

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 296/2007.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application NO. 296/07

2. MiBs Petition No.

3. Contempt Petition No

4. Review Application No.

Applicant(S)....S. K. Deb.....VS Union of India & Ors

Advocate for the Applicants...Mr. S. N. Tamuli.....

Advocate for the Respondant(S).....Railway advocate.....

Notes of the Registry	Date	Order of the Tribunal
Application is in file. is P.O/C F. for Rs 10/- deposited vide P.O/BD No. <u>70EO/6849, 66F845225</u> Dated <u>26.11.07</u>	28.11.2007	Heard Mr.S.N.Tamuli, learned counsel for the Applicant. Dr.J.L.Sarkar, learned Standing counsel for the Railways. This Original Application has been filed by the Applicant praying for a direction upon the Respondents to post him in alternative job for medical decategorization. After lung operation the Applicant was found medically unfit in B ₁ - B ₂ category and fit for C ₁ -C ₂ category. It is stated that Applicant's case for alternative job is under active consideration of the Respondents. Dr. Sarkar has drawn my attention to Annexure-E letter dated 08.06.2007 in support the fact stated by the Applicant. Applicant has also submitted an representation (Annexure-D) dated 05.06.2007 which has not yet been decided by the Respondents.

Registrar

(Signature)

Petitioner's copy has
been received in received
with envelopes. Copy
sured.

Hi

*Recd
11/12/07
Secy.*

*Received
a copy of the
order dated 28/11/07
for applicant
11/12/07*

Contd...

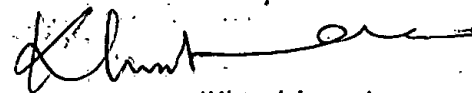
OA-296/07

Contd
28.11.2007

In the fitness of things, the Applicant is directed to submit a copy of this Original Application along with all Annexures before the appropriate authority for disposal of his pending representation and the said authority shall dispose of the same within a period of three months from the date of receipt of this order.

This Original Application is disposed of at the admission stage itself with no order as to costs.

Copies of this order shall be supplied to the counsel for the parties.



(Khushiram)
Member (A)

/bb/

14.12.07
Order Issued
Wale D No 1760
D 1761 D 12/12/07.
18.

27 NOV 2007

गुवाहाटी न्यायपीठ

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

(An application U/S 19 of the Administrative Tribunal Act, 1985)

O.A. No. ²⁹⁶...../2007

Shri Sanjib Kumar Deb

Applicant

-Vs-

The Union of India & ORS

Respondents

SYNOPSIS

The applicant was working as constable RPSF in Lumding Division of NF Railway under DRM, Lumding. He became victim of serious illness including pulmonary tuberculosis and left fibrothorax and ultimately was operated ⁱⁿ Chennai DECORTICATION OF LEFT LUNG operation of Lung. Railway respondent including Railway doctors have been very sympathetic, and after the operation he has been found medically unfit in B₁-B₂ category and fit in C₁-C₂ category. His case for alternative job is under consideration of the respondents. He has now been kept in supernumerary post where there is no scope of seniority and promotion. He prays for early appointment in alternative with fitness in C₁, C₂ category.

Filed by



(S.N. Tumul)
Advocate

6

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

O.A. No. 296 /2007

Shri Sanjib Kumar Deb

Applicant

-VERSUS-

The Union of India & ORS

Respondents

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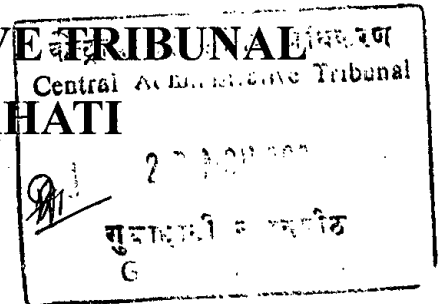
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Filed by
[Signature]
(S.N. Tamuli)
Advocate

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 296/2007



Shri Sanjib Kumar Deb

Applicant


- VERSUS -

The Union of India & ORS

Respondents

LIST OF DATES

Sl. No.	DATE	PARTICULARS
1	5/6/07	Applicant joined RPSF as Constable at Lumding
2	2004	Applicant fall sick.
3	14/6/04	Applicant undergone surgical operation at Sri Ramachandra Hospital Chennai.
4	4/8/04	Applicant was declared medically unfit for B ₁ -B ₂ category but found fit for C ₁ -C ₂ .
5	19/8/05	Applicant's case was forward by Chief Security Commissioner to GM (P) MLG/HQ
6	5/6/07	Applicant submitted reminder application to DRM (P) for providing alternative job.
7	8/6/07	Applicant's case was forwarded to GM (P) by the CO/IBN RPSF/Lumding.

