solace and way.

4.10. That in this connection the applicant begs to state that in accordance with the Railway Board's Circular No.F(E)/IN/86/PN-1/17 dated 21.1.1994 the Railway Board have categorically instructed for granting for settlement dues to eligible family members of Railway employees who have suddenly disappeared and whose whereabouts are not known only after lodging the FIR on expiry of one year period and arrange payment of the benefits like DCRG and family Pension to the rightful claimants, in addition to the immediate payment of Provident Fund money including amount of salary, leave encashment, bonus and other dues.

A copy of The Railway Board's
Circular is annexed on Annexure - 5

4.11. That in this connection it is submitted that in accordance with the aforementioned Railway Board's Circular the payment of Pension/Family Pension shall have to be made from the date of accrual in respect of the disappeared employee's cause of incidence.

4.12. That the applicant most humbly and with suave submission begs to state that in spite of the aforementioned Railway Board's categorical instructions and the issuance of Master Circular, which is the guideline of the Railway's competency and

compliance, the respondents have not taken any sort of initiative to arrange payment of the final settlement dues of Shri Sukesh Malakar, the missing husband of the applicant, even after lapse of about 4 years time despite submission of personal approaches and appeals to all concerned authorities.

4.13. That the applicant begs to submit that the respondents have also invited the infringement of Section 7, more particularly, 7 (3) and 7 (3) (a) of the Payment of Gratuity Act, 1972, wherein the provisions have been candidly mentioned that for the culpable delay by the employer of the employee for payment of Gratuity from the due date shall have to be paid at simple interest rate, although the Apex Court in their celebrated judgment on different occasions mentioned that, market rate of interest shall have to be paid on the final settlement dues by the employer if it is found that the delay was made beyond 2 months and there was no fault on the part of the employees and/or their family members.

4.14. That the applicant begs to submit that in spite of above statutory provisions and the Railway's own Rules and Codified Laws and the prevailing system of the respondents, more particularly the respondents No. 4, 5 & 6, deliberately and with wanton attitude have not taken any initiative or to give response in respect of the applicant's approaches for final settlement of her husband's dues till-to-date which, rather, postulates to be of clandestine motive, whims and caprices of the respondents.

4.15. That it is submitted that the respondents have clearly proved their unfair play and have not shown any equitable justice to the applicant for the payment of settlement dues of the rightful claim for her disappeared husband with a view to showing a boon to them for their survival considering the sterling services rendered by her husband while he had been in the service till his disappearance.

4.16. That it is submitted that the conduct of the respondents have invited the infringement of Constitutional Provisions under Articles-14, 16 (1), 21, 39(D) and 309 of the Constitution of India for the reasons mentioned in the foregoing paras.

5. GROUNDS FOR RELIEFS:

5.1) For that the respondents have violated their own prevailing system and flouted the Railway Board's instructions, Circulars and even Master Circular.

5.2) For that the inaction of the respondents for not settling the final settlement dues to the family of the Railway employee named Shri Sukesh Malakar invited the wanton attitude and unfair play and the whims and caprices of the respondents.

5.3) For that the respondents have caused the infringement of Articles-14, 16(1), 21, 39(D) and 309 of the Constitution of India and thereby made discrimination with the applicant while the cases of the other similarly placed circumstances were considered and arrangement made for expeditious payment of the final settlement dues to the surviving members of the disappeared family in the past.

6. DETAILS OF THE REMEDY EXHAUSTED:

The applicant humbly declares that failing to get her grievances redressed she has come to this Hon'ble Tribunal for having justice which seem to her efficacious as per Article-21 of the Constitution of India and there remains no other alternative way to get justice of her grievances.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant most humbly submit that she has not filed any other application, writ petition or suit regarding the matter in respect of which this application has been made by her before any court or any other authority or any other Bench of this Hon'ble Tribunal.

8. RELIEF SOUGHT:

In the circumstances detailed above the applicant humbly prays that your Lordships be pleased to admit this application and notice be issued to the respondents to show cause as to why the relief sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs:

8.1) To direct the respondents to arrange payment of final settlement dues of the disappeared Railway employee named Shri Sukesh Malakar, the husband of the

applicant, in respect of Provident Fund, Gratuity, Leave Salary, Bonus, difference of pay fixation due to enhancement of D.A. and other relieves time to time granted by the Central Government, Pension/Pensionary benefits with commutation value and all other pay and allowances admissible as per prevailing system and Rules of the Railway.

8.2) To direct the respondents to pay the interest on market rate on the amount payable to the applicant on account of her husband's dues from the date of accrual till payment.

8.3) To direct the respondents to release the family pension to the surviving family of the disappeared Railway employee mentioned above.

8.4) Cost of the application.

8.5) Any other relief or reliefs to which the applicant is entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending finalization of this application the applicant prays for an interim order directing the respondents to release the Family Pension to the applicant for her survival with her only daughter.

10)

This application is filed through Advocate.

10. PARTICULARS OF THE I.P.O.

- i) I.P.O. No.: 26 b 319367
- ii) Date of issue: 23/12/06
Guwahati
- iii) Payable at Guwahati: Guwahati

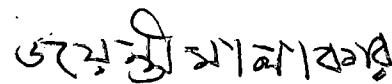
12) LIST OF ENCLOSERS:

As given in the Index

VERIFICATION

I, Shri..... Jayanti Malakar....., Wife of Shri Sukesh Malakar, aged about 42 yrs resident of D.T.S. Hill Colony, P.O. - Lumsing Nagam, Assam. I am the applicant in the present OA hence competent to sign this verification, do hereby solemnly affirm and state that the statement made in paragraph 1-11, 13, 16, 18, 19^{11 to 12} are true to my knowledge and belief, those made in paragraph 12, 14, 15, 17, 18¹⁰ are matter of records, are true to my information derived there from and the rest are my submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 18th day of Feb 2005 at Guwahati



DEPONENT

TO WHOM IT MAY CONCERN.

Ref. : Luming 1 P.S. O.D.E.N. 049, dtd. 28/12/02.

This is to certify that, on 25/12/2002, SMT JAYANTI MALAKAR, reported at P.S. to the effect that her husband Sri Sukeish Malakar, Sr. Store Watchman under SSE|P.WAY|HILL|LMG. has been missing intermittently at different spells of time during the year 2000 and 2001. Presently he is untraced since 02.10.2001. Efforts have been made to trace out his whereabouts by Police as well as his family members, but all efforts were in vain. Sri Sukeish Malakar is not suspected to be involved in any criminal Case/to have joined any terrorist organisation/gone abroad.

21/2/03

Attested
W.D.S
Advocate

To

Senior Section Engineer/P.Way/Lumding,
N. F. Railway, Lumding.

Sir,

I have the honour to inform you that my husband Shri Sukesh Malakar, was working as Sr. Store watchman under SSE/P-Way/Hill/LMG. He was absconded at different periods of time in the year 2000 and 2001. Now he has been untraced since 2.10.2001. As a result of which my whole family is suffering.

So I request you kindly to take necessary action so as to find out the whereabouts of my husband.

Yours faithfully,

Dated. 16-01-02

जयांती मालाकर

(Jayanti Malakar)

w/o Shri Sukesh Malakar
Sr. Store watchman under
SSE/P-Way/Hill/LMG.

✓
16/1/02
Attested
W. S. M.
Advocate

Attested
W. S. M.
Advocate

Annexure - 3

To,
The DRM(P)/Lumding,
N.F.Railway.

(2) Sr.DEN(C),
N.F. Railway, Lumding,

(3) SSE/P.Way/Hill/LMG,
N.F. Railway.

Sub : Prayer for payment of Settlement dues
and appointment on Compassionate Ground
on account of my missing husband.

Sir,

I have the honour to inform you that my husband Shri Sukesh Malakar is a Sr.Store Watchman under SSE/P.Way/Hill/LMG. He was found missing at different times in the year 2000 and 2001. Now he has been missing since 02.10.2001. So, a FIR was lodged with the Lumding Police Station. It was registered under Lumding Police Station, GDE No. 849 dtd. 28.12.2002. Necessary efforts were made by the police department as well as by us to trace out his whereabouts. But he could not be found. Photocopy of Police Report dtd. 21.03.2003 is enclosed.

That sir, his disappearance has thrown my family consisting of my self, and my only daughter aged about 23 to innumerable sufferings. We are passing days with immense hardship. As our family has no other alternative source of income.

Under these above, I request you kindly to pay me all the Settlement dues on account of my missing husband and appoint my daughter Miss Gita Malakar aged about 23 years in Railway Service on Compassionate Ground and for which act of your kindness I shall ever remain grateful to you.

Yours faithfully,

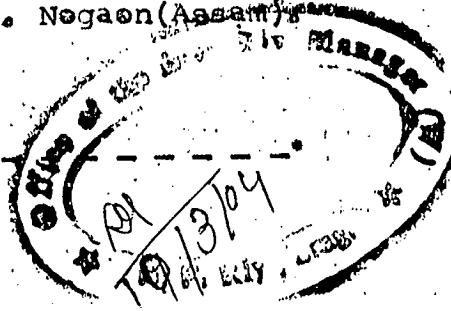
Present address for Communciation.

Smt. Jayanti Malakar,
W/o Sukesh Malakar,
DTS Hill Colony (Near Children Park),
and Gharea Office.
P.O. : Lumding, Dist. Nagaon (Assam).

Dated, Lumding,

The 1/3/04

523 Jayanti Malakar
(SMT. JAYANTI MALAKAR)
W/o Sukesh Malakar,
Sr. Watchman under SSE/P.Way/
Hill/Lumding.



1/3/04
Attested by
W/o S. Malakar
1/3/04
Attested by
W/o S. Malakar
1/3/04

To
The DRD/ (P) Lumding.
N.F.Railway.

Annexure-4
28

Sir,

I have the honour to inform you that Shri Suktesh Malakar, Sr. Store watchman under SSE/P-way Hill LMG is my husband. He was missing at different times in the year 2000 and 2001. Lastly he has been untraced since 2.10.2001. In this connection I requested you by my several applications to take necessary actions to find out the whereabouts of my husband, and to pay me the settlement dues and for appointment in Rly. service as my family is in the state of starvation due to the fact that my husband was the only income earner in the family. But it give me much pain to state that nothing has been done by the administration.

I had to lodge a FIR with the Lumding Police Station as to the missing of my husband. Despite of the efforts of the Police station my husband could not be traced out. Photocopies of the Police report were also Annexed along with my applications submitted earlier.

You are requested to kindly pay me the settlement dues and appoint my daughter in Rly. service on account of my missing husband on compassionate ground.

Yours faithfully,

5235/5/21/3/3

(Jayanti Malakar)
W/O Shri Suktesh Malakar
Sr. Store watchman under
SSE/P-way Hill LMG

Address for communication.

Mr. Jayanti Malakar
W/O Shri Suktesh Malakar
DTS Hill Colony, Near Children Park.
P.O. Lumding, Nagaon, Assam.

Attested
W.Das
Advocate

13
Ms. 815

N. F. Railway.

No. E/207/O Pt. XVIII(C).

Malisaon, dt. 11-2-94.

Annexure-5

To

All Heads of Departments.
All DRMs, DAs, WAs, NBQ & DBWS.
All Distt. and Asstt. Officers
of non-divisionalised Offices.

General Secy./NFRMU/PNV with 40 spare copies.

General Secy./NFRMU/PHQ with 40 spare copies.

General Secy./AISOTREA/MLG with 40 spare copies.

Sub:- Grant of settlement dues to eligible family members of Railway employees who have suddenly disappeared and whose whereabouts are not known.

A copy of Railway Bd's letter No. F(E)111/86/PN-1/17 dated 21.1.94 on the above subject is forwarded for information and guidance. Board's earlier letters dt. 19.9.86 and 27.3.91 as referred to in their present letter were circulated under this Office No. FS-705/E/207/O Pt. XVI dt. 30.7.87 and FS-781/E/207/O Pt. XVIII(C) dt. 10.5.91 respectively.

Pls. note
Attn: Chief Personnel Officer:MLG.

(Copy of Rly. Bd's letter No. F(E)111/86/PN-1/17 dated 21.1.94.)

Sub:- Grant of settlement dues to eligible family members of Railway employees who have suddenly disappeared and whose whereabouts are not known.

Attention is invited to this Ministry's letters of even number dated 19.9.86 and 27.3.91 on the above subject as per which the families of the employees/pensioners whose whereabouts are not known are paid in the first instance, the amount of salary due, leave encashment due and the amount of Provident Fund pertaining to his own subscription in the State Railway Provident Fund having regard to the nomination made by the employee and after the lapse of a period of one year other benefits like ICAG and family pension are also paid. The period of one year is reckoned with reference to the date on which FIR is lodged with the police about the disappearance of the concerned employee/pensioner. At present the family pension is sanctioned and paid to the eligible member of the

Contd....2/-

Attested
Ras
Advocate

: 2 :

family one year after the date of registering the FIR which with the police and no family pension is paid for the intervening period of one year from the date the FIR is lodged to the date the family pension can be sanctioned. It has now been decided that the family pension, which in pursuance of the earlier orders, will continue to be sanctioned and paid one year after the date of lodging the FIR will accrue from the date of lodging the FIR or expiry of leave of the employee who has disappeared whichever is later. When the sanction for family pension is issued, the payment of pension from the date of accrual may be authorised. The usual procedure of obtaining the indemnity bond etc. as laid down in the letter dated 19.9.86 will continue to be followed. While sanctioning payment of family pension, it will be ensured by the concerned authorities that family pension is not authorised for any period during which payment of pay & allowances in respect of the disappeared employee has been made.

This is in supersession of Board's earlier orders of even number date 21.1.1992.

Please acknowledge receipt.

ad/-9.2.94

Attested
Ranjan
Advocate

SL. N. 38599

DISTRICT:



23
RECEIVED
25/2/25

IN THE GAUHATI HIGH COURT

[THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM
AND ARUNACHAL PRADESH]

OA NO 58 OF 2006

Smt. Jayanti Malakar

APPELLANT
PETITIONER

VERSUS

Union of India & ors

RESPONDENT
OPPOSITE-PARTY

Know all men by these presents that the above named *applicant* *Union of India* do hereby nominate, constitute and appoint Sri/Smti *Union Dass*

Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In Witness Whereof I/We hereunto set my/our hand on this 22nd Day of Feb. 2006

N. M. LAHIRI (Sr. Adv.)	K.R. PATHAK (Sr. Adv.)	D.C. MAHANTA (Sr. Adv.)	K.K. BHATRA
B. M. GOSWAMI (Sr. Adv.)	BHUBANESWAR KALITA (I) (Sr. Adv.)	T.C. KHATRI (Sr. Adv.)	R.P. SHARMA (Sr. Adv.)
J.P. BHATTACHARJEE (Sr. Adv.)	B. R. DAS (Sr. Adv.)	MS. BINoya DUTTA	S.C. BISWAS
D.C. SHARMA	S.P. DEKA	BHABATOSH BANERJEE	P.C. RAYMEDHI
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P. K. BARUA (Sr. Adv.)	SAUKAT ALI (Sr. Adv.)	PRANABANANDA PATHAK (Sr. Adv.)	D.R. GOGOI
S. N. BHUYAN (Sr. Adv.)	B. K. ACHARYYA	DR H. N. DAS (Sr. Adv.)	KAIRUL BASAR
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B.K. TALUKDAR	K.K. MOUR	D.C. CHETIA	MS. L. CHENTALAPATI
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G.P. BHOWMIK	ABDUR ROSHID	MD. IQBAL HUSSAIN	ANUPAL DUTTA
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KHAGEN GOGOI	RATUL GOSWAMI	MRS. PRANITA CHOUDHURY	BIMAL KR. JAIN
RAJESWAR SARMA	JOYRAM SAIKIA	DEVASHIS THAKUR	REKIBUDDIN AHMED
T.G. BARUAH	BHUMIDHAR BARUAH	MS. Z. ARA BEGUM	MRINAL KALITA
D.G. BARUAH	DEVA KR. SAIKIA	K.C. SARMA	MS. CHANDRAMA SARMA
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TAUHIDUL ISLAM	RAHMAN ALI	ANUP JYOTI SARMA	PARITOSH BANIK
R.D. LAL	DHIRENDRA KR. DAS	S.C. CHAKRABORTY	ARUNABH CHOUDHURY
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BIMAN BARUAH (Sr. Adv.)	N.K. NATH	MD. A.H. LASKAR	A.K. SAIKIA
TONNING PERTIN	DR PAUL PETTA	AJIT DAS	DINESH AGARWAL
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H.K. CHOUDHURY	MRS. R. PHUKAN SAIKIA	PARAG K. DUTTA	MS. U. BHATTACHARYYA
BIPLAV CHAKRAVORTY	J. N. SARMA	P.C. BARPUJARI	MS. MOMIKSHYA ARUNA (OZAH)
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ARUNESH DEB ROY	KAMALESH SHARMA	R.R. KALITA	ABDUL MALIK
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NIRMALENDU SINHA	MS. APARNA DEV	SASHANKA DASGUPTA	MS. PRIYANKA BARUA
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NILUTPAL BARUA	MRS. N. DEVI SARMA	KAMESWAR LASKAR	MRINMOY KHATANIAH
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SYED I. RAHMAN	PRIYATOSH BHATTACHARJEE	Y.S. MANNAN	S.S. DUTTA
PARAMANANDA BORAH	PARITOSH PURKAYASTHA	RAJ SEKHAR	AKHTAR PARVEZ
JAYANTA TALUKDAR	MS. RINA BHATTACHARYYA	PULIN BISWAS	MS. N.S. THAKURIA
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KULENDRA BHATTA	PRADIP DUTTA ROY	SONESWAR DAS	DIPU MANI THAKURIA
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CHITTARANJAN GOSWAMI	SOUMITRA SAIKIA	MRS. J. CHAKRABORTY	JOGEN HANDIQUE
N.K. BARUA	SYED MD. T. CHISTIE	MS. S.B. CHOUDHURY	I.A. TALUKDAR
B.K. BAISHYA	DR (MRS.) M. PATHAK	U.S. AGARWALLA	BIKRAM CHOUDHURY
IFTE KHAR AHMED	MS. KALPANA BARUAH	P.K. SENOWA	NABAJIT BHARALI
D.C. NATH	B.W. PHIRA	O.K. MAHESREE (Sr. Adv.)	MRS. H. M. PHUKAN
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ZAFAR IQBAL	MS. P.B. BHATTACHARJEE	SARBESWAR DAS	MD. BABULUR RAHMAN
MS. MEGHAMALA SHARMA	S.C. BHARALI	MRS. AMI B. SARMA	P.K. PODDAR
AJANTA SARMA	MANOJ AGARWAL	AFTAB ALAM	MD. ILIAS ALI
ADIL AHMED	HAREN DAS	J.K. ADHYAPOK	RAMKRISHNA BHATTACHARJEE
MS. NANDITA MORAL	MS. AJANTA NEOG	COL (RTD.) M. GOSWAMI	M.K. MISRA
MS. DEEPANJALEE DAS	ARNAB BISWAS	B.K. SINGH	R.J. BARUA
O.P. BHATI	SAHIDA BEGUM	MD. AYUB ALI	B. K. DUTTA
DR (MRS) P. CHAKRABARTY	MONMOHAN GOSWAMI	ADHIR S. CHOUDHURY	MRS. S. DAS BHUYAN
JAINUDDIN AHMED	PC. CHOUDHURY	S.R. SAIKIA	MRS. M. RAJKUMARI
B. KARPUKAYASTHA	M.N. NATH	BAHADUR RAMCHIARY	ACHYUT OZAH
SIDHARTHA SARMA	MS. UMA CHAKRAVORTY	TAPAN DAS (II)	BIKAS HAZARIKA
A.K. DEY	MS. JUTHIKA CHAKRABORTY	MRS. PUSPA GOGOI	MS. MONI NATH

S. K. DAS	SHAJAHAN ALI	BHASKAR BARMAN	SANTOSH JAIN
RAHMAT ALI	DHIMAN TALUKDAR	MS. BIJOYA BAIRAGI	SUNIL KR. JAIN
DEVAJIT SAIKIA	U.P. BARUAH	PABITRA S. BHATTACHARYYA	DIPENJYOTI DUTTA
MATIN B. U. AHMED	MS. ARUNIMA SENAPATI	SURAJIT BHARALI	MRS. BANANI DAS
B. K. HAZARIKA	MS. SUJATA CHANGKAKOTI	MS. BABINA BEGUM	RAJESH KR. CHAYENGIA
SONJOY SARMA	A.L. MANDAL	MS. NANDITA BHARALI	MS. ASHA TEWARI
MD. A. J. ATIA	UTPAL DAS (III)	SUJIT KR. GHOSH	MRS. R. BORO BORAH
ASHIF AHMED	S. K. KHAITAN	MISS. RUPALIM DAS	MISS. REKHA DEKA
MATIUR RAHMAN	MRS. V. L. SINGH	PRANAB SHARMA	MS. N. MEDHI KALITA
A.K. BASFOR	ARNAB JAN DEKA	MISS M.M. BORAH	MANASH GARODIA
SHOUMEN SENGUPTA	S. K. SINGH	MS. BANTI BAISHYA	JAKIRUL I. BORBUHUIYA
D.K. JAIN	NIRAN BARAH	RADHA M. DAS	SUBIR BHATTACHARJEE
MS. MALLIKA DUTTA	MRS. A. A. BEGUM	PADMESWAR DEKA	MS. DIPAK BORGOHAIN
AJUNGLA AIER	SONESWAR SAIKIA	ANUPAM CHAKRABORTY	MRINALENDU CHOUDHURY
H. B. SARMA	J. P. CHAUHAN	ANGSHUMAN BORA	DHRUVAJYOTI PATHAK
PRAJNAN C. DEKA	DEBAJIT GOGOI	RAJEEV DAS	KAUSHIK HAZARIKA
ARINDAM BARTHAKUR	GAUTAM SOREN	BISWAMBHAR SHARMA	DILIP BARUAH (II)
M. J. DAS	AFSARUDDIN CHOUDHURY	HARGOBINDA BORUAH	MD. ABDUL MATLIB
P.K. TALUKDAR	JOGEN BORDOLOI	MS. JITUMONI SHARMA	RAJIB HAZARIKA
MS. MOHSYNA SYREEN	SUNIL KR. SINGHA	PUTUL CH. GOSWAMI	NABASHISH GOSWAMI
MS. K. M. PHUKAN	MRS. B. BHUYAN	RANJAN GOGOI	DEBASHISH BATTACHARYA
MS. J. RANI BORA	ARUN NATH	MISS. LOLITA RENGMA	KUMUD CH. BORO
MANASH BARUAH	MS. M. BORDOLOI	MISS. BASABI DAS	NARENDRA NATH JHA
K.K. BHATTA	SADHAN KALITA	MS. RUPANJALI DAS	RANDEEP SHARMA
MRS. RANI DUTTA	CHINMOY BHATTACHARYYA	MANISH CHOUDHURY	MS. TAMANNA BORA
ASLAM KHAN	ANUPAM CHAUDHURY	MISS. MARAMEE GOGOI	MRS. FARIDA BEGUM
PRANAB CHAKRABORTY	PRABAL KATAKI	NABIN DEB NATH	NEELANJAN DEKA
MS. PURABI KALITA	SANJU GANGULY	MRS. CHAYA DEVI	DEVASHIS BARUAH
JAYANTA DEKA	R.K. BOTHRA	MS. BASHARI SEAL	MS. MEETA DEY
NAVAROON NATH	MS. NAVANITA MITRA	MISS. DEBALINA CHOUDHURY	TUSHAR KT. RAJKUMAR
MS. NIRMALI TALUKDAR	RAM NAKSHTRA	MS. SMRITISHREE CHAKRAVARTY	MISS. S. MADHURI NEOG
N.A. LASKAR	S.N. RAY	MISS. MAMANI BASAR	MRS. RUNUMI DAS
NAJROL HAQUE	D.K. SARMAH	MISS. SANCHITA ROY	MISS. B. MAYA CHHETRI
MITHUN TALUKDAR	MS. ANUPAMA DASS	MISS. ANJALI DAS	MD. MASUD-UR-RAHMAN HAZARIKA
KANHAIYALAL GUPTA	MISS. R. DEKA	DIPAK KR. KALITA	TAPAN CH. DAS (III)
MRS. M. GOHAIN	L.K. BORAH	NURUL I. CHOUDHURY	SANJAY KR. CHAKRABORTY
MRS. GITA MEDHI	R.K. ADHIKARY	MD. A.K. HOSSAIN	MRS. D. BAISHYA (GOGOI)
B.S. BASUMATARY	S.K. SHARMA	MS. KAVERI MEDHI	MS. ANJU AHMED
N. P. DAS	MISS. ANITA DAS	KAUSHIK GOSWAMI	ROBIN KR. DUTTA
DHRUBA KR. SAIKIA (Sr. Adv.)	J. K. SARMA	ABDUR R. SHEIKH	SHARIF UDDIN
INDRANEEL CHOUDHURY	MRS. M. CHOWDHURY	MS. TAPASI DAS	MRIDUL KR DAS
MRS. R. S. CHOWDHURY	ZIAUL ALAM	HEMANTA KR. SARMA (II)	MRS. CHANDANA SHOME
SUBRAT BHUYAN (I)	MS. N. HOMCHAUDHURY	MISS. DIPSHIKHA DAS	RITU PARNA HAZARIKA
MRS. JYASNA SIKDAR	S.K. SINHA	RAJESH KR. BHATRA	ABHIJIT DAS
MRS. M. SARMA BARUAH	ROMEN BARUAH	SAGAR RAVI G.	MS. KANCHAN NEWAR
J. P. DAS	ARUPANANDA CHOUDHURY	PADMADHAR UPADHYAY	HRISHIKESH DAS
HIRALAL MAURYA	NILADRI BHATTACHARYYA	MISS. PEACE LAHKAR	PRABIN DAS
KAMALAKSHYA DAS	MS. I. KRISHNATRAIYA	IKBAL H. SAIKIA	ANKUR BHUYAN
MS. IPSITA GOHAIN	MS. PAHARI SAIKIA	DIBYAJYOTI BORAH	MRS. SHAHNAZ BEGUM
MS. DIPASHREE SINHA	N. K. BARKAKATI	MISS. HASINA YESMIN	DEVA KR. DAS (II)
MS. NIRUPAMA BARUAH	ASHIM KR. CHOUDHURY	MRS. JURI D. BARMAN	MS. ROUSHANARA CHOUDHURY
MS. PAPIA CHAKRABORTY	MS. S. HAZARIKA	MISS. ASMINA BEGUM	RABINDRA CH. PAUL
HAREKRISHNA DEKA	RUPJIT DE	MRS. RAKHEE B DEB	MS. M. BHATTACHARJEE
SAJID RAHMAN	R.K. NATH	MISS. SANTANA SARMA	MS. NAVANITA BARUAH
MS. APARNA AJITSARIA	D. J. DUTTA	BIMAL SARMAH	UJJAL KR. GOSWAMI
G.B. DAS	R.K. SARMA	AMBAR BARKATAKI	MRINAL KT. NATH
DEBAJEET THAOSEN	DINAMANI SARMAH	MISS. NIZIFA KHANAM	DURGA P. MANDAL
S.K. MEDHI (II)	PARTHA CHOUDHURY	MS. BARNALI MAHANTA	MISS. NAMITA CHOUDHURY
BEGUM R. A. SULTANA	B.P. SINHA	MIZAZUR R. BARBUHUIYA	DILIP KR. JAIN
ALOK DEB	ROFIQUDIN AHMED	SANJAY ROY	MISS. IJUMONI THAKURIA
MS. B. CHAKRABARTTY	AISWARYYA SARMA	IMTI LONGJEM	ARUN DEV CHOUDHURY
MS. INDRANI CHETIA	MS. A. BARUA	MISS. BIPASHA SARKAR	NAKUL KALITA
MS. ANUPAMA DEVI	MD. NIZAMUDDIN SEIKH	MISS. RINI SHARMA	MS. MUNMUN B. SARMA
SIDDHARTH BARUAH	DIGANTA GOGOI	SHAMIMA JAHAN	MISS. RANJUMONI NEWAR
S.R. RAJBONGSHI	SANJIB ROY	NILOUTPAL RAJKHOWA	MOIRANGTHEM G. SINGH
K.K. BHATTACHARYYA	MS. KALPANA GOGOI (SARMAH)	R.K. DEV CHOUDHURY	SANDIP BHATTACHARJEE
MS. MANJULIKA BAROOAH	ANIRBAN DAS	SONIT KR. SAIKIA	DEBASHISH SAIKIA
MS. MANJUSHA JHA	MRS. INDRANI CHOWDHURY	MISS. SEWALI KEOT	NANDAN SARKAR
MD. KHRSHED ALI	ANAN KR. BHUYAN	MS. MITALI MAHANTA	SOFIQR RAHMAN
ZAHANGIR HUSSAIN	PALASH DAS	GAUTAM KR. SARMA	UDAY J. SAIKIA
S. N. DEV PUZARI	MS. BIPAAKKHI BORTHAKUR	SHAHAB UD. MAZUMDAR	PANKAJ KR. DEKA
DIGANTA KR. MISRA	DIPAK KR. DEY.	ABDUL MANNAF	IMRAN H. LASKAR
MD. AFTAB HUSSIAN	PARTHA P. BARUAH	RAGHUNATH PD. ROY	MS. BANASHREE GOGOI
MRS. N. S. AHMED ISLAM	AJIT KR. DUTTA	NURMOHAMMAD SARKAR	MISS. HIRAMONI DEKA
MS. G. R. MAHILARY	MD. BAHARUL ISLAM (I)	ABU SAYED	
M.K. MODI	MD. TARIQUL ISLAM		
I.A. HAZARIKA			

ISWAR CH. GOGOI	SUDIPTO BHATTACHARJEE	MRS. RUBI G. GOHAIN BARUAH	MISS DIPANJALI DEKA
MISS BIJOYA SINHA	PRAHLAD KR. BRAHMA	MISS. JOYATI PAUL	MD. ALAM GEER
MD. KURBAN ALI	MS. JAGRITI RAJKUMARI	MISS. ANOWARA MAZUMDAR	NUR ISLAM
SAHIDUL H. SARKAR	KUSH RAM BORA	MISS. MADHUSMITA BAISHYA	BABUL DEKA
GAUTAM SHARMA	MS. DEEPALEI KALITA	ABHIJIT DAS	AJOY KR. PHUKAN
MISS. ADITI BHATTACJARJEE	DEEPAK BORA	BIJOY KR. DAS	ATAL TEWARI
DHRUBA BANIA	DIPANKAR PD. BORAH	JAHURUL ISLAM	MISS WAHEEDA REHMAN
GAUTAM CHAUDHURY	RAJESH KR. AGARWAL	MISS. GITUMANI DEKA	N. UNNI K. NAIR
SATYABRAT DEV SARMA	MRS. SACHITRA BORA	MS. HIRANYAMAYEE BARUA	NABADIP BAROOAH
MRS. NIRADA SEAL	SUJOY GOSWAMI	MD. JEHIRUL I. AHMED	J. A. HASSAN
NARAYAN D. BHUYAN	RINKU MAHANTA	MS. PRTIBHA DEKA	MISS SANGEETA SARKAR
KULAJIT DAS	JAIDEEP PURKAYASTHA	MRS. S. BORPATRA GOHAIN	ANJAN KR. DAS
MD. ASLAM KHAN (II)	ZAKIRUL AHSAN	MRS. MANASI DAS	MISS JAYA CHANDA
SAMIULMUNIR	MISS. RINKI BISWAS	SYED S. FAROOQUE	NITESH BHATRA
SANTANU GOSWAMI	MISS. SHABNAM CHETTRY	PARANGAM N. GOSWAMI	MISS DOROTHY ROY
NARAYAN SHARMA	MISS. MANASHI CHAUDHURY	ANOWAR HUSSAIN	MS. ARPANA BORAH PHUKAN
MS. PANCHALI BRAHMA	SANTANU RAJ GOGOI	ADITYA HAZARIKA	MISS LIPKA TALUKDAR
MANISH NATH	MISS. SHARMILA DAS	SHIMANTA NEOGI	MISS MEGHALI DEHINGIA
MISS. REHNA BEGUM (II)	MRS. RUPREKHA DAS	RUPAK DHAR	MISS RIMLY BARUAH
MS. RAJI CHETRI	MS. ARPITA PAUL	TAPAS DHAR	MS. BIPASHA DAS
KISHOR KR. BHANSALI	JOY DAS	RAJA JOY PHOKAN	MS. PRANITA DAS
DIBAKAR BORAH	DHRUPAD KASHYAP DAS	MANOJ KR. SHARMA (I)	ABHIJEET KR. BARUAH
NARESH MARKANDA	MS. SARMISTHA BARUA	ROUSHAN LAL	SULTAN AHMED
MRS. MAITREYEE BORAH	MRS. PRANITA PATHAK	MD. ROFIQL ALOM	MISS BARNALI BARUAH
JAYANTA KR. PARAJULI	MS. MOUSHUMI DAS	MISS. PRANATI DAS	MRS. M. MAZUMDER DEB
BAPAN CHOWDHURY	MS. BULIE SARMAH	RATUL DAS	MS. PANKAJA UPADHYAY
UTPAL KR. KALITA	MS. NANDINI MUKHARJEE	MISS. BAGMITA SARMA	THANESWAR SARMA
MS. APARAJITA SAIKIA	NEERAJ ANAND	MISS. P. R. MAHANTA	ASHIM TALUKDAR
MRS. MEERA H. BORAH	GITARTHA PATHAK	SANTANU BORTHAKUR	ABID ALI
DEBABRATA SAHA	SANKAR P. BHATTACHARJEE	MISS. MITALI BHUYAN	MS. SIMA GUPTA
MS. ANIMITA GOSWAMI	MD. KOHINOOR ISLAM	MISS. SABINA YASMIN	D. N. BHATTACHARYYA
MS. MANOSHI SHARMA	SYED MUSFIQUR RAHMAN	KISHORE KR. HAZARIKA	MISS SUDAKSHINA KHANIKAR
MISS. SATYAWATEE KONWAR	PUSPENDRA KR. MEDHI	MOYNUL H. CHAUDHURY (2)	ASHIMANTA GOSWAMI
MD. JAKIR H. KHAN	SANJIB KR. SINGHA	JONAB ALI AHMED	ANIL SHARMA BHATRA
BIJAN KR. MAHAJAN	MISS. NILAKSHI GOSWAMI	BHASKAR NATH	K. R. PATGIRI
ABHIJIT BHATTACHARJEE (II)	MISS. MANISHA SHARMA	ALIN SARMA	DEBENDRA SAHARIA
ARSHAD CHAUDHURY	GAUTAM RAHUL	KULA PD. GOGOI	RAJIB SARMA
PRANAB KR. DAS	MS. ANITA VERMA	H. M. A. MANNAN LASKAR	MUSTAFA JAMAL QUADIR
MS. MITALEE LAHKAR	TONGPOK PONGENER	BIBHASH PATHAK	MISS MANASKANTA BARUAH
KHANINDRA LAHKAR	ANIL GOHAIN	MD. JYOTSHNA ALI	MISS KAVITA K. JAIN
MS. MANJU BORDOLOI	MISS. ANUJITA BORA	JITU BORAH	TAPAN RANJAN DAS
SUSHANTA S. BAROOAH	SANJAY KR. SINGH	MISS BABITA DAS	TRIDIB KALITA
MS. S. HAZARIKA (BORA)	SANJIB BARUAH	MISS RUNMANI DEKA	MS. MAMONI ROY
MD. ASLAM	MISS. SOBHANA SAIKIA	MISS MURCHAN SARMA	SAIDUL ISLAM
PRANJAL DAS	MISS. MOON BARUAH	ASHOK KR. BORA	MS. SHAMIMA BEGUM
MS. PANNA SHARMA	BRIJESH SHARMA	RANJAN KR. BHARALI	DIPANKAR BAGCHI
MS. MONALISA KONWAR	MISS. RAKHI PATHAK	BIJAY KRISHNA SEN	SHYAMAL AICH
SANDI K. DEORI	RATAN CH. DAS	MISS MEDHA LILA GOPE	MS. KANika SINGHA
MS. M. CHAKRABORTY	NABAJIT NARZARY	DR N.G. GOSWAMI	JAGADISH CH. GOGOI
DEBOJIT SENAPATI	SAFIQL HUSSAIN	KASHEM BHUYAN	MISS SWARNALI S. CHAUDHURY
RAJKUMAR T. SINGH	NASIR UDDIN	MISS LIYANA RAHMAN	HARIBRATA CHANDA
MS. B. GHOSH (SEN)	MS. N. M. BORDOLOI (BORA)	M. U. MONDAL	MUKUT CH. BHATTA
MS. TASFIA HUSSAIN	PRAKASH KR. BOTHRA	MISS PARUL DAS	SUJIT KR. ROY
MRS. MEHBOOBA BEGUM	BIJOY CHETIA	JAYABRATA SINHA	RAJU GOSWAMI
JAI KISHAN BAJAJ	SUBHAJIT BANIK	MISS BIJAYA HAZARIKA	NANI G. KUNDU
MS. JAYATI PURKAYASTHA	SAHADEV DAS	MISS SUMITA CHAUDHURY	SHEKHAR CHAKRABORTY
MS. PAREE GOGOI	DR K. UDDIN AHMED	DEBAJIT BARUAH	OM P. AGARWAL
A. M. BARBUIYA	MD. A. Q. AKANDA	MISS DIPANJANA NANDI	RANABRATA BANERJEE
MISS. ARJUMANDA BHANU	PRADIP KR. AGARWALA	ABDUL KASHIM TALUKDAR	MS. SUMITRA SARMA
MS. KANGKI BORKATAKI	MD. FARID U. BARBUIYA	BIKASH SARAF	MRS. BANDANA DEKA
BINOY PATHAK	MISS. NIYATI KALITA	MS. AMVALIKA MEDHI	TARUN BORA
NITYANANDA UPADHYAYA	MRS. SADHANA KALITA	BABUL KUMAR DAIMARI	MOTI RAJ ADHIKARI
SANJIT SHIL	ARUP GOSWAMI (II)	MISS IVALINA DEKA	MISS SABBINA YASMIN
MS. JULIE MAHANTA	MS. ARUNDHATI BORA	SANJIB GOSWAMI	BISWAJIT BURAGOHAIN
MRS. MADHABI SAIKIA	MS. RITAMANI GOSWAMI	SABYASACHI P. CHAUDHURY	MRS. BOBY G. BURAGOHAIN
MISS. BABITA RANI DAS	SHUROT ZAMAL SHEIKH	DEBA KUMAR BORDOLOI	MISS SANGEETA BURAGOHAIN
SANTANU KR. DAS	SUMAN CHETIA	MANINDRA CHANDRA DAS	NEEL KAMAL DEV NATH
MISS. DOLORINA PATHAK	ALAKESH DEV SARMAH	MUL HOQUE AHMED	MISS DIPANITA CHAKRABORTY
SUBHRANGSU DHAR	RANJIT KR. GOSWAMI	BATU KRISHNA BORAH	NAZMUL I. MAZARBHUIYA
PARAMA KUMAR GOGOI	JAKIR HUSSAIN SAIKIA	MISS BANDITA DEY	PRASANTA HAZARIKA
MISS. GOPA SUTRADHAR	BHUPEN CH. PEGU	MISS JULI GOGOI	MS. NAZNEEN AHMED
IKBAL AHMED	KUNTAL SHARMA PATHAK	MS. V. N. LASKAR	RIYAJUDDINANSARI
SANJIB GOGOI	DEEPAK KEJRIVAL	MISS RANJITA VERMA	SOURAV SHARMA
ABHIJIT BHATTACHARYA (III)	MISS. AMI SAIKIA	HARINARAYAN SARMA	MS. SIMA RANI DEY

MS. SWARNALATA GOSWAMI	MS. BHARATI MUKHERJEE	GURVINDER SINGH SODHI	SAMUDRAGUPTA DUTTA
MAINUL H. BARBHUYAN	MS. MALABIKA P. GOGOI	MD. GIASH UDDIN	MISS KABITA GOSWAMI
MUKTI RAM LASKAR	SRAVAN KR. TALUKDAR	MS. JULIANA RAHMAN	RAJEEB KALITA
MISS BINITA BARUAH	HIFZUL I. CHOWDHURY	MUSTAKIM RAHMAN	TRIDEEP BARUAH
RAFICUL ISLAM (II)	SUSHANTA DAS	PRANJAL BORTHAKUR	MS. AFSANA IRFAN
MISS KAMALA SINGHA	AMIT JALLAN	BIPUL KR. DAS	MRS. DIKSHA H. BAROOWA
MISS ANUPAMA ROY	ISTIAQUE ALAM	ASHOK KR. BORAH (2)	MS. TRIPUTI PATOWARY
BISWAJIT CHAKRABORTY	RAJIB CHAKRAVORTY	MISS PALLAVI TALUKDAR	KRISHNA KT. DAS
MD. RAFIKUL ISLAM (III)	LASHMI N. DIHINGIA	INDRAJEET SHARMA	NAYAN MONI HAZARIKA
BINODAN TALUKDAR	RAKESH DUBEY	SUKUMAR SARMA	ZAKIR HUSSAIN (II)
MISS MINERVA BARTHAKUR	DEVJYOTI CHOWDHURY	NAYAN JT. SARMA	ABDUS S. AKAND
MISS NITU HAWELIA	PRIYANKU SUNDI	RITU BARNA DEKA	MRS. SABINA YESMIN (II)
RAHUL BEZBARUAH	SUBRATA NATH (II)	MS. MOMITA BARAH	MRIDUL MAHANTA
ABU NASERUDDIN AHMED	MISS CITY KALITA	MISS LIPIKA DEVI	MRS. SONGITA MAHANTA
SUMIT DAS	ROSHAN MALOO (JAIN)	RITURAJ BISWAS	ABDUL GONI
SANACHOWBA SINGHA	MS. ONTIMA SHARMA	MISS SEEMA CHAKRAVORTY	TIKAK RANJAN SARMA
YUNUSH AHMED	TAPAN ROY	SATYAJIT KR. SHARMAH THAKUR	MD. BAHARUL ISLAM (II)
MISS RITA DEVI	MOINUL HOQUE ANSARY	DR MATIUR RAHMAN	MOHENDRA DEKA
N. ANIX SINGH	MD. RAHMAT ALI (II)	MRS. P. DUTTA BUJARBARUAH	MRS. BABLI DAS SARKAR
BANDAN KR. KAR	MISS MARY GOGOI	AMAL KALITA	JONE KUMAR SENAPATI
BIKRAM MALAKAR	IDRISH CHOWDHURY	MS. MANJU AGARWALA	IFTIQUER RAFIQUE
LALIT KR. MINDA	MS. MINAKSHI BHATTACHARJEE	MOBARAQE HUSSAIN	IDRISH ALI SHEIKH
MD. FAJLEY K.R. AHMED	JYOTIRMOY PATOWARY	PURBADRI BANERJEE	MISS ELAKSHI DEKA
AMZAD HUSSAIN	SHEELADITYA	MRS. C. BARUAH TALUKDAR	MD. ABDUL AWAL ALAMGIR
PHANINDRA KALITA	MADHURYA MAHANTA	ZAKIR HUSSAIN	KAMAL KISHORE GOSWAMI
JTEN PAYENG	MISS SHEHNNAZ RASUL	MAZHARUL ISLAM	BHASKAR JYOTI DAS
MS. KABERI DEKA	RASIDUL HUSSAIN	MRIDUL KR. BORAH	BIBEKA NANDA GOGOI
PRADIP KR. KALITA (II)	MISS ANJANA SINGHA	MRS. NANDITA NATH	DHRUBOJYOTI CHAKRABORTY
SANTANU BORA	MD. ABUBAKKAR SIDDIQUE	MISS KALPANA TALUKDAR	MS. ARUNDHUTI BARUAH
KARABI KALITA	ABDUL AWAL	BHUPEN KUMAR	ARUNANGSHU DHAR
MISS MANIKA CHOWDHURY	SOHEL ALIM	MS. MITALI GOGOI	MS. SHABANA AZIZ CHOWDHURY
MISS RUMA DAS	JAHID M. A. CHOWDHURY	MISS RULI BARUAH	TAPAN RANJAN DEURI
RAFIQUL ISLAM (IV)	MISS JULFIYA BEGUM	DIGBIJOY MANDAL	MANOJ KR. SARMA (III)
MASTER SHELIM	MD. HOSNUL HOQUE	SANTANU PARASHAR	MRIDUPAWAN GOSWAMI
MRS. SUNITI KALITA	TRIDIB BAIDYA	MS. MRINALEE BHUYAN	AMLAN SARMA
MD. NEKIBUDDIN AHMED	SANTANU KR. SARKAR	SWAPAN KUMAR DAS	MS. MADHURIMA DUTTA
RAJIB BORPUJARI	PRASANTA S. DEKA	MS. ALPANA SAIKIA	AMIT GOYAL
DIGANTA BARMAN	MS. BINITA SWARGIARY	MISS NASHREEN AHMED	DEBASISH SINGHA
SAMIR DA	MISS SNIGDHA DAS	MISS NILAKSHI BARMAN	YADAV PRAN DAS
ABDUL HASHEM KHANDAKER	ATANU GANGULY	SAIKH MD. A. PAHLAVI	JAGAT CHANDRA BORAH
DR TILOK DASGUPTA	BHARGAV SARMA	SHAH NEWAJ AHMED	ANGSHUMAN SARMA
ASHIM KUAMR BARUAH	TALAT H. HAZARIKA	MRS. ABHINANDITA CHAKRABARTY	MS. TINKU SOM
SANJAY SINGH	DIPAYAN DUTTA	MRS. NIBEDITA SARMAH	MD. IMRUL HASSAN
PRATIM KR. CHAKRABORTY	GHANASHYAM DAS	MANASH HALOI	MS. APARAJITA BHUYAN
MOHD. INAM UDDIN	NAYANJYOTI MEDHI	MISS SUSMITA KANUNGOE	BHUPEN SARMA
NEELOTPAL DEKA	MS. MOON MOON LASKAR	MS. TEENA SHARMA	BISHWAJYOTI PATHAK
MS. RUBINA SULTANA	DILIP DEY	MS. MANISHA SARMAH	AZIM HUSSAIN LASKAR
PARSWAJYOTI DAS NAIR	MANOJ KR. SARMA (II)	MISS BIJU RANI KALITA	
MS. AYESHA SIDDIKA	MRS. JENNIFER ZAMAN	MISS BARASHA DAS	

Received from the executant,
satisfied and accepted

Asha Dass
Advocate

Mr/Ms..... will lead
me/us in the case

And Accepted

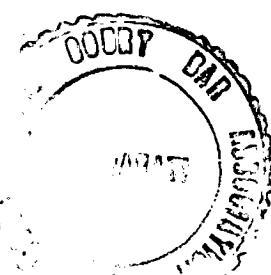
And Accepted

Advocate

And Accepted

Advocate

Advocate



Notice

29
Date - 28/2/06

From, Usha Das.
Advocate

To, Mr. J. L. Sankar

Railway Standing Counsel

Sub: OA no. 106 filed by Smt. J. Matkar

Sir, Please find herewith a copy of
OA being filed today. Kindly
acknowledge the receipt thereof.

Thanking You.

Sincerely Yours

Usha Das.
Advocate

Received copy.

Standing Counsel, Railway to undertake
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Usha Das.

नियंत्रित दरानी विविक्षण
Central Administrative Tribunal

गुवाहाटी बैचिंग
Bench

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N.C.

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Case No. OA 58/2006

Smt. Jayanti Malakar Plaintiff / Petitioner.

-Versus-

Union of India & others Defendant / Respondents.

I, Shri K. HWAIKAKHAN RATAN SINGH and Divisional personnel officer / IC / N.E.Rly, Lumding of the Northeast Frontier Railway Administration, who is also Ex-officer authorised to act for and on behalf of the Union of India as representing the Northeast Frontier Railway Administration do hereby appoint and authorised Shri M. C. Sarma, Advocate, Guwahati.

to appear, act, apply, plead in and prosecute the above described suit/ appeal/ proceedings on behalf of the Union of India to file and take back documents, to accept process of the Court to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/ appeal/ proceedings and to do all things incidental to such appearing, action, applying, pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/ Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw, or abandon wholly or partly from the suit/ appeal/ claim/ defence/ proceedings, against all or any defendants/ respondents/ appellants/ plaintiffs/ opposite parties or enter into agreement, settlement or compromise hereby the suit/ appeal/ proceedings is/ are wholly or partly adjusted or refer all or any matter or matters arising out of dispute therein to arbitration PROVED THAT IN exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and or omission to settle or compromise would be definitely prejudicial to the interest of the Government of India the said Pleader/ Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/ appeal proceedings is / are wholly or partly adjusted and in every such case the said Counsel/ Advocate/ Pleader shall record and communicate forthwith to the said Officer the special reason for entering into the agreement, settlement or compromise.

I, hereby agree to ratify all acts done by the aforesaid Shri M. C. Sarma, Advocate, Guwahati in pursuance of this authority.

IN WITNESS WHEREOF THESE presents are duly executed for and on behalf of the Union of India. this day of 200

Deepak

MC

27/4/06

M. C. Sarma
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

Filed by :
Date 21/9/06
Dr. M. C. Sarker
By Advocate

IN THE MATTER OF

O.A.58/2006

Smt. Jayanti Malakar ...

Applicant

Versus

Union of India & Others ...

Respondents

AND

IN THE MATTER OF

Written Statement on behalf of respondents.

The answering respondents most respectfully SHEWETH :

1. That the respondents have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations made in the application are hereby emphatically denied and the applicant is put to the strictest proof thereof.
2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a proper view and decision on the matter.
3. That the application suffers from want of a valid cause of action. The averment of the applicant that her husband Shri Sukesh Malakar, Senior Store Satchman under Senior Section Engineer/Hill/Permanent Way/Lumding had disappeared is not correct. As a matter of fact, Shri Sukesh Malakar, the applicant's husband, has a record of being unauthorisedly absent from time to time since the year 2000-2001. Apart from cases of unauthorised absence at different spells of time in 2000, he was absent from work for over two years and eight months from 2.10.2001 upto 15.06.2004 without any intimation to his superiors or to the Railway Medical Hospital, Lumding, which lies within half a kilometre of his residence at Lumding, as required under the rules. For joining duty he produced private medical certificate from a Homeopathic Doctor located near his Railway quarter at Lumding in spite of the fact that the Divisional Railway Hospital with full medical facilities and specialists were available within literally shouting distance from his residence. Due to such past records, a

major penalty memorandum was issued against Shri Sukesh Malakar. It has not been possible to proceed with the DAR case due to his intermittent unauthorised absence and the DAR proceedings are still pending.

As per records, Shri Sukesh Malakar underwent treatment in the Divisional Railway Hospital at Lumding from 23.07.2004 to 09.08.2004 but he has again remained unauthorisedly absent from work from 25.09.2004 and has not joined his duties since then.

From the details of his record of service given above it can be concluded that Shri Sukech Malakar, the husband of the applicant, has not disappeared as alleged, but has remained unauthorisedly absent from duty in order to escape disciplinary action and take some accompanying benefits out of his alleged act of disappearance. Therefore, it is humbly submitted that the applicant's plea for the clearance of the final settlement dues etc. cannot be sustained under extant instructions.

The respondents therefore beg to humbly submit that according to the competent authorities the case is NOT genuine.

4. Parawise comments

4.1 and 4.2. As regards paragraphs 4.1 and 4.2, the respondents beg to offer no comments as they are part of the records.

4.3. That as regards paragraph 4.3, the respondents beg to state that the applicant's husband remained in unauthorised absence during the following periods :-

a) From 16.10.2000 to 13.11.2000 -- 29 days.
 b) From 09.01.2001 to 23.03.2001 -- 45 days.
 c) From 02.10.2001 to 15.06.2004 -- 983 days.
 d) From 22.09.2004 to 23.09.2004 -- 2 days.
 e) From 25.09.2004 till date unauthorisedly absent.

The respondents beg to deny the claim made by the applicant in para 4.3 of the O.A. that "her husband was found missing completely from 02.10.2001" because the husband of the applicant was under treatment in the Divisional Railway Hospital, Lumding from 23.07.2004 to 09.08.2004. It may be noted that a major penalty memorandum was issued against the applicant's husband vide No. E/74/2(LM-E)/183 dated 20.03.2003 for his remaining absent from duty without authority. It is quite likely that he remained absent to avoid the consequences.

4.4. That as regards paragraphs 4.4, 4.5 and 4.6 the respondents beg to deny that the applicant's husband was missing in 2003. The certificate issued by the Police Station on 21.03.2006 stating that the applicant's husband could not be traced was not a conclusive evidence that he had disappeared for good as subsequent events proved to the contrary. As indicated in paragraph 4.3 above, the applicant's husband was under treatment in the Divisional Railway Hospital, Lumding from 23.07.2004 to 09.08.2004 as per record. In view of this factual position the claim that he had disappeared in March, 2003 would not carry any conviction.

4.5. That as regards paragraphs 4.7 and 4.8 the respondents beg to state that the representations annexed as annexures 2, 3 and 4 could not be acted upon by the respondents as resurfacing of the applicant's husband on various dates created a situation where no positive action was possible. The Police report was dated 21.03.2003 and the applicant's letter at annexure 3 dated 01.03.2004 received on 10.03.2004 was subsequently proved to be of no importance as the applicant's husband appeared for treatment in the Railway Hospital at Lumding on 23.07.2004. The claim that the applicant's husband disappeared in March, 2003 therefore carried no meaning.

4.6. That as regards paragraphs 4.9, 4.10 and 4.11 and 4.12, the respondents beg to state that the case of the applicant is not covered by the Railway Board's letter dated 21.01.2004 which deals with employees who have disappeared. In actual fact the applicant's husband only temporarily disappeared but resurfaced in June, 2004 and was under treatment in the Divisional Railway Hospital, Lumding from 23.07.2004 to 09.08.2004. In the mean time a major penalty memorandum for unauthorised absence was issued against the applicant's husband, though this could not be finalised by processing enquiry etc. due to want of co-operation from the employee concerned. Under the circumstances, the respondents were unable to pursue the case for settlement of dues as per the circular of the Railway Board annexed as Annexure 6 (letter dated 21.01.1994)‡.

The respondents also beg to submit that in view of the special circumstances of the case, the respondents cannot be accused of violating any provision of the Constitution of India as the applicant has strenuously tried to prove.

(4)

4.7. That as regards paragraphs 4.13, 4.14, 4.15 and 4.16, the respondents beg to submit before the Hon'ble Tribunal that the case of the applicant's husband is not one of disappearance but of unauthorised absence from work and it is because of this flaw in the service record of the employee that his final settlement dues could not be paid as per rule and extant procedure. In view of the clarifications and submissions made in paragraphs hereinabove, more specifically in paragraphs 3, 4.3, 4.4, 4.5 and 4.6, the respondents deny the allegations that they have violated the provisions of the Gratuity Act, 1972 or any of the Constitutional provisions and codes and procedures framed by the respondents.

In the circumstances as detailed above, the respondents beg to submit that the case of the applicant has no merit whatsoever and that therefore the O.A. merits to be dismissed.

And for this act of kindness the respondents shall as in duty bound ever pray.

VERIFICATION

I, Shri K. P. SINGH, son of KH. DINAMANI SINGH, aged about 34 years and at present working as DPO/IC/Lumding N.F. Railway, do hereby verify and solemnly affirm that the statements made in paragraphs 1 to 4.7 are true to the best of my knowledge and information derived from records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the _____ day of _____, 2006.

Signature

Designation
D.P.O./I.C./Lumding
Div. Personnel Office
N.S.C.C. Lumding