

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 91/2007.....

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SECTION OFFICER (Judl.)

Kulita  
26.9.17

GENERAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 91/07
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Sub A. Mazumdar VS Union of India & Ors

Advocate for the Applicant(S) M. Chanda, G.N. Chakrabarty  
S. Nath, Mr. M. Dutta

Advocate for the Respondent(S) Railway advocate

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/DB No. <u>346.6256</u> Date <u>29.3.07</u></p> <p><i>Petitioner's wife for some notices are not received.</i></p> <p><i>5.4.07</i></p>	5.4.2007	<p>Present: The Hon'ble Mr.K.V.Sachidanandan Vice-Chairman.</p> <p>The Applicant was initially appointed as Staff Nurse in the Medical Wing of N.F.Railway. Subsequently she was temporarily promoted on officiating basis as Sister Inspector and transferred and posted under Medical Director, Maligaon on 3.12.2001 where she joined on 7.12.2001.</p> <p>According to the Applicant, she was promoted to the cadre of Matron Grade-II but it was directed that her promotion would be effected only after reporting Railway Hospital, Maligaon. Respondent No.2 decided to retain her at Maligaon and also stated that her promotion need to be given effect as Matron Grade-II and further requested DRM (P) to arrange to</p>

2  
O.A. 7/1/2007

Contd.  
5.4.2007

Steps for issue notices  
are not received.

18/5/07.

make available one post of Matron Grade-II from the Division office to the Head Office for variation of a post in that group. Finally by impugned order dated 5.3.2007 Respondent No.4 informed that Applicant may be spared to join at Lumding for getting the effect of promotion. Vide Annexure-11 it has been said Applicant's lien is being maintained at Lumding Division and she has been considered for promotion to Matron Grade-II with her posting under CMS/Lumding.

Heard Mr.M.Chanda, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways.

Dr.Sarkar submits that from the documents that have been annexed with the O.A. it is evident that Applicant is working in an ex-cadre post and her lien is being maintained in Lumding and there is no post at Maligaon, and therefore, such an order has been passed.

Considering the issue I direct the Registry to issue notice to the Respondents. Six weeks time is granted to the Respondents to file reply statement.

Post the matter on 21.5.2007. In the interest of justice Annexure-8 order dated 5.3.2007 will be kept in abeyance till the next date.

✓  
Vice-Chairman

/bb/

Steps not taken  
for issue notices.

18/5/07.

35  
04.9/2007

21.5.2007

Further time for four weeks is granted to file reply statement.

Steps taken for issue notice's on 25/5/07.

Post on 20.6.2007. Interim order shall continue till then.

25/5/07.

Vice-Chairman

Notice & order sent to D/section for issuing to R- 1 to 4 by regd. A/D post.

/bb/

20.6.07. At the request of learned counsel for the respondents further four weeks time is granted to the respondents to file written statement. Post the matter on 12.7.07. Interim order shall continue.

29/5/07. D/No-522 to 525  
Dt= 7/6/07.

Vice-Chairman

- ① Service report awaited.
- ② No Wks has been filed.

12.7.07. Counsel for the respondents wanted time to file written statement. Let it be done Post the matter on 21.8.07. Interim order shall continue.

19.6.07.  
Notice duly served on R- 2, 3.

Vice-Chairman

Wks not filed.

02.05.2008

Mr. M.Chanda, learned counsel appearing for the Applicant has filed a letter of absence. No one for the Respondents. Written statement has not been filed.

Call this matter on 09.06.2008 awaiting written statement from the Respondents.

(Khushiram)  
Member(A)

lm

10.12.07

W/s submitted by Respondt. Nos 1, 2, 3 & 4. Undertaking given for service.

16/7/07.

DA 9/1/07

1-4-08

*pleading considered  
placed for fixing a date  
of hearing.*

9.6.2008


None appears for either of the parties. In this case written statement and rejoinder have already been filed. ~~Now~~ <sup>Advocate for</sup> the applicant undertook to serve copy of the rejoinder on the Counsel for the Respondents.

Subject to legal pleas to be examined at the final hearing, the case is admitted and set for hearing on 16.6.2008.

8.5.08

*Rejoinder filed  
by the Applicant.  
undertaking given  
for service.*

  
[Khushiram]  
Member[A]

  
[M.R. Mohanty]  
Vice-Chairman

cm

*The case is ready  
for hearing.*


06.06.08

*The case is ready  
for hearing.*

16.06.2008

On the prayer of Mr. M. Chanda, learned counsel appearing for the Applicant call this matter on 01.7.2008.

  
(Khushiram)  
Member(A)

  
(M. R. Mohanty)  
Vice-Chairman

lin

13.6.08

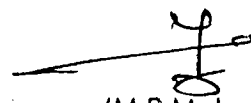
*The case is ready  
for hearing.*

20.08.2008

01.07.2008

Mrs. U. Dutta, learned counsel for the Applicant is present. Dr. J. L. Sarkar, learned Standing counsel for the Railways is absent being sick.


Call this matter on 21.08.2008 for hearing.

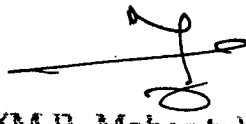
  
(M. R. Mohanty)  
Vice-Chairman

/bb/

21.08.2008 Heard Mr M. Chanda, learned Counsel appearing for the Applicant and Dr J.L. Sarkar, learned Counsel for the Respondents/Railways, and perused the materials placed on record.

Hearing concluded. Orders reserved.

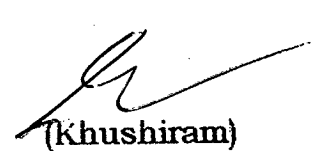
  
(Khushiram)  
Member(A)

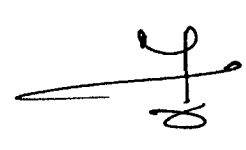
  
(M.R. Mohanty)  
Vice-Chairman

nkm

*R  
Order  
4/9/08  
For Railway Se*

28.08.2008 Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No costs.

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

lm

5.9.08

*Copy of the  
order sent to  
the D/Sec. for  
issue the order to  
the Applicant in  
Report No. 1.  
US*

*Received  
Mutha  
08.09.08*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 91 of 2007

DATE OF DECISION: 28.08.2008

Smti Alpana Mazumdar

.....Applicant/s

Mr.M.Chanda

..... Advocate for the  
Applicant/s.

- Versus -

Union of India & Others

.....Respondent/s

Dr.J.L.Sarkar, Railway Standing counsel

..... Advocate for the  
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? ~~Yes~~/No
2. Whether to be referred to the Reporter or not? ~~Yes~~/No
3. Whether their Lordships wish to see the fair copy of the Judgment? ~~Yes~~/No

Vice-Chairman/Member (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

Original Application No.91 of 2007

Date of Order: This, the 28th Day of August, 2008

**HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN**

**HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER**

Smti Alpana Mazumdar  
Working as Sister Instructor  
O/O: The Medical Director  
Central Hospital, Maligaon  
N.F.Railway, Guwahati-11.

..... Applicant.

(By Advocates: Mr.M.Chanda, Mr.S.Nath & Mrs.U.Dutta.)

- Versus -

1. The Union of India  
Represented by the General Manager  
N.F.Railway, Maligaon  
Guwahati-11.
2. The Medical Director  
Central Medical Hospital  
Maligaon, Guwahati-11.
3. The Chief Medical Superintendent  
N.F.Railway, Lumding  
Assam.
4. Divisional Railway Manager (P)  
N.F.Railway, Lumding  
Assam.

... Respondents.

By Dr.J.L.Sarkar, Railway Standing counsel



\*\*\*\*\*



ORDER  
28.08.2008

KHUSHIRAM, MEMBER (A):

Applicant was initially appointed as Staff Nurse in the Medical Wing of the N.F.Railway and posted at Lumding Railway Hospital on 07.01.1993. She was promoted as Nursing Sister on 23.07.1993. On 26.06.2001, DRM (P), Lumding invited applications for filling up 2 unreserved posts of Sister Instructor in the scale of Rs.5500-9000/- by holding selection from nursing cadre of N.F.Railway. Applicant submitted her candidature for the aforesaid post and, on selection, she was promoted on officiating basis in the pay scale of Rs. 5500-9000/- on 03.12.2001. Chief Matron of Lumding spared the Applicant on 04.12.2001, instructing her to report to Medical Director of N.F.Railway Hqrs. at Maligaon. She reported for duty to the Medical Director at Maligaon on 07.12.2001 and was posted at Central Hospital/Maligaon against the post of Sister Instructor. General Manager (P) vide his memorandum dated 28.04.2003 intimated that two posts of Nursing Sister were temporarily transferred from Lumding to Maligaon to operate those posts as Nursing Instructor under the MD, Central Hospital, Maligaon and Applicant's lien etc. was retained by the respective division for further career advancement. On 02.06.2004 Applicant was promoted to the cadre of Matron Grade-II in the scale of Rs.6,500-10,000/-




along with others. In the case of the Applicant, the promotion was to made effective only after reporting in Railway Hospital at Lumding. Applicant was granted study leave for 24 months w.e.f. 08.07.2004 for undergoing the course of B.Sc. (Nursing) at Bhopal. The Medical Director of Central Hospital at Maligaon, on 14.08.2004, sent a letter to DRM (P)/Lumding to the following effect:-

“Since there is no vacancy in Central Hospital in Matron Gr.I or Matron/Gr.II, you may kindly arrange to make available one post of the Matron Gr.II in scale of Rs.6500-10500 from your Dvn. or take up the issue with Hqrs Office for variation of a post in that grade accordingly.”

2. General Manager (P) intimated that CMD/Maligaon has accorded approval for variation of one post of Matron Gr.II in the scale of Rs.6500-10500/- from Lumding to Maligaon to accommodate the Applicant.