Filed by

 (S.N. Tamuli)
 Advocate

कोर्टो ...
Administrative Tribunal
TRIBUNAL
ATI 27 NOV 2007
राष्ट्रपती आयोग
Act, 1985)

1985) ...

... Respondents

Filed by the applicant
through: S. N. Tamuli
Advocate.

Sanyibkr Deb.

27/10/11

গুৱাহাটী কেন্দ্রীয়
Guwahati**DETAILS OF THE APPLICATION :****1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This application is for posting in alternative job being medically decategorized, found fit in C₁-C₂ category, unfit in B₁- B₂ category.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal in within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicant further declare that the application is within the limitation period prescribed in 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 and privileges guaranteed by the Constitution of India.

4.2 That his educational qualification is 10+2 Arts from North East Hill University (NEHU) Shillong, Meghalaya. He is working in Lumding Division of NF Railway as Constable RPSF under Commanding Officer No 1BN/RPSF/LUMDING, under the control of Divisional Railway Manager (DRM) Lumding from 1999.

In the year 2004 most unfortunately he fell seriously ill and was treated by the doctors of Lumding with full care but he did not get rid of his and he was constantly suffering. His office including officers were very sympathetic and helped him in all possible ways during his ailments Doctors of Railway Hospital, Lumding were also very kind and treated him with utmost sympathy. After long treatment it was diagnosed that he was suffering from Pulmonary Tuberculosis chest diseases but unfortunately even after careful treatment he was not cured from his ailment and his health did not permit him to discharge efficient duties. He was physically and mentally deeply suffering.

Sanjib K J Deb.

a

(3)

4.3 That during the period of his serious sickness as explained above he was advised to go to Chennai for medical advise and treatment. He was taken to Chennai and where he contacted and consulted doctors there. Ultimately he got himself admitted in Sri Ramachandra Hospital, Chennai. In that hospital he was diagnosed to have left fibrothorax. Thereafter a major surgical operation of the left lung of the applicant was done in that said hospital medically called DECORTICATION OF LEFT LUNG. After the surgical treatment he was released from the hospital.

Copy of the certificate dated 24/6/2004 from the Sri Ramachandra Hospital is enclosed as *Annexure A*.

4.4. That after his return from the above Hospital after the operation he came back to Lumding and reported to the Railway doctors in the Railway Hospital, Lumding. The Railway medical officers were very sympathetic and careful for his recovery and offered him all medical help and ultimately he was given fit certificate to resume duty but unfortunately he was declared unfit in B₁ and B₂ category, as a result he was not eligible for the post he was holding as being medically unfit.

Copies of the findings of the Medical Officers of the N.E. Railway are enclosed as *Annexures B₁, B₂ and B₃*.

4.5. That on recommendation of the medical officers being unfit in B₁-B₂ category he has been medically decategorised for alternative job, being fit in C₁-C₂ category. It is stated that Railway respondents are very sympathetic and kind, and after the medical decategorization he has been kept his posting in alternative job. He was informed that attempt is being made to post him in Rangia Division in alternative post of C₁-C₂ category in a civil post.

Copy of the letter dated 19/8/2005 from C.S.C. N.F. Railway to G.M. (P) Maligaon (HQ) is enclosed as *Annexure C*.

Sanjib Kr Deb.

(4)

27 NOV 2007
गुवाहाटी न्यायपीठ
Gowahati Bench

10

4.6 That the applicant is now working in a supernumerary post. He has no scope of seniority and promotion in service. He had added expenditure due to his post operative care. He submitted a reminder representation dated 5/6/07 to the Divisional Railway Manager (P). It is stated that he had already applied for alternative job earlier. The respondents have been sympathetic for his cause. In his representation dated 5/6/2007 for his alternative job he again requested for alternative job.. It is stated that the letter reference no. E/2006/2/Pt. V (6) dated 6/6/2006 mentioned in the said representation should be E/2005/2/Pt. V (C) he expresses regret to the respondents and this Hon'ble Tribunal for his clerical mistake.

Copy of the representation dated 5/6/
2007 is enclosed as *Annexure D*.

4.7 That by letter dated 8/6/2007 from the commanding officer 1BN, RPSF, Lumbding to the General Manager (I) this case has been referred to stating that he is working against supernumerary post and till now he has not been provided any alternative job. His application dated 5/6/2007 was also sent to the GM (P) N.F. Railway, Maligaon.

Copy of the letter dated 8/6/2007 is
enclosed as *Annexure E*.

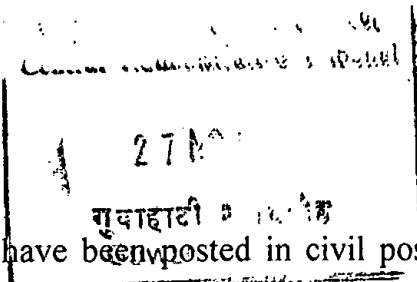
4.8 That the applicant humbly states that he is grateful to the respondents and the Railway, Medical Officers for whose sympathy and consideration he could overcome the ailment and now serving with scope of alternative job. It is stated that Railway respondents have already given alternative jobs on medical ground to some of his colleagues of RPSF, in civil posts in other departments. In RPSF there is no post in C₁-C₂ category. Delay in posting in alternative job in the circumstances shall cause loss to the applicant in his service. This application is filed bonafide and for cause of justice.

5. **GROUND WITH LEGAL PROVISION:**

(i) For that the applicant is entitled to alternative job on medical decategorization.

Sanjib KR Deb.

(5)



(ii) For that persons in similar circumstances have been posted in civil post being fit in C₁-C₂ category.

(iii) For that the Railway respondents are already considering his case for posting in alternative post as prayed for.

6. **DETAILS OF THE REMEDIES EXHAUSTED:**

The applicant declares that he has exhausted all the remedies available to him and there is no other alternative remedy available to him.

7. **MATTERS NOT PENDING WITH ANY OTHER COURT:**

The applicant declares that there is no case pending any other Court/Tribunal.

8. **RELIEF SOUGHT FOR:**

Under the circumstances, the applicant therefore prays for the following reliefs.

The applicant may be posted in alternative job for medical decategorization.

9. **INTERIM RELIEF SOUGHT FOR:**

There is no interim prayer of the applicant. He prays for expeditious posting in the alternative job.

10. **PARTICULARS OF BANK DRAFT/POSTAL ORDER:**

I.P.O. No. : 70E016849 (R210) + 66F845224 (R220) + 66F845225

DATE : 28/11/07

PAYABLE AT : GPO Guwahati

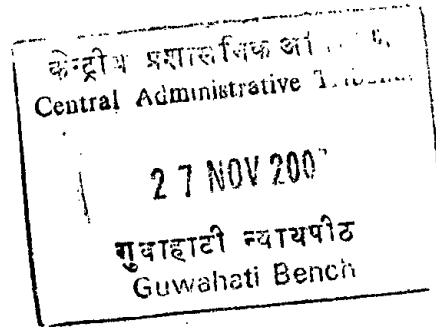
ISSUED FROM : GPO Guwahati

11. **LIST OF ENCLOSERS:**

As stated in the index

Sanjib KR Deb

(6)



VERIFICATION

I Shri Sanjib Kumar Deb, Son of Shri Karunamoy Deb, aged about 31 years working as Constable under Commanding Officer RPSF 1ST BN Lumding under Divisional Railway Manager, Lumding, resident of Buddha Mandir Lumding, do hereby verify that the contents of paras 1, 4, 6 to 11 are true to my personal knowledge and paras 2, 3 and 5 believed to be true on legal advice and that I have not suppressed any material fact.

AND I sign this verification on this 27th day of November 2007 at Guwahati.

Date : 27/11/07

Place : Guwahati

Sanjib KR Deb.

Signature



SRI RAMACHANDRA HOSPITAL

ANNEXURE - A

No. 1, Ramachandra Nagar,
Porur, Chennai - 600 116.
Ph. : 24768027, 31 - 33
Fax : 091-44-24767008

June 24, 2004

To Whomsoever It May Concern

This is to certify that Mr K R SANJIB DEB, aged 28 years, was diagnosed to have left fibrothorax for which he underwent DECORITICATION OF LEFT LUNG on 14.06.04. He had a smooth and uneventful recovery and was discharged on 23.06.2004. He has been advised a period of rest for a month and to abstain from strenuous activities for three months.

K R Balakrishnan

Dr K R Balakrishnan

Professor & HOD - Cardio Thoracic Surgery

Dist. Secy.

MR. K. R. Sanjib Deb, aged 28 years, is under treatment at Sri Ramachandra Hospital, Chennai - 600 116, for "Fibrothorax of left lung".
From 14.6.04, it is continuing treatment. He is getting treatment under our sick sheet.

Sr. Divisional Medical Officer

Southern Railway

Health Unit / NCO
Chennai 3



A Harvard Medical International Associated Institution

Certified to be true copy

S. N. Tamuli

S. N. Tamuli
Advocate

Rmc w/o 09/18/04

सी. एन. एफ. रेलवे N. F. RAILWAY

आर. बी. मेडि. / R. B. Med. सु/ C-2

HOSPITAL DISCHARGE - CERTIFICATE

अस्पताल/ HOSPITAL

क्रम सं/Sl. No. अंतर्गत सं/Indoor No. तारीख/Dated

अस्वस्थता प्रमाण-पत्र सं/Sick certificate No. तारीख/Date

नाम/Name Sanjib Kr. Deb पदनाम/Designation Constable

विभाग/Department R.P.E. स्टेशन/Station Loh जिला/मंडल/District/Divin

भर्ती/Admitted 04/18/04 विसर्जित/पुनः/Discharged/Died 10/8/04

(क) यह दायित्व के योग्य है (a) He is fit for duty

(ख) इसे हाकटरी जॉब के आधार पर तारीख से तक की छुट्टी लेने के लिए सिफारिश कि जाती है

(b) Recommended leave on medical grounds from

(ग) इलाज के लिए उसे दवाखाना में उपस्थित होना चाहिये

(c) He should attend at Dispensary for further treatment

(घ) काम पर वापस जाने के पहले दवाखाना में रिपोर्ट करनी चाहिये

(d) He should report at Dispensary on before return to work

(इ) हाकटरी जॉब के आधार पर आगे सेवा के लिए अयोग्य है

(e) Unfit for further service on medical grounds

(स) (f)

निदान/ Diagnosis Post operative

आगे इलाज की सिफारिश, यदि हो Further treatment recommended, if any 2) in bed (w)

कार्यालय मुहर/ Office Seal कार्यालय मुहर का हस्ताक्षर/ Signature of House Surgeon

तारीख/ Date 3) Nadu in 1st

Certified to be true copy

S.N. Tamuli

(S.N. Tamuli)
Advocate

पू. सी. एम. N. F. RAILWAY

पू. सी. एम. N. F. M. - 54

आर. बी. मोडि R. B. Mod. सी/ C-2

अस्पताल से अस्वस्थ होने का प्रमाण-पत्र/HOSPITAL DISCHARGE - CERTIFICATE

अस्पताल/Counter foll

अस्पताल/ HOSPITAL CH-MLC

तारीख/ Dated

अन्तरंग सं./ Indoor No. 342/04

क्रम सं./ Sl. No.

अस्वस्थता प्रमाण-पत्र सं./ Sick certificate No.

नाम/ Name Sangib K. Deb तारीख/ Date

आयु/ Age 28 वर्ष/ Ward 10 अन्य सम्बन्धी/ Next of kin

पदनाम/ Designation Const विभाग/ Department RPSF अनुभाग/ Section LMG

अस्थायी/ Provisional

निदान/ Diagnosis

अस्थायी जांच/ Provisional Treatment

कैफियत/ Remarks

भर्ती करने की तारीख/ Date admitted 20/8/04 स्वरुत होने की तारीख/ Date of discharge 24/8/04

कार्यालय मुद्रा/ Office Seal स्थानिक सर्जन का हस्ताक्षर/ Signature of House Surgeon

केवल मंडल जिला अस्पताल द्वारा भर जाय/ To be filled in by District Hospital only. तारीख/ Date 24/8/04

अस्वस्थ होने का प्रमाण-पत्र/DISCHARGE - CERTIFICATE

(क) वह हयुटी के योग्य है/ (a) He is fit for duty.

(ख) इसे डाकटरी जांच के आधार पर तारीख से तक की छुट्टी लेने के लिए सिफारिश कि जाती है

(b) Recommended leave on medical grounds from to

(ग) इलाज के लिए उसे Dispensary for further treatment

(घ) He should attend at J. D. M. L. M. Dispensary for further treatment

(च) काम पर वापस जाने के पहले Dispensary on before return to work

(द) He should report at Dispensary on before return to work

(ड) डाकटरी जांच के आधार पर आगे सेवा के लिए अयोग्य है

(e) Unfit for further service on medical grounds

(च/ (f) General

निदान/ Diagnosis. Old case of P.T.B. & General

आगे इलाज की सिफारिश, यदि हो/ Further treatment recommended, if any. ...

स्थानिक सर्जन का हस्ताक्षर/ Signature of House Surgeon

तारीख/ Date 24/8/04

N. F. Rly. Press - 13/ 35/0002/1435 --2000--550 X 100 Lvs.

चिकित्सा अधिकारी/ Medical Officer

Handwritten notes and signatures at the bottom left.

Handwritten notes and signatures at the bottom right.

Certified to be true copy

Handwritten signature.

(S. N. Tamuli)
Advocate

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INVESTIGATION No. 3950704

2022/10/24

FACTORY/Dispensing

Ulf/Namc: ... Sørhild og Det

पदनाम/Designation Constable

नाम: श्री विभा/branch or Department RPSMIA

संनारी की जगह/Station where employed

वि. सं. २००१ (१२. ०६. २००१) र.

... १००० ...

.....

प्राप्ति तक जारी पर हस्ताक्षर/Signature to be given

10. The patient was sick and under treatment from

Step 2 of 2: 2/13/08 and

leave on medical recommendation from (date)...

FILE 4-27/51-7-10-3-10

10/10/1968

.....

Free Seal

2:17 PM 1/24/2019

If inapplicable:

... ..

to defect in the future. All/No recommendation

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20250

the United States, and the fact that the United States has no other ally in the world.

11-11-61 51 One FLEW

Copy one (C1) of below Yr 2
11/2/19/1600/1600

C'm s/line L 700 13/2/57/600/line 4

2. 6/5/00

Ernst

(S.N. Temuli)
Advocate



NORTHEAST FRONTIER RAILWAY
OFFICE OF THE CHIEF SECURITY COMMISSIONER
MALIGAON, GUWAHATI-781011

☎ : 2676020 FAX: 0361-2570376

No.: P/E/227/SM/Pt.IV/EB

Friday, August 19, 2005

To,
GM (P)/MLG HQ
N. F. Railway.

Sub: Providing an alternative job to Sri Sanjeeb Kr. Deb,
Const./(MD)10335 'A' Coy 1st BN/RPSF/LMG.

Ref: Railway Board's letter No. 2005/S/ABE/R/10 dt. 01.08.05

Under Secretary/ABE/Railway Board has forwarded a letter for providing an alternative job to Sri S. K. Deb, Constable/10335 of 'A' Coy 1st BN/RPSF/LMG, who has been declared Medically unfit in category 'B' and B2. But fit 'C' and C2 category vide letter dt. 01.08.05 to provide alternative job in HQ.

Hence the case of Sri Sanjeeb Kr. Deb, Constable alongwith the relevant document as received from Railway Board are sent herewith to provide an alternative job in 'C' or C2 category at your end under intimation to the Railway Board and this office.

DA : As above.

SC/CIB/MLG HQ
for Chief Security Commissioner
N. F. Railway, Maligaon.

Copy to :

1. The Under Secretary (ABE), Railway Board, New Delhi.
2. ✓ Sri S. K. Deb, Constable/10335 'A' Coy 1st BN/RPSF/LMG
through IPF/1st BN/RPSF/LMG

19.8.05
SC/CIB/MLG HQ
for Chief Security Commissioner
N. F. Railway, Maligaon.

certified to be true copy

(S.N. Tumul)
(Advocate)

Date - June - 05 - 2007

Lumding

To
The Divl. Railway Manager(P)
N. F. Railway,
Lumding

(Through proper channel)

Hon'ble Sir,

Sub:- Providing an alternative job at Rangia
Division over N.F. Railway.

With profound respect and humble submission, it is kind information that I, Constable/MD 10335 Sanjib Kumar Deb of No.1BN/RPSF/Lumding, being medically decategorised vide CMS/NFR/LMG's letter No.H/219/LM dated 26.05.2005 applied for providing an alternative job at NFR/HQ/MLG, which was forwarded to GM(P)/NFR/Maligaon by Dy.Secy, Railway Board vide letter No.2005/Sec(ABE)/RB/10 dated 01.08.2005, conveyed by CSC/RPF/NFR/MLG letter No.P/E/227/SM/Pt.IV/EB dated 19.01.2005. But till such time I have no any information regarding any alternative job except receiving letter from CSC/NFR/Maligaon. Ultimately I have come to know from CSC/MLG's office that my case has been forwarded at your office vide CSC/MLG's letter No.R/206/2/Pt-V(6) dated 06.06.2006 wherein I have not submitted any willingness to forward my case in Lumding Division.

It is, therefore, requested to your kind honour that my case for providing an alternative job may please be forwarded to RANGIA DIVISION.

Your kind co-operation is solicited.

Thanking you in anticipation.

Yours faithfully

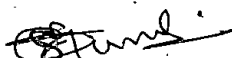
(SANJIB KUMAR DEB)
CT/MD/10335 of
No.1BN/RPSF/LMG.

Copy to:-

The Hon'ble CSC/RPF/NFR/Maligaon for kind information please.
The Hon'ble GM(P)/NFR/Maligaon for kind information please.

Sanjib K91 Deb
(SANJIB KUMAR DEB)
CT/MD/10335 of
No.1BN/RPSF/LMG.

Certified to be true copy



(S.N. Tamuli)

Advocate



HEADQUARTERS NO.1 BATTALION RAILWAY PROTECTION SPECIAL FORCE DISTRICT
NAGAON, LUMDING (ASSAM) -782447

No.1BN/13/5/2007-

Dated June 08, 2007

To
 The General Manager (P)
 N. F. Railway, Maligaon

Sub: - Representation of CT (MD)/10335 Sanjib Kumar Deb of No.1BNRPSF/LMG
 for providing an alternative job at Rangiya Division over N.F.Railway.

The above named staff of this battalion, working against superanumerary post, was medically decategorised on 26.05.2005 vide CMS/NFR/LMG's L/No. H/219/LM dated 26.05.05. Accordingly, he applied for alternative job at NFR/HQ/MLG, which was forwarded at your good office by Railway Board vide No.2005/Sec (ABE)/RR/10 dated 01.08.05 being conveyed by CSC/NFR/MLG's L/No. P/E/227/SM/Pt.IV/EB dated 19.01.2005. But still now he has not been provided any alternative job.

Further, staff concerned has submitted an application stating therein that his case has now been sent to Lumding Division at the office of DRM (P)/NFR/Lumding for providing alternative job by CSC/NFR/Maligaon vide letter No. E/206/2 Pt-V dated 06.06.06 without his willingness/option and requested to forward his case at Rangiya Division over N. F. Railway for providing an alternative job.

His application in original is sent therewith for kind perusal and necessary action, please.

DA: 01

[Signature]
 COMMANDING OFFICER
 NO.1BN/RPSF/LUMDING

Copy to:-

1. CSC/RPF/NFR/Maligaon for kind information and necessary action please.(DA:01)
2. DRM(P)/NFR/Lumding for kind information and necessary action please. (DA:01)

*C.D.P./m-62
 E/205/2-Pt-V (c)
 dt 5-6-06*

[Signature]
 COMMANDING OFFICER
 NO.1BN/RPSF/LUMDING

Certified to be true copy

[Signature]
 S. N. Tumb.
 (Advocate)