3. The Applicant, on 01.06.2006 (after expiry of her study leave) joined at Central Hospital/Maligaon as Sister Instructor and, under RTI Act, Applicant obtained information regarding non-effecting of her promotion to the post of Matron Gr.II from the due date. On 27.02.2007, General Manager (P) of N.F.Railway at Maligaon vide impugned letter dated 27.02.2007, informed the Medical Director of Central Hospital at Maligaon that the Applicant may be spared to join at Lumding to get effect of the promotion as Matron Grade-II in terms of order dated 02.06.2004. By Annexure-11 dated 05.03.2007,



it was disclosed that since lien of the Applicant is being maintained in Lumding Division, she was considered for promotion as Matron Gr. II in the scale of pay of Rs.6500-10500/- under DRM (P), Lumding's Office Order No17/2004 dated 02.06.2004 with her posting under CMS/Lumding, and on return from study leave, she should have joined at Lumding as Matron Gr.II. Aggrieved by the said decision, Applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking mainly the following reliefs:-

- "8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letters bearing No.E/90/5/13 (Med)/Sister Tutor dated 27.02.2007 (Annexure-7) and letter bearing No.E/283/1(Med) dated 05.03.2007 (Annexure-8).
- 8.2 That the Hon'ble Court be pleased to declare that the applicant is entitled to benefit of promotion to the cadre of Matron Grade-II at least w.e.f. 02.06.2004, in terms of office order bearing No.17 of 2004 dated 02.06.2004 in the present place of posting at Central Hospital, Maligaon, Guwahati in the similar manner "As-is-where basis" as extended to the other similarly situated employees by the said promotion order dated 02.06.2004.
- 8.3 That the Hon'ble Court be pleased to declare the applicant is permanently posted at Central Hospital, Guwahati in terms of Railway's order bearing letter No.321E/2/254 (II)/Pt.II dated 10.08.2005 (Annexure-4) in the cadre of Nursing Sister.
- 8.4 That the Hon'ble Court be pleased to direct the respondents to allow the applicant to continue at her present place of posting at Central Hospital, Maligaon, Guwahati in the cadre of Matron, Grade-II in terms of promotion order dated 02.06.2004"



4. Respondents have filed the written statement disclosing therein that a Railway Nursing School (recognized by the Nursing Council of India) was functioning within the premises of the Central Hospital/Maligaon; where candidates with 10+2 qualification were trained and in that school Sister Instructors were appointed from amongst the Nursing staff of N.F.Railway (by selection against ex-cadre post) maintaining their lien in their parent cadre. The said School of Nursing is not functioning now, and that the Railway authorities are considering recruitment of Nursing staff from amongst the persons having requisite qualification as laid down by the Nursing Council of India from open market. Applicant was selected and posted as Sister Instructor in School of Nursing/Central Hospital at Maligaon in the scale of pay of Rs.5500-9000/- against ex-cadre post holding her lien at Lumding. When the time of the Applicant came for promotion in her parent cadre at Lumding, she was promoted to the grade of Matron Gr.II in the scale of Rs.6500-10500/-. The feasibility of retaining the Applicant at Maligaon in this higher post as Matron Gr.II was examined but it was decided against it; because her retention at Maligaon as Matron Gr.II will invite administrative inconvenience including shortage of Matron Gr.II at Lumding Hospital and shall open scope of complaints from other Nursing staff. It has been further clarified that the Applicant, after having been duly selected, was posted at Lumding but having found no scope of retaining her at Maligaon (since the Nursing School of Central




Hospital at Maligaon is not functioning) and the fact of shortage of Matron Gr.II at Lumding Hospital, it was felt by the competent authority to spare the Applicant to join at Lumding Division to get effect of her promotion as Matron Gr.II to avoid incurrence of unnecessary expenditure by operating higher grade post against defunct school just to retain the Applicant.

5. We have heard Mr.M.Chanda, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways and perused the materials placed on record.

6. Learned counsel for the Applicant vehemently pleaded that the Applicant is likely to be transferred from her present place of posting at the instance of some interested Nursing staff and to pre-empt such an attempt by the Respondents, Applicant has filed the present Original Application. He also stated that the policy decision with regard to the institution where the Applicant is posted is being made in isolation to ensure the exit of the Applicant from there though she is not against the policy, in case it is made applicable to other similarly placed instructors also.

7. Learned Standing counsel for the Railways at the hearing, has produced a copy of the Railway Board's letter No.2006/H/2-2/1 dated 18.01.2008 whereby the Railway Board decided to close down the 3 Nursing Schools including Nursing School at Maligaon. The text



of the said letter is reproduced below:-

“ The matter regarding restarting the School of Nursing at Maligaon/N.F.Railway, at Malda/Eastern Railway at at-Dimapu/E/C/Railway has been examined in Board's Office.

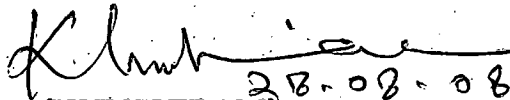
After careful consideration, Board has decided to close down all three above mentioned Nursing Schools.”

8. He argued further that Nursing School at Maligaon has become defunct and that, in compliance of the Tribunal's order dated 05.04.2007, the Applicant is being accommodated in the present place of posting (i.e., Maligaon) though there is shortage of staff in her parent cadre/division and that the promotion to the Applicant can only be effected whenever she joins in her parent division.

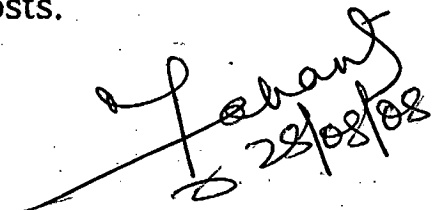
9. We have considered the rival contentions advanced by the parties and have perused the records placed before us. We feel that initially Applicant was selected for the ex-cadre post from amongst other Nursing staff of N.F.Railway and since that selection was regular, therefore, she had to be transferred to the present place of posting. Subsequently, she proceeded on study leave for two years and by the time she returned from completing her study leave, the Nursing school at Maligaon had already become defunct and was finally closed down. The Applicant's continuation in a defunct institution without any work is no longer possible/feasible – given the shortage of Nursing staff in her parent cadre. The claim by the



learned counsel for the Applicant that Applicant is being transferred in the name of policy which ultimately will ensure ouster of Applicant from Maligaon is not borne out by the records placed before this Tribunal. We feel that the case has become totally infructuous and continuation of the Applicant at the Central Hospital/Maligaon is no longer tenable and justified. We find no merit in the O.A. and accordingly the same is dismissed. No costs.

  
28.08.08  
(KHUSHIRAM)

ADMINISTRATIVE MEMBER

  
28/08/08  
(MANORANJAN MOHANTY)  
VICE-CHAIRMAN

/bb/

5 APR 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O. A. NO. 99 / 2007

Smti Alpana Mazumdar

-Versus-

Union of India & Others.

Lists of dates and synopsis of the case

- 07.01.1987 - Applicant was initially appointed as Staff Nurse in the Medical Wing of the N.F. Railway.
- 03.12.2001- Applicant was temporarily promoted on officiating basis as Sister Instructor in the pay scale of Rs. 5,500-9,000. (Annexure-1)
- 04.12.2001- Chief Matron, Lumding, instructed the applicant to report to the Medical Director, Maligaon on 07.12.01 for further duty. (Annexure-2)
- 28.12.2001- Applicant reported for duty to the Medical Director, Maligaon on 07.12.01 and she was posted at Central Hospital, Maligaon against the post of Sister Instructor. (Annexure-3)
- 10.08.2005- Respondents started recovery of damage rent from the applicant on the pretext that she retained the railway quarter at Lumding unauthorisedly. Applicant approached this Hon'ble Tribunal through OA No. 289/2003, which was disposed of on 03.03.05, with the direction to the respondents to dispose of the representation of the applicant.  
Respondent No. 2 vide order dated 10.08.05 upheld the recovery of damage rent on the ground that the applicant has been posted permanently at Maligaon at the relevant point of time. (Annexure- 4)
- 02.06.2004- Applicant was promoted to the cadre of Matron Grade-II along with others. But in the case of the applicant it has been directed that her promotion will be effected only after reporting in Railway Hospital, Lumding. (Annexure- 5)
- 14.08.2004- Respondent No. 2 decided to retain the applicant at Maligaon and also stated that her promotion needs to be given effect as Matron Gr-II and further requested DRM (P) to arrange to make available one

Alpana Mazumdar



post of Matron Gr-II from the Division office to the Head Office for variation of a post in that grade accordingly. (Annexure- 6)

- 27.02.2007- GM (P) Maligaon vide impugned letter dated 27.02.07, informed the Medical Director, Central Hospital, Maligaon that the applicant may be spared to join at Lunding to get effect of the promotion as Matron Grade-II in terms of order dated 02.06.04. (Annexure- 7)
- 05.03.2007- Respondent No. 4 vide impugned letter dated 05.03.07 arbitrarily informed that the applicant may be spared to join at Lunding to get the effect of promotion as Matron Gr-II. (Annexure- 8)
- 10.01.2007- Applicant sought an information under RTI Act 05 regarding non-consideration of her promotion, which is kept pending for more than 3 years. (Annexure- 9)
- 06.03.2007- Applicant received information as desired under RTI Act 05. (Annexure- 10)
- 05.03.2007- G.M (P), Maligaon informed that applicant's lien is being maintained at Lunding as Matron Gr-II has been considered for promotion as Matron Gr-II with her posting under CMS/Lunding. Whereas Respondent No. 2 vide order dated 10.08.05 stated that the applicant has been posted permanently at Maligaon at the relevant point of time. As such applicant is entitled to be posted at Maligaon on her promotion as Matron Grade-II in the similar manner as extended to the other similarly situated employees by the promotion order dated 02.06.04. (Annexure- 11)

Hence this Original Application.

#### PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letters bearing No. E/90/5/13 (Med)/Sister Tutor dated 27.02.1007 (Annexure- 7) and letter bearing No. E/283/1 (Med) dated 05.03.2007 (Annexure- 8).
2. That the Hon'ble Court be pleased to declare that the applicant is entitled to benefit of promotion to the cadre of Matron Grade-II at least w.e.f 02.06.2004, in terms of office order bearing No. 17 of 2004 dated 02.06.2004 in the present place of posting at Central Hospital, Maligaon, Guwahati in

*Alpana Mazumder*

the similar manner "As-is-where basis" as extended to the other similarly situated employees by the said promotion order dated 02.06.2004.

3. That the Hon'ble Court be pleased to declare the applicant is permanently posted at central Hospital, Guwahati in terms of Railway's order bearing letter No. 321 E/2/254 (II)/Pt. II dated 10.08.2005 (Annexure- 4) in the cadre of Nursing Sister.
4. That the Hon'ble Court be pleased to direct the respondents to allow the applicant to continue at her present place of posting at Central Hospital, Maligaon, Guwahati in the cadre of Matron, Grade-II in terms of promotion order dated 02.06.2004.
5. Costs of the application.
6. To grant any other Order or Order(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

During pendency of this application, the applicant prays for the following relief -

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned letters bearing No. E/90/5/13 (Med)/Sister Tutor dated 27.02.1007 (Annexure- 7) and letter bearing No. E/283/1 (Med) dated 05.03.2007 (Annexure- 8) till disposal of the Original Application.
2. That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant for the benefit of promotion to the cadre of Matron Grade-II as prayed for.

*Alpana Hazemder*

- 5 APR 2007

गुवाहाटी बेंच

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 91 /2007

Smti Alpana Mazumdar : Applicant

-Versus -

Union of India & Others: Respondents.

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Date: 5/4/07 -

Filed by

S. Nath

Advocate

Alpana Mazumdar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 91 /2007

BETWEEN:

Smti. Alpana Mazumdar.

Working as Sister Instructor,  
O/O- The Medical Director,  
Central Hospital, Maligaon,  
N.F. Rly., Guwahati-11.

...Applicant

-AND-

1. The Union of India.  
Represented by the General Manager,  
N.F. Railway, Maligaon,  
Guwahati-11.
2. The Medical Director,  
Central Medical Hospital,  
Maligaon, Guwahati-11.
3. The Chief Medical Superintendent,  
N.F. Railway, Lunding, Assam.
4. Divisional Railway Manager (P)  
N.F. Railway, Lunding, Assam.

...Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter No. E/283/1 (Med) dated 05.03.2007 (Annexure-8), whereby respondent No. 2 directed to spare the applicant to join at Lunding in order to get the effect of promotion as Matron Grade-II in the scale of Rs. 6,500-10,500/- issued

*Alpana Mazumdar*

Filed by me applicant-  
through: Subrata Das  
of Hwate  
05/03/2007.

in terms of DRM (P)/LMC's office order No. E/26/83/Med./Pt. II dated 02.06.2004 and praying for a direction upon the respondents to allow her to continue in the present place of posting at Maligaon, Guwahati in the light of the decision of the respondent No. 2 communicated through Railway's letter bearing No. 321 E/2/254 (H)/Pt. II dated 10.08.2005, and also for a declaration that the applicant is entitled to the benefit of promotion to the cadre of Matron Grade-II in the scale of Rs. 6,500-10,500/- at least w.e.f. the order dated 02.06.2004 as granted to other similarly situated employees who were promoted by the same order dated 02.06.2004 and got the benefit of promotion from the date of passing of the order i.e. w.e.f 02.06.2004, more so in view of the direction contained in the order bearing letter No. E/283/1/Pt. IV dated 14.08.2004.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such she is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant was initially appointed as Staff Nurse in the Medical wing of the N.F. Railway on 07.01.1987, thereafter she was promoted as Nursing Sister on 23.07.1993 in the pay scale of Rs. 5,500-9,000/-.

*Alpina Mazumdar*

4.3 That your applicant while working at Lumding Railway Hospital under the Chief Medical Superintendent as Nursing Sister the DRM (P), Lumding invited applications vide letter bearing No. E/90/6/1 (Med) Sister Instructor, dated 26.06.2001 for filling up 2 unreserved post of Sister Instructor in the scale of Rs. 5,500-9,000/- by holding selection from Nursing Cadre of N.E. Railway who were eligible having required educational qualification.

4.4 That your applicant after receipt of the Circular dated 26.06.2001 submitted her candidature through proper channel for the post of Sister Instructor and accordingly she was called for the written as well as viva-voce tests which would be evident from the letter bearing No. E/7-N-S/MED, dated 23.07.2001 and letter bearing No. H/268/LM/Pt. XII dated 19.10.2001.

4.5 That it is stated that the applicant was selected for appointment to the post of Sister Instructor on the basis of her performance in the written and viva-voce examination. The DRM (P), Lumding vide office order bearing letter No. O/2-A/Pt. III (MED) Lumding dated 03.12.2001 appointed the applicant temporarily on officiating basis as Sister Instructor in the pay scale of Rs. 5,500-9000 and by the same order the applicant was transferred and posted in Central Hospital, Maligaon with immediate effect.

A copy of the order dated 03.12.01 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-1.

4.6 That your applicant was spared by the Chief Matron, Lumding vide letter dated 04.12.2001 with the instruction to report to the Medical Director, Maligaon on 07.12.2001 for further duty.

A copy of the letter dated 04.12.2001 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-2.

*Alpana Mazumdar*

- 4.7 That your applicant thereafter reported for duty at Maligaon on 07.12.2001 and posted at Central Hospital, Maligaon, as Sister Instructor. This fact would be evident from the Office Order issued under letter bearing No. H/283/1/Med/Pt. V (CH) dated 28.12.2001, thereafter the applicant started discharging her duty as Sister Instructor in the Nursing Training Institute under Medical Director at Central Hospital, Maligaon.

A copy of the letter dated 28.12.2001 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE- 3.

- 4.8 That your applicant while working as such, at Central Hospital, Maligaon, the Railway authority without issuing any notice and in total violation of principle of natural justice started recovery of the damage rent from the pay bill of November 2003 of the applicant at the rate of Rs. 475/- per month on the alleged ground that she has unauthorisedly retained the railway quarter allotted to her at Lumding beyond the permissible limit of 2 months, and also on the ground that she has been permanently transferred and posted to Guwahati from Lumding and as such she is liable to pay damage rent amount which stand to Rs. 68,475/-. On the other hand the applicant submitted several representations contending that since she has been temporarily posted at Maligaon, she is entitled to retain the Railway quarter in the old station in terms of the railway Boards master circular dated 19.01.1993. The applicant approached the learned tribunal through O.A. No. 289/2003. The said O.A was contested by the Railway authority by filing a written statement, wherein the respondent No. 2, 3 and 4 categorically stated that her transfer at Maligaon was a regular transfer even though she was posted temporarily. The relevant portion of the written statement is quoted below; -

"Further in the transfer order No. O/2-D/Pt. III (Med), Lumding dated 3.12.2001 a copy of which has been annexed as Annexure 4 to the application, and in the notification dated 26.06.2001 issued

*Alpana Mazumder*

calling for application from the candidate to fill up the posts (copy annexed as Annexure-1 to the application), there were no mention about temporary transfer etc. rather it was a regular transfer but posted temporarily against the post of Nursing Instructor as will reveal from Office Order dated 28.12.01, Copy annexed as Annexure-6 to application. As such, it was not necessary to ask her to join in original posts. In General manager (P)/Maligaon's Circular No. E/90/6/1 (Md.) Sister Instructor dated 26.06.01 (Annexure- 1 to the application), it was never mentioned that the post of Nursing Instructor to be filled up was a post of temporary nature."

However, the learned tribunal vide its judgment and order dated 03.03.2005 passed in O.A No. 289/2003 directed the Railway authorities to dispose her representation. In compliance with the learned Tribunal's order dated 30.03.2005, the respondent No. 2 upheld the order of recovery of damage rent after 2 months retention on the ground that the applicant has been permanently posted at Maligaon at the relevant point of time and rejected the prayer of the applicant accordingly vide order bearing letter No. 32 IE/2/254 (H)/Pt. II dated 10.08.2005

(Copy of the letter dated 10.08.2005 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-4).

- 4.9 That your applicant further beg to say that she was promoted to the cadre of Matron Grade- II in the scale of Rs. 6,500-10,500/- vide office order No. 17 of 2004 dated 02.06.2006. It is relevant to mention here that by the common order dated 02.06.2006 some other similarly situated nursing sisters have been promoted to the cadre of Matron Grade-II with immediate effect and accommodated in the same place of posting. But in the case of applicant it has been directed that her promotion will be effected only after reporting in railway Hospital, Lumding.

*Alpana Mazumder*



(A copy of the promotion order dated 02.06.2004 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-5).

- 4.10 That the respondent No. 2 immediately after receipt of the promotion order dated 02.06.2004 issued a letter of his own addressed to DRM (P), Lumding, bearing letter No. E/283/1/Pt.IV dated 14.08.2004, wherein it has been stated by the respondent No.2, since the applicant is working in the school of Nursing, in the Central Hospital, Maligaon, therefore it has been decided by the respondent No. 2 to retain the applicant here at Maligaon and also stated that her promotion needs to be given effect as Matron Grade-II and further requested the DRM (P) to the effect that, since there is no vacancy in central Hospital, in the cadre of Matron Grade-I/Matron Grade-II, therefore requested to arrange to make available one post of Matron Grade-II from the Division office to the Head office for variation of a post in that grade accordingly, with a copy to the GM(P)/MLG and also a copy forwarded to the applicant.

Copy of the letter dated 14.08.2004 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-6.

- 4.11 That it is stated that GM (P)/MLG vide impugned letter bearing No. F/90/5/13 (Med)/Sister Tutor dated 27.02.2007, whereby it has been informed to the Medical Director, Central Hospital, Maligaon, that the applicant may be spared to join at Lumding to get effect of the promotion as Matron Grade-II in terms of order dated 02.06.2004.

Copy of the impugned letter dated 27.02.2007 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE-7.

- 4.12 That it is stated that the Medical Director, i.e. respondent No. 4 vide impugned letter bearing No. E/283/1 (Med) dated 05.03.2007, whereby it has been informed to A NO/CH/Maligaon that the applicant may be

*Alpana Mazumder*

spared to join at Lumding to get the effect of promotion as Matron Grade-II, in terms of promotion order dated 02.06.2004. It is surprised to note here at this stage that neither in the letter dated 27.02.2007 nor in the impugned letter dated 05.03.2007 without any reference of the Medical Director, i.e. respondent No. 4's letter dated 14.08.2004 (Annexure-6) and the Railway authority remained silent about their proposal indicated in the letter dated 14.08.2004, now after a lapse of 2 years the applicant has been directed to join at Lumding, in order to get the benefit of promotion to the cadre of Matron Grade-II and in the process, 2 years have already been elapsed. As such decision of the railway authority at this belated stage to direct the applicant to report at Lumding forgetting effect of the promotion to the cadre of Matron Grade-II is highly arbitrary and illegal and on that score alone the impugned order dated 05.03.2007 as well as 27.02.2007 are liable to be set aside and quashed.

Copy of the impugned letter dated 05.03.2007 is enclosed herewith for perusal of Hon'ble Tribunal as ANNEXURE- 8.

- 4.13 That it is stated that the applicant on 10.01.2007 sought an information under RTI Act 2005 from DGM Cum-Public Information officer regarding the reasons for non consideration of her promotion despite railway Board's order which is kept pending for more than 3 years, however the said information furnished to the applicant vide letter bearing No. Z/RTI Act/ 05 (loose-XXXV) dated 06.03.2007 enclosing a copy of the GM (P)'s letter bearing No. F/90/6/13 (Med) Sister Tutor, dated 05.03.2007, wherein it has been stated that the applicants lien is being maintained in Lumding division has been considered for promotion as Matron grade-II vide DRM (P)'s letter dated 02.06.2004, therefore the applicant should have joined at Lumding as Matron Grade-II and it is also stated that the respondent No. 4 has already been asked to spare the applicant to get the effect of her promotion. Therefore it appears that the applicant has not

*Alpna Mazumdar*

been permanently posted at Central Hospital, Maligaon from the letter-dated 05.03.2007 issued by the GM (P), Maligaon. On the other hand the Respondent No. 4 simply in order to defeat a rightful claim of the applicant, that too in his reply letter dated 10.08.2005 which is issued in compliance of judgment and order dated 30.03.2005 passed in O.A. No. 289/2003, rejected the claim of the applicant on the ground that the applicant has been permanently posted at Central Hospital, Maligaon, Guwahati and to that effect the present respondents have also submitted their written statements in O.A. No. 289/2003 to the effect that the applicant has been permanently transfer and posted at Central Hospital, Maligaon, Guwahati. It is also to be noted here that the applicant has been allotted a railway quarter at Maligaon, Guwahati and accordingly she has shifted all her dependent family members from Lumding to Guwahati. The present respondents also declared retention of her quarter at the old station at Lumding beyond the permissible limit of 2 months as unauthorized and held her liable to pay damage rent to the extent of Rs. 68,475/-. The respondent No. 4 and the other railway authorities are now silent regarding their decision communicated to the applicant on 14<sup>th</sup> August 2004. Since the Railway administration have transferred the applicant on permanent basis at Maligaon, Guwahati accordingly she shifted dependent family members at Maligaon, Guwahati, therefore the railway administration cannot take a reverse stand that her lien is being maintained at Lumding Division when the said respondents in their written statements in the earlier i.e. O.A. No. 289/2003, specifically stated that she has been permanently transferred at Maligaon, Guwahati. It is further submitted that applicant cannot be discriminated in the matter of promotion as because all were accommodated in their respective place of posting. Therefore applicant also deserve similar treatment, similarly placed persons cannot be treated differently. In the facts and circumstances stated above applicant has been meted out with hostile discrimination so far effect of her promotion is concerned.

*Alpana Mazumder*

Copy of the application dated 10.01.07, letter dated 06.03.07 and reply dated 05.03.07 are enclosed herewith for perusal of Hon'ble Tribunal and marked as ANNEXURE-9, 10 & 11 respectively).

- 4.14 That it is stated that the respondent railway authority has just started playing with the service prospect of the applicant and they are deliberately misleading the Hon'ble Court just for the sake of winning a case. It is relevant to mention here that, it appears from the various correspondences and documents of the railway authority that her lien is being maintained in the Lumding division office, but the respondents are now barred by law of estoppel to repatriate her in the Lumding Railway Division office in order to get effect of the promotional benefit in the cadre of Matron Grade-II, in terms of order, dated 02.06.2004, rather the applicant is entitled to benefit of promotion in the cadre of Matron Grade-II, at least w.e.f. 02.06.2004 in the present place of posting at Central Hospital, Maligaon, Guwahati since the said benefit has already been granted to all the similarly situated employees with immediate effect "As-is-where basis". Be it stated that the applicant has not been spared from her present place of posting at Central Hospital, Maligaon, Guwahati till filing of this Original Application.

In the circumstances stated above, the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 27.02.2006, 05.03.2007 and letter dated 05.03.07 and further be pleased to direct the respondents to give effect of the promotion to the cadre of Matron Grade-II at least w.e.f 02.06.2004 with all consequential service benefits including monetary benefit and further be pleased to direct the respondents to allow the applicant to continue at the present place of posting at Central Hospital, Maligaon, Guwahati in the light of the MD Railway's decision communicated through letter bearing No. 32 IE/2/254 (H)/Pt. II dated 10.08.2005 in compliance of the order dated 30.03.2005 passed in O.A No. 289/2003.

*Alpana Mazumder*

4.15 That this application is made bona fide and for the ends of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that, the applicant have been discriminated in the matter of promotion and posting in the cadre of Matron Grade-II, when the similar promotion benefit have been extended and effected to other similarly situated employees of the Medical departments As-is-where basis, with immediate effect but the same is denied to the applicant and as such she is meted out with hostile discrimination in the matter of promotion and posting. And as such action is contrary to the rules and records of the Railway administration.
- 5.2 For that, the contention of the railway administration that the lien of the applicant is being maintained in the divisional Railway office at Lumding is contrary to their order dated 10.08.2005 communicated to the applicant, in compliance with the judgment and order dated 30.03.2005, by the CMD, N.F. Railway, Maligaon and also contrary to the contention raised in the written statement filed by the present respondents before the learned Tribunal as such the impugned letter dated 10.08.2005 and 05.03.2007 are liable to be set aside and quashed.
- 5.3 For that, it appears from the various correspondences and documents of the railway's that the respondents are conveniently taking contradictory stands from time to time to deny the legitimate service benefit to the applicant and also misleading this Hon'ble Tribunal for the sake of defeating claim of the applicant.
- 5.4 For that, the present respondents have categorically declared before the learned Tribunal that the applicant have been permanently posted at central Hospital, Maligaon Guwahati as such question of her repatriation at Lumding railway division does not arise at all in order to get effect the benefit of promotions to the cadre of Matron Grade-II, hence the

*Alpana Mazumder*

impugned order dated 27.02.2005 and 05.03.2007 are liable to be set aside and quashed. ✓

- 5.5 For that, since the applicant have been posted permanently in the Central Hospital, Maligaon, Guwahati as per Railway's own declaration, therefore decision of the Railway authority to spare the applicant, since her lien is being maintained in the Railway Division is highly arbitrary, unfair and illegal and it is a further deliberate misleading statement to defeat the legitimate claim of promotion of the applicant to the cadre of Matron Grade-II from the due date i.e w.e.f 02.06.2004.

6. Details of remedies exhausted.

That the applicant states that she has exhausted all the remedies available to her and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that save and except filing OA No. 289/2003, she had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for

Under the facts and circumstances stated above, applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted 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 relief (s):

*Alpana Mazumdar*

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letters bearing No. E/90/5/13 (Med)/Sister Tutor dated 27.02.1007 (Annexure- 7) and letter bearing No. E/283/1 (Med) dated 05.03.2007 (Annexure- 8).
- 8.2 That the Hon'ble Court be pleased to declare that the applicant is entitled to benefit of promotion to the cadre of Matron Grade-II at least w.e.f. 02.06.2004, in terms of office order bearing No. 17 of 2004 dated 02.06.2004 in the present place of posting at Central Hospital, Maligaon, Guwahati in the similar manner "As-is-where basis" as extended to the other similarly situated employees by the said promotion order dated 02.06.2004.
- 8.3 That the Hon'ble Court be pleased to declare the applicant is permanently posted at central Hospital, Guwahati in terms of Railway's order bearing letter No. 321 E/2/254 (II)/Pl. II dated 10.08.2005 (Annexure- 4) in the cadre of Nursing Sister.
- 8.4 That the Hon'ble Court be pleased to direct the respondents to allow the applicant to continue at her present place of posting at Central Hospital, Maligaon, Guwahati in the cadre of Matron, Grade-II in terms of promotion order dated 02.06.2004.
- 8.5 Costs of the application.
- 8.6 To grant any other Order or Order(s) to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

*Alpama Mazumder*

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned letters bearing No. E/90/5/13 (Med)/Sister Tutor dated 27.02.1007 (Annexure- 7) and letter bearing No. E/283/1 (Med) dated 05.03.2007 (Annexure- 8) till disposal of the Original Application.

9.1 That the Hon'ble Tribunal be pleased to observe that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant for the benefit of promotion to the cadre of Matron Grade-II as prayed for.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:: 349652677
ii)	Date of Issue	:: 29. 3. 07
iii)	Issued from	:: G. P. O. Guwahati
iv)	Payable at	:: G. P. O. Guwahati

12. List of enclosures.

As given in the index.

*Alpana Mazumder*



VERIFICATION

I, Smti Alpana Mazumdar, D/O Late Dhirendra Chandra Mazumdar, aged about 49 years, resident of Adarsha Colony, Maligaon, Guwahati, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 04<sup>th</sup> day of April 2007.

*Alpana Mazumdar*

N. F. RLY.

OFFICE ORDER.

Office of the  
Divil. Rly. Manager (P)/Lumding,  
Dt. 3/12/2001.

In terms of GM(P)/MLG's Office order NO.E/90/6/1(MED),  
Sister Instructor dt. 2/11/2001, on being selected for promotion  
5  
to the post of Sister Instructor in scale Rs. 5500-9000/-, the  
following Nursing sister/ staff Nurse under CMS/LMG are hereby  
temp. appointed to officiate as sister Instructor in scale Rs.  
5500-9000/- and is transferred & posted under MD/CH/MLG with immediate  
effect.

S/NO.	Name	Design/Station.
1)	Smt. Alpna Majumder,	Nursing Sister/LMG
2)	" Tonn Joyce Hemalatha,	Staff Nurse/LMG.

They must be spared immediately.

This is done with the approval of the competent  
authority.

For, Divil. Rly. Manager (P)/LMG,  
N. F. RLY: LUMDING.

NO. 0/2-A/Pt. III (MED) Lumding, Dt. 3/12/2001.  
Copy forwarded for information & n/ction to :-

- 1) CMD/MLG
- 2) FA&C NO/MLG
- 3) MD/CH/MLG
- 4) Dy. CMD/T&A/MLG
- 5) C/S/LMG

6) Chief Maron/LMG: along with  
copies for staff concerned. (They are requested to spare the  
above staff concerned immediately  
without fail, to avoid excess  
operations, as relief in their places  
has already been posted and reported.  
please also intimate this office the  
date of sparing of the above mentioned  
staff. From, CMS/LMG.

- 7) D/O/LMG
- 8) B/MT at office
- 9) S/copies for P/Cases
- 10) Copy to F/NO. E/122/LM/ME/Pt. III (Rectt).

For, Divil. Rly. Manager (P)/LMG,  
N. F. RLY: LUMDING.

AKRA 201

*Attended  
10/11/01  
10/12/01  
10/12/01*

*10/12/01  
10/12/01  
10/12/01*

**ANNEXURE-2**

To  
Alpana Majumdar,  
S/Sister/Med/LMG.

M/13/LM  
Dt. 4/12/2001

Sub :- Sparring

Ref :- DRH(P)/LMG's O.O.NO.-0/2A/PF.III(Med)Lunding  
Dt. 3/12/2001.

In reference to the above quoted letter, you are hereby spared from this end on the after noon of 3/12/2001 on transfer and posted at Nursing Institute at Central Hospital/Maligaon as Sister instructor in Scale of Rs. 5500/- - 9000/- under MD/CH/Maligaon on existing vacancy and also advised you to report to MD/CH/MLG on 5/12/2001 for your further duty. (Rest on 5/12/2001)

Copy to (1) DRH(P)/LMG  
(2) MD/CH/MLG  
(3) CHA/LMG.

*Per* no  
4/12/2001  
Chief Matron Lunding  
N. F. Railway  
for information & necessary action please.

Special : (a) She has credited 5 days casual leave on her leave account.

(b) One set Privilege pass is due in her credit.

*[Signature]*  
Chief Matron Lunding  
N. F. Railway

*Attended  
M. D. S.  
Adm*

*Received  
5/12/01 at 13h  
D. P. S.*

17-  
H.R. Railway.

ANNEXURE- 8

Office of the  
Medical Director,  
Central Hospital,  
Malignan, GUY-781 011.

OFFICE ORDER.

Pt. 28-12-2001.

In terms of GM(P)/MLG's Office Order No. E/90/6/1 (MED) Sister Instructor Dt. 2/5-11-2001 and on being spared by Chief Matron/LMG's vide DM(P)/LMG's Office Order No. E/90/6/1 (MED) Sister Instructor Dt. 02-11-2001, Smt. Jhen Joyee Hemoloto Staff Nurse in scale Rs. 5000- 9000/- and Smt. Alpina Mazunder, Nursing Sister in scale Rs. 5500 - 9000/- reported to this office on 06-12-2001 and 07-12-2001 respectively for further duties as Sister Instructor in scale Rs. 5500 - 9000/-.

They are hereby temporarily appointed to officiate as Sister Instructor in scale Rs. 5500-9000/- and posted at Central Hospital/MLG against the post of Nursing Instructor (Rs. 5500-9000/-) available for one year from the date of operation as per CMD/MLG's L/No. E/90/5/3 (MED) Sister Tutor Dt. 31-5-2001 as concurred by PA & CAO/MLG vide O.No. PE/2/14/3 Pt.V Dt. 28-3-2001.

This has the approval of Competent Authority.

for MEDICAL DIRECTOR/CH/H

No. H/283/1/Med/Pt.V (CH)

Pt. 28-12-2001.

Copy forwarded for information and necessary action to:-

- 1) GM(P)/MLG.
- 2) PA & CAO/EN/MLG.
- 3) Sister Tutor/CH/MLG.
- 4) Staff Concerned. Smt Alpina Mazunder
- 5) Bill Clerk (B.U.N. 502).
- 6) P. Casefile.
- 7) DM(P)/LMG. He is requested to send the P/Case, E. Sheet, Leave Account immediately.

28/12/01  
A. P. O. / Medical  
for MEDICAL DIRECTOR/CH/H

NORTHEAST FRONTIER RAILWAY

Office of the  
Medical Director  
Maligaon, Guwahati-II  
Dated 10-08-2005

No. 321E/2/254(11)/Pl.II

Regd.

To  
(1) Smt. Alpana Mazumder (Now on leave)  
Rly Qr. No. 162/A, Adarsha Colony  
Maligaon, Guwahati-781011

(2) Smt. Alpana Mazumder,  
40 Principal,  
Bhopal Memorial Hospital & Research  
Center, Raisen Bypass Road,  
Bhopal - 462038 (M.S.)

Sub - Compliance of judgement/order dt. 30-03-2005 in OA No 289/03  
Smt. Alpana Mazumdar - Vs-UIOI & Ors.

I am directed to reproduce below the following observations/orders passed, in compliance with the order/judgement passed by the Hon'ble CAT/Guwahati dt. 30-03-2005 in OA No.289/03, by the competent authority i.e. Medical Director, N.F.Railway, Central Hospital, Maligaon.

The applicant while working as Nursing Sister, Lumding had opted to appear in the selection of Sister Instructor in scale Rs.5500-9000 - in response to the Notification No. E/90/6/1(MED) Sister Instructor dt. 26-06-2001. Accordingly she had appeared in the selection and on being selected she was posted as Sister Instructor in School of Nursing under MD/CH/MLG w.e.f 28-12-2001.

She was occupying the Railway Quarter No.E-14(A) at Upper Babu Patti which was allotted to her at Lumding even after resumption as Sister Instructor at Maligaon. Finally she had vacated the railway quarter at Lumding in the month of July 2003.

Now she has claimed that -

- (1) Her transfer from Lumding to Maligaon was temporary and her case for retention of Rly Qr at previous place of posting should be dealt at par with the case of temporary transfer;
- (2) She has been posted in a training center as a faculty member and her case should be dealt at par, with case of posting in a training center of the Railways

Attested  
[Signature]

10/8

[Signature]  
one year

The documents relied upon by the applicant are Para - 8.7 (a), (b) & (c) of Master Circular No.E(G)92QR 1-20 (master Circular) dt. 19-01-1993 and CPO's circular No. Misc-1595 dt. 08-12-1998 which circulated Railway Board's letter No.E(G)98 QR-1-10 dt. 15-09-1998.

The Hon'ble Tribunal while disposing of the OA, has observed that "there is some dispute as to whether the appointment of the applicant to the post of sister instructor is temporary one or to a training institute".

Before posting to the post of Sister Instructor in School of Nursing/Maligaon, she was working as Nursing Sister at Lunding. Nursing Cadre posts, though are Divisionally controlled, Smt. Majumder was liable to transfer to CH/Maligaon under MD as Sister Instructor of the School of Nursing permanently in terms of her option exercised for such transfer and posting retaining her lien at Lunding Division. The office order at Annexure-4 of the OA did not mention that her transfer to Maligaon was temporary. In fact her transfer was a permanent one and therefore her case has been dealt with as per Para-8.1 (a), (b) & (c) of Master circular No.E(G)92 QR 1-20 (master circular) dt. 19-01-1993. Above Para stipulated as under:-

(a) A Railway employee on transfer from one station to another which necessitates change of residence, may be permitted to retain the Railway accommodation at the former station of posting for a period of 2 months on payment of normal rent or single flat rate of licence fee rent. On request by the employee, on educational or sickness account, a period of retention of railway accommodation may be extended for a further of 6 months on payment of special licence fee i.e. double the flat rate of licence fee rent. Further extension beyond the aforesaid period may be granted on educational ground only to cover the current academic session on payment of special licence fee.

(d) Where the request made for retention of railway quarter is on grounds of sickness of self or a dependent member of the family of the Railway employee, he will be required to produce the requisite medical certificate from the authorized railway medical officer for the purpose.

(e) in the event of transfer during the mid school college academic session, the permission to be granted by the competent authority for retention of railway accommodation in terms of item (a) above will be subject to his production of the necessary certificates from the concerned school college authority.

3/193

It is pertinent to mention that the applicant was also aware that her transfer was not a temporary one. Accordingly as per Para 8.1 (a) of master circular she had applied for retention of her quarter at Lumding for a period of two months for December 2001 and January 2002 vide Annexure 7 of the OA. Had she not been aware of this she would have applied for retention of her quarter at Lumding at par in case of a temporary transfer.

However, as per Para 8.1 (a) permission was granted for two months. Again on 01-02-2002 she had applied for extension of retention of quarter. In the application for extension for permission for retention of quarter she did not mention any ground or same was not accompanied by any supporting documents. As a result, permission for retention of quarter beyond first two months could not be granted. Also she had applied for transfer and packing allowance which is applicable in case of permanent transfer. Therefore her such application for transfer and packing allowance proves that she was aware about her permanent transfer to Maligaon.

Another documents relied upon by the applicant is board's letter dated 15-09-1998 which deals with the cases of granting of permission to retain the railway quarter at the previous place of posting in favour of the faculty members of the training institutes. The applicant was posted as Sister Instructor in the School of Nursing not training institute under MDCHMLG. As per approved list of training centers of Indian Railways circulated vide Railway Board's letter No. E(MPP)2001/3/9 dated 10-7-03 and dated 28-10-02, the name of School of Nursing at Central Hospital, N.E. Railway Maligaon is not included in the said list. Faculty members of training centres of Indian railway means, those who are associated with imparting training in those training centers enlisted and circulated vide Railway Board's letters quoted above. Therefore, dealing the case of the applicant at par with faculty members of training centers of Indian railways circulated vide above quoted Railway Board's letter dated 15-09-98 will be violation of Railway Board's instructions. Finally it is also mentioned here that the applicant could not fulfill the terms and conditions of Para 8.1 (b) of the master circular dated 19-01-93 and accordingly she was not permitted to retain the quarter beyond two months.

19/8

- 21 -

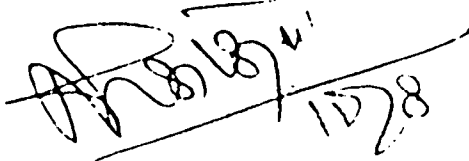
Therefore, recovery of damage rent after two month's retention is as per extant instructions of the Railways and does not justify any review under any circumstance"

Kindly acknowledge receipt of this letter.

A. K. Chatterjee  
APO/Medical  
For Medical Director/CH/MLG

Copy to -

- 1) CPO-Legal Cell/MLG for information
- 2) MD-CH/Maligaon for information
- 3) File No.11/A-4(Court Case)

  
For Medical Director/CH/MLG



N.P. Railway.

Office Order No. 17 of 2004.Office of the  
Divl. Ry. Manager(P),  
Lumding, dt. 02/06/2004.

In terms of RL Board's L.N. P/III/2003/CBC/6 dt. 07.10.2003 and 6.1.2004, communicated vide GM(P)/MLP's L.N. 3/30/Restructuring/C dt. 30.12.2003 and this office L.N. E/RF/2003(0) Pt. V dt. 11/12/2003, the N/Sister in scale Rs. 5500-9000/- of Medical Deptt. (LNG and BPB Unit) under OIA/LMG, are hereby extended to benefit of promotion of Matron/Gr.II in scale Rs. 6500-10500/- against the vacancies occurred as a result of restructuring as well as existing chain vacancies and posted as is where is basis as shown under:-

Sl.No. (1)	Name (2)	Present Design/Stn (3)	Promoted to the post (4)	Date of effect of promotion (5)	Remarks (6)
(A)					
1.	Smt. Namita Baidya,	N/Sister(5500-9000/-) BPB.	Matron/Gr.II. in scale Rs. 6500-10500/-	01-11-2003.	Against addl. Post.
2.	" Anita Sangma (SI),	N/Sister(5500-9000/-) BPB.	Matron/Gr.II. in scale Rs. 6500-10500/-	01-11-2003	Against Add. Post.
3.	" Usha Sharma (ST)	N/Sister(5500-9000/-) LNG.	Matron/Gr.II in scale Rs. 6500-10500/-	01-11-2003.	Against Add. Post.
4.	" Sikha Sarkar (SC)	N/Sister(5500-9000/-) LNG.	Matron/Gr.II in scale Rs. 6500-10500/-	01-11-2003.	Against Addl. Post.

E.B.: Promotion of Smt. Sharma (Sl.No.3) and Smt. Sarkar (Sl.No.4) is in exification of this office order No.27 of 2003(E/7-Selection/Med) dt. 12/12/2003.

(B)					
1.	Smt. Shibani Dutta	N/Sister(5550-9000/-) LNG.	Matron/Gr.II in scale Rs. 6500-10500/-	With immediate effect.	Against Resultant/Chain vacancy

Attested  
With  
Ach

Go L P 11.11.2004

(1)	(2)	(3)	(4)	(5)	(6)
2. Smt. Ramabati Goswami	N/Sister (5500-9000/-) LMG.	Matron/Gn.II in scale Rs. 6500-10500/-	With immediate effect.	Against resultant/Chain vacancies	
3. Smt. Mipamani Jigani (Sr).	N/Sister (5500-9000/-) LMG.	Matron/Gn.II in scale Rs. 6500-10500/-	With immediate effect.	Against resultant/Chain vacancies	
4. Smt. Alpina Hazunder	N/Sister (5500-9000/-) LMG (Working against ex cadre post of N/Instructor (5500- 9000/-) under MD/CH/MLG.	Matron/Gn.II in scale Rs. 6500-10500/-	With immediate effect.	Against resultant/Chain vacancies	
5. Smt. Safia Begum	N/Sister (5500-9000/-) LMG.	Matron/Gn.II in scale Rs. 6500-10500/-	With immediate effect.	Against resultant/Chain vacancies	
6. Smt. Kum Kum Hazunder	N/Sister (5500-9000/-) LMG.	Matron/Gn.II in scale Rs. 6500-10500/-	With immediate effect.	Against resultant/Chain vacancies	

N.B:- Promotion of Smt. Alpina Hazunder (SLMO.4) will be effected only after 10/1/2004. Rly. Insp/LMG.

The staff concerned may exercise option, if they are willing to have their pay fixed in their subst. date increment with in one month from the date of issue of this order.

This issues with the approval of the competent authority.

*2004*

NO. B/26/83/MD/Pt. II Dtd. 22/05/2004.

Copy forwarded for information & action to- (1) MD/MLG (2) MD/PAO/MLG (3) MD/CH/MLG with staff copy (4) MS/LMG (5) MS/IC/BPD (6) DPM/LMG (7) Sr.DMO/IFD/LMG, IFD (8) Chief Matron/LMG, IFD with staff copies (9) B/Bill at office and MS/IC/BPD's office (10) Copy for p/case of the staff concerned.

(M.K. Sutradhar/MD/IC/LMG)  
For. Divl. Rly. Manager (P)  
N.E. Railway, Lumding.

*2004*  
For. Divl. Rly. Manager (P),  
N.E. Railway, Lumding.

- 24 -

ANNEXURE - 6

N.F.RAILWAY

Office of the  
Medical Director  
Central Hospital, Maligaon

No. F/283/1/Pt. 1V

the 14th August, 2004

To

DRM(P)/Lumding

Sub: Sub: Retention of Ms Alpana Mazumder,  
Sister Instructor/SCN/Maligaon

Ref: Your Office Order No. 17 of 2004  
dated 02.06.04

Vide Sl.No. 4 of your above quoted Office Order, Ms Alpana Mazumder, Sister Instructor in scale Rs. 5500-9000 has been promoted as Matron/Gr. II in scale Rs. 6500-10500 with immediate effect against resultant/chain vacancy.

Since Ms Mazumder is working in the School of Nursing in Central Hospital/Maligaon, in the capacity of Sister Instructor in scale Rs. 5500-9000, it has been decided by MD/CH/Maligaon to retain her here. Accordingly, her promotion needs to be given effect as Matron/Gr. II in scale Rs. 6500-10500/-.

Since there is no vacancy in Central Hospital in Matron/Gr. I or Matron/Gr. II, you may kindly arrange to make available one post of the Matron/Gr. II in scale Rs. 6500-10500 from your Dvn. or take up the issue with Hqs Office for variation of a post in that grade accordingly.

An early action on above is solicited.

*(Signature)*  
(A.K. Chatterjee)  
APO/Medical  
for MEDICAL DIRECTOR

- Copy to:
1. GM(P)/MLG (E/Medical Section) for information and necessary action.
  2. CMD/MLG MD/CH/MLG
  3. CMS/LMG
  4. Matron/Gr. B/CH/MLG Sister Tutor/SON/MLG
  5. Ms Alpana Mazumder, SI/SON (th. SI/SON/MLG)
  6. Bill Clerk at Office
  7. P/Case of Ms A. Mazumder, SI/SCN/MLG.

*(Signature)*  
for MEDICAL DIRECTOR 16/8

- 25 -  
N. F. RAILWAYOffice of the  
General Manager (P),  
Maligaon

No. F/90/5/13 (Med)/Sister Tutor

Dated : -02-2007.

To  
Medical Director,  
Central Hospital,  
Maligaon.Sub: Sparing of Smt. Alpana Majumder, Sister Instructor under Central Hospital,  
Maligaon.Ref: DGM/G CON P.L.O. HQ's letter No. Z/RTI Act. 05 (Loose - I, XIV) dated  
12-01-2007 enclosing the application of Smt. Alpana Maumder, Sister  
Instructor, CH/MLG for non-effecting promotion and annual increment.

As per policy laid down by GM (P)/MLG's letter No. F/283/6/Pt. II ( C ) dated 29-11-2006  
Smt. Alpana Majumder Sister Instructor/Central Hospital, Maligaon may be spared to join at  
LMG to get the effect of promotion as Matron Gr. II in scale Rs.6500-10,500/- issued in terms of  
DRM (P)/LMG's Office Order No. F/26/83/Med/Pt. II dated 2-6-2004.

This has the approval of CMD/MLG.

63-57-2-07  
(S. Devi)

APO/Engg.

for GENERAL MANAGER (P)/MLG.

*Attested  
Smt. Alpana  
A.M.*

- 26 -

N F Railway

Office of the  
Medical Director,  
Central Hospital, Maligaon-11.  
Dated. 05.03.2007.

No. E/283/1(Med)

To

A N O/CH/ Maligaon.

Sub: Sparing of Smtl. Alpana Mazumder,  
Sister Instructor/SON/CH/Maligaon

Ref: GM (P)/ Maligaon's letter No.E/90/5/13(Med)  
Sister Tutor dtd. 27.02.2007.

As per policy laid down by GM (P)/ Maligaon's letter no E/283/6/Pl.II(C) dtd. 29.11.2006 Smtl. Alpana Mazumder, Sister Instructor, SON/CH/Maligaon may be spared to join at IMG to get the effect of promotion as Matron Gr II in scale Rs.6500-10500/ Issued in terms of DRM (P)/IMG's Office Order No. E/26/83/Med/Pl.II dtd. 02-06-2004.

This has the approval of the Competent Authority.

(M. K. Sarkar)  
APO/Med

For Medical Director CH-MI-G

Copy forwarded for information and necessary action to:-

- 1 GM (P)/ Maligaon
- 2 TA & CAO/AN/Maligaon
- 3 DRM (P)/ IMG
- 4 CMS/ IMG
- 5 Sr DMO/Admn/
- 6 Smtl. Alpana Mazumder, Sister Instructor SON/CH/Maligaon
- 7 OS/II/E at office, she will please arrange to send the P/Case file and other relevant documents to IMG
- 8 Bill Clerk at office, he will please arrange to send the LPC and other relevant documents to IMG

05/03/2007  
For Medical Director CH-MI-G

Received  
on 06/03/07  
M. P. M.

Attested  
M. K. Sarkar  
A.S.

To  
DCM/G Cum  
Public Information Officer,  
N.E. Railway,  
Maligaon.

Dated 10<sup>th</sup> January, 2007

Respected Sir,

SUB : RTI ACT 2005  
REASONS FOR NON-EFFECTING PROMOTION  
And ANNUAL INCREMENT

On failure to have any information/communication from my controller despite my repeated requests, verbal and written on the captioned, I do prefer to your good self the issue. Necessary documents are furnished in Xerox copy for your reference doing the needful please.

Contents:

1. Despite Rly Boards order my promotion as restructuring effect is being kept pending more than three years.
2. During my study leave period from 08.07.2005 to 01.06.2006, my annual increment has not been counted.

That Sir, necessary information may please be given.

Thanking you,

Copies enclosed herewith:

1. Office order No. 17 of 2004.DRM (P)LMG.dt 02.06.2004
2. Letter No E/283/1/pt.IV.dated 14.08 2004
3. Letter dated 25.10.2006
4. No.321E/2/254 (11)/11. (Sanction of study leave).
5. Letter dated 19.10.2006.

Dated 10 .01.2007.  
Maligaon.

Yours faithfully,

*Alpana Mazumder*  
(ALPANA MAZUMDER)  
Sister Instructor,  
Central Hospital, M.G.  
N.E.Rly.

*Attested  
Alpana Mazumder  
A.M.*

*10/1/07*

*r/c*

- 28 -

ANNEXURE - 10



N.F. Railway

Office of the  
General Manager  
Maligaon, Guwahati-11.

No. Z/RTI Act'05(loose-XXXV)

Date : 06-03-2007

To

Smt. Alpana Mazumder,  
Sister Instructor,  
Central Hospital, Maligaon,  
N F. Railway.

Madam,

Sub :- Supply of information under Right to Information Act'05  
Ref :- Your application No. nil dated 10-1-07.  
.....

In response to your letter under reference, it is to inform you that the desired information as sought for by you is examined by concerned department of this Railway and the information as received is now being sent herewith for your information please

With this information above, the case is now treated as disposed off. However, you may like to submit your first appeal before the Appellate Authority for further representation in this regard, if any, whose address is given below :-

Shri A. Datta.  
SDGM -cum- Appellate authority  
Northeast Frontier Railway.  
Phone & FAX No. - 0361-2676055.

We look forward to your co-operation.

DA : Two pages

*Received  
A. Gupta  
06/03/2007*

*Attended  
A. Gupta  
Adw*

*66/3*  
( D.K. Gupta )  
DGM:G cum P.I.O/HO  
N.F. Railway, Maligaon  
Phone/Fax No. -03612676087.

- 29 -

N. F. RAILWAY.

Office of the  
General Manager (P),

No. E/90/6/13(Med)Sister Tutor.

Maligaon, dt. 3.07.

To  
IXGM/G-cum-P.I.O./HQ  
N.F. Railway: Maligaon.Sub: Application received from Smt. Alpana Majumder,  
Sister Instructor at Central Hospital, Maligaon - seeking  
information under RTI Act 2005.

Ref: Your letter No. 7/RTI Act'50(I.0000-LXIV) dt. 12.01.2007.

On examination of the case, it is found that Smt. Alpana Majumder, Sister Instructor (Ex.Cadre), Central Hospital/Maligaon whose lien is being maintained in LMG Division has been considered for promotion as Matron/Gr.II in scale Rs.6500-10500/- under DRM (P)/LMG's Office Order No. 17/2004 dt. 2.6.04 with her posting under CMS/Lumding (copy enclosed for ready reference).

Smt. Majumder was on study leave w.e.f. 8.7.04 to 31.5.06 at Bhopal Memorial Hospital & Research Centre, M.P. On return from study leave, she should have been joined at Lumding as Matron/Gr.II, M.D./Central Hospital/Maligaon has further been asked to spare Smt. Majumder and direct her to effect her promotion as Matron/Gr.II at Lumding under GM(P)/Maligaon's letter No. E/90/5/13(Med)/Sister Tutor dt.27.2.07.

As she was on study leave, in terms of Para 606(a) of IREM-I, her annual increment has been adjusted after her resumption to duty w.e.f. September/ 2006.

This is for kind information please.

*Sister Tutor*  
*(N. N. Thakur)*  
 Dy. Chief Personnel Officer/I/Q  
 For General Manager (P).

*Submitted  
 to  
 Dy. Chief  
 P.O.*

*in compliance with the new policy*  
*2005*  
*2006*  
*2007*



26 MAR 2007

গুৱাহাটী ন্যায়শীঠ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI.

O. A. No. 91/2007

Smt. Alpna Majumder

Vs.

Union of India & Ors.

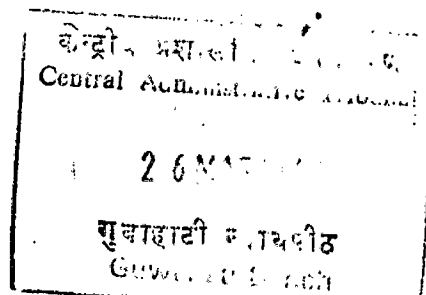
Written statement on behalf of Respondent Nos.  
1, 2, 3 and 4.

The respondents respectfully beg to state as  
under :-

1. That the respondents have gone through the O.A. and understood the contents thereof.
2. That before traversing the statements in the O.A. the respondents beg to bring to the notices of the Hon'ble Tribunal that the seniority of the Nursing staff in the N. F. Railway viz. staff Nurse, Nursing sister, Matron Gr. II are decentralised i.e. these cadres are separated Division wise in which Hd. Quarter and Lunding are separate Units. There was a Nursing School functioning within the premises of the Central Hospital, Maligaon where candidates with 10+2 qualification were trained, recognised by Nursing Council, and in this school Sister Instructors were appointed from amongst the Nursing staff of N.F. Railway by selection.

Contd....2/-

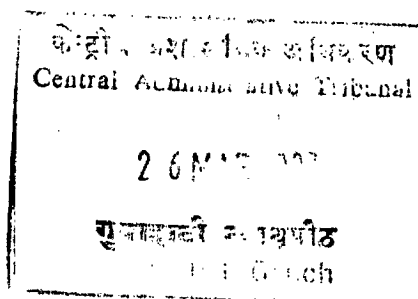
Filed by the respondents v. Union of India  
Through Dr. J. L. Sankar  
S.C. Railway 11/12/07  
Dy. C.P.O. HQ.  
10/12/07



The posts of sister Instructor is ex-cadre post, and lien of the sister Instructor is maintained in the parent Divisional cadre maintaining scope of promotion in the parent cadre. The said school of Nursing is not functioning now, and the Railway authorities are considering recruitment of Nursing staff from open market from amongst the person having requisite qualifications laid down by Nursing Council, following procedure of law.

When the turn of the applicant came from promotion in her parent cadre D (Lumding) she was promoted to next higher post of Matron-II in higher scale of Rs. 6500-10,500/-. The feasibility of retaining the applicant at Maligaon in higher scale in normal avenue of promotion as Matron-II was examined, but it has been decided after consideration that there is no scope of retaining here at Maligaon, because the same will invite administrative inconvenience including shortage of Matron-II at Lumding Hospital and shall open scope of complaints from other Nursing staff.

3. That in reply to statement in para 4.1 and 4.2 it is stated that Smt. Alpana Mazumder, Nursing Sister/Lumding Division of N.F. Railway. On being selected to the post of Sister Instructor in scale Rs. 5500-9000/- and appointed to officiate as Sister Instructor in scale Rs. 5500-9000/- was transferred to Central Hospital vide GM(P)/Maligaon Office Order No. E/90/6/1 (Med) Sister Instructor dated 2/5.11.2001. The incumbents lien etc. is maintained by the respective division for their advancement etc.



✓  
 No. 104/2004  
 C.P.C./110  
 26.06.04  
 26.06.04  
 26.06.04

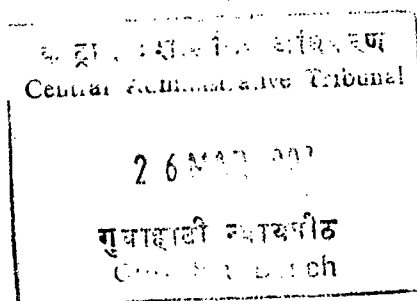
The lien of Smt. Majumder is being maintained at Lumding Division Smt. Majumder was promoted to the post of Matron Gr. II in scale Rs. 6500-10,500/- against Lumding Division (Re: DRM(P)/LMG's Office Order No. 17/2004 of 02-06-2004 and her promotion is against restructuring chain vacancy in Lumding Division.

4. That in reply to statements made in para 4.5 it is stated that the applicant was selected for the post of Sister Instructor (Ex-cadre post) in scale Rs. 5500-9000/- and posted in MD/CH/MLG on being spared vide Chief Matron/LMG's letter No. N/13/LM dated 04.12.2001 and posted on 07.12.2001 in School of Nursing/CH/MLG, her lien continued in Lumding Division.

5. That in reply to statements in para 4.8, 4.9, 4.10 and 4.11 it is stated that the matter pertaining to recovery of rent for un-authorized retention of quarter in the old station has been settled vide No. 321E/2/254(H) Pt.II dated 10.8.05 of Medical Director/CH/MLG in compliance of Hon'ble CAT/GHY's Order dated 30.03.2001 in O.A. No. 289/03. The applicants posting in Nursing School was as stated in para 2 above was regular not ad-hoc, because she was duly selected, being against ex-cadre post was temporary with no scope of substantive posting and subject to promotion in parent cadre.

The lien of Sm . Majumder is being maintained at LMG Division Smt. Majumder was promoted to the post of Matron Gr. II in scale Rs. 6500-10,500/- against Lumding Division (Re: DRM(P)/LMG's Office Order No. 17/2004 of 02.06.2004.

It was clearly mentioned in aforesaid office order that the said promotion would take effect only in reporting



*Handwritten notes:*  
V. K. D. T. D.  
P. C. S. J. D.  
Y. M. S.

to the post. The Nursing cadre of LMG Division is a separate unit. There is no bearing with the existing Nursing cadre of MD/CH/MLG. On request of the Medical Director/CH/MLG, DRM(P)/LMG agreed to operate one post of Matron/Lunding Division at CH/MLG. But as Smt. Appana Majumder was on study leave from 08.07.2004 to 31.05.2006 as such providing her with promotional benefit was not possible. On further dealing with the case the competent authority advised (GM(P)/Maligaon's letter No. E/90/13 (Med)/Sister Tutor dated 27.02.2007) to spare Smt. Majumder to join at LMG to take over as Matron Gr. II in scale Rs. 6500-10,500/-, as it has been considered administratively not feasible to keep her at Maligaon as explained para 2 above.

6. That in reply to statement in paras 4.12, 4.13 and 4.14 it is stated that Smt. Alpana Majumder, Nursing Sister/LMG Division as Sister Instructor/CH/MLG in scale Rs. 5500-9000/- could not be spared as the O.A. filed by Smt. Majumder before the Hon'ble CAT/GHY is pending. Since the school of Nursing, Central Hospital/N.F.Rly./MLG is not functioning. It was felt by the competent authority to spare Smt. Majumder to join at LMG Division to get effect of promotion as Matron-II in scale Rs. 6500-10,500/- to avoid un-necessary incurrence of expenditure by operating higher grade post against defunct school just to retain Smt. Majumder. The allegation made by the applicant is not correct since Smt. Alpana Majumder, Nursing Sister, Lunding Division was selected and posted as Sister Instructor in School of Nursing/Central Hospital/Maligaon in scale Rs. 5500-9000/- against Ex. Cadre post, but her lien has been made in LMG Division. Accordingly she was given promotion as Matron Gr. II in scale Rs. 6500-10,500/-

Contd...5/-

ॐ श्री गणेशाय नमः  
Central Administrative Tribunal

26 MAR 1997

गुजराती राज्यपीठ  
Gujarati Sahitya Akademi

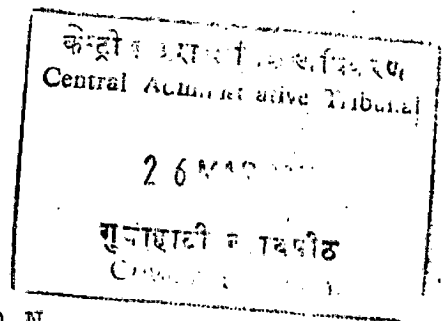
5

*Handwritten:*  
Nitya Hand Taken  
P/6  
C. A. T.  
M. S.

in her parent cadre by DRM(P)/LMG, hence it is administratively necessary to spare her from Maligaon for getting effect of promotion at Lumding, and also to operate the post of higher Nursing cadre for cause of medical care of ailing Railway employees.

7. That in the circumstances explained above the O.A. deserves to be dismissed with cost.

Verification .....P/6



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

I, ...*Nitya Nanda Thakur*....., son of  
 ....*Late Pran Mohan Thakur*...., aged about *57*..  
 ...., years working as *Dy. SDO/HQ/N.F. Railway*..  
 solemnly say that I am conversant with the facts of the  
 case and have been authorised by the respondent Nos. 1,2,  
 3 and 4 to verify and sign this verification, and accordingly  
 I verify that the statements made in paras 1 to 7 in the  
 written statement are true to my knowledge and that I have  
 not suppressed any material facts.

I sign this verification this *8th* day of *December*  
 , 2007 at *Guwahati*.

*Nitya Nanda Thakur*  
 Signature

का. प्र. न्यायालय, गुवाहाटी/मुम्बई  
 P.C.F. : J.O.  
 प. प्र. न्यायालय, गुवाहाटी.  
 P.C.F. : J.O./M.C.  
 गुवाहाटी

- 5 MAY 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O. A. No. 91/2007

Smti. Alpana Mazumdar. : Applicant.

-Versus -

Union of India & Others: Respondents.

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SL. No.	Annexure	Particulars	Page No.
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02		Verification	-6-
03	A	Copy of the letter dated 28.04.2003	-7-
04	B	Copy of the letter dated 16/17.03.2005	-8-
05	C	Copy of the letter dated 27.08.2003	-9-
06	D	Copy of the letter dated 07.08.2004	-10-
07	E	Copy of the letter dated 07.03.2007	-11-
08	F	Copy of the Copy of the letter dated 31.12.2007	-12-
09	G	Copy of the letter dated 10.01.2008	-13-

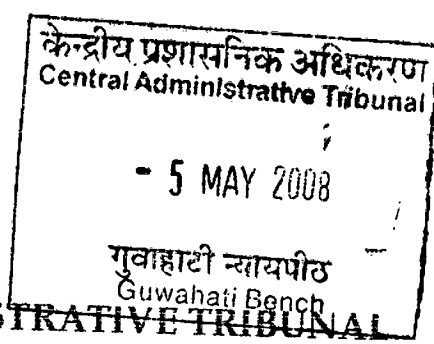
Date: 02.05.08

Filed by

*Anta*

Advocate

*Alpana Mazumdar*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A.No 91/2007.

Smti. Alpana Mazumdar.

... Applicant

-Versus-

Union of India and Others.

... Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicant  
against the written statement submitted  
by the respondents.

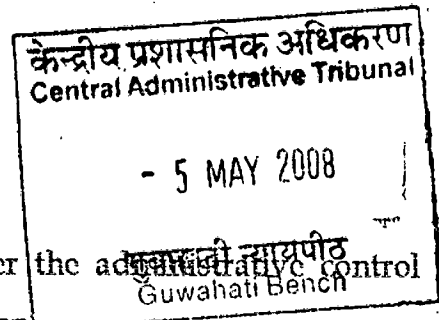
The applicant most humbly and respectfully beg to state as under:-

1. That with regard to the statement made in paragraph 2, it is stated that Lumding Division was the parent division of the applicant and she was transferred on regular basis, consequent upon the selection to the post of sister instructor vide office order bearing letter no. 0/2-A/Pt.III (MED) dated 03.12.2001, however it is indicated in the appointment order that the appointment is temporary on officiating basis as sister instructor in the pay scale of Rs. 5500-9000/- and by the same order the applicant was transferred and posted in Central Hospital in Maligaon with immediate effect. In the said appointment order there was no indication regarding the tenure of her posting at Central Hospital, Maligaon. It is categorically submitted that she is working as sister instructor since 07.12.2001 till date in the Central Hospital, Maligaon. However, she was on study leave w.e.f 7<sup>th</sup> July, 2004 to 31<sup>st</sup> May, 2006 at Bhopal at the instance of railway Authority, therefore except the period spent in training, applicant is all along on her

*Alpana Mazumdar*

Filed by the applicant  
through U. Dutta, advocate  
on 02-05-08





duty at Central Hospital, Maligaon under the administrative control of Medical Director, Central Hospital, Maligaon.

It is humbly submitted that there cannot be a temporary transfer and posting in a particular place at Maligaon for a period about more than 6 (six) years and there was no indication in the appointment letter dated 03.12.2007, that the applicant is appointed in a ex-cadre post. Hence the contention of the Railway Authority that the applicant belongs to Lumding Division is not factually correct. It would be evident from the Railways letter bearing letter no. 3211/1/254 H)/Pt. II dated 10.08.2005, wherein Railway of their own that too by the Medical Director, Central Hospital, has stated as follows in the aforesaid letter dated 10.08.2005. The relevant portion is quoted below.

"The office order at Annexure-4 of the O.A did not mention that her transfer to Maligaon was temporary. In fact her transfer was a permanent one and therefore her case has dealt with as per para 8.1 (a),(b) & (c) of Master circular no. E(G) 92 QR 1-20 (master circular) dtd 19.01.93".

It is quite clear from the above order of the medical director which was issued pursuant to the order of the Hon'ble Tribunal dated 30.03.2005 in O.A No.289/03 wherein it is stated specifically that her transfer to Maligaon as sister instructor is a permanent transfer as such the contention of the Railways raised in para-2 is not correct.

So far the statement made by the railways regarding feasibility of retaining the applicant at Maligaon in higher scale in normal avenue of promotion as Metron-II would invite in administrative in convenience is not factually correct and the said contention of the railway authority is factually contrary to the order of the Medical Director, Central Hospital rather the Medical Director vide his letter dated 14.08.2004 (Annexure-6) of the O.A, wherein Medical Director rather pleased to retain the applicant even in the promotional grade and therefore DRM (P), Lumding was requested to make available one post of Metron Grade-II in the scale of Rs. 6,500-10,500/- from Lumding Division. The relevant portion of the letter dated 14.08.04 is quoted below.

*Alpana Majumder*

- 5 MAY 2008

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Guwahati Bench

"Vide sl. No. 4 of your above cited order, Ms

Alpana Mazumdar, Sister Instructor in scale Rs. 5500-9000/- has been promoted as Matron/Gr.II in scale Rs. 6500-10500/- with immediate effect against resultant/chain vacancy.

Since Ms Mazumdar is working in the school of Nursing in Central Hospital /Maligaon, in the capacity of Sister Instructor in scale Rs 5500-9000/-, it has been decided by MD/CH/Maligaon to retain her here. Accordingly, her promotion needs to be given effect as Matron/Gr.II in scale Rs.6500-10,500/-.

Since there is no vacancy in Central Hospital in Matron, Gr.I or Matron/Gr.II, you may kindly arrange to make available one post of the Matron/Gr.II in scale Rs.6500-10,500/- from your Dvn or take up the issue with Hqs Office for variation of a post in that grade accordingly. An early action on above is solicited"

On a mere reading of the contents of the letter dated 14.08.2004 issued by the Medical Director, it is quite clear that, the contention advanced in the written statement is not factually correct.

2. That your applicant categorically deny the contention made by the Railway authorities in para 3, 4, 5 of the written statements save and except which are borne out of records and further beg to say that the question of retention of lien of the applicant with the parent division at Lumding does not arise at all in view of her permanent transfer from Lumding to Central Hospital, Maligaon after her selection and appointment to the post of Sister Instructor in the scale of Rs. 5500-9000/- and on her permanent posting at Central Hospital, Maligaon as specifically stated by the Medical Director in his letter dated 10.08.2005 while passing a detailed order in compliance with judgment and order dated 30.03.2005 in O.A.No. 289/2003, wherein it is stated that the applicant was permanently posted at Central Hospital, Maligaon, as such the respondents Railway authorities are barred by law of estoppel to contend that the applicant's lien is maintained in Lumding

*Alpana Mazumdar*

- 5 MAY 2005

गुवाहाटी न्यायपीठ  
Guwahati Bench

Division, therefore the applicant cannot be retained here at Maligaon on her promotion to the cadre of Matron, Grade-II. It is categorically submitted that since the posting on promotion is given on as is where is basis, as such the applicant has acquired a valuable and legal right for grant of benefit of promotion on as-is-where is basis as granted to other similarly situated employees in the present place of posting at Maligaon.

It is relevant to mention here that, two posts of Nursing Sister in the scale of Rs. 5500-9000/- were temporarily transferred from Dibrugarh Central Hospital to Maligaon to operate those posts as Nursing Instructor under Medical Director, Central Hospital, Maligaon, moreover, pursuant to the Medical Director's order dated 14.08.2004, one post of Matron, Grade-II in the scale of Rs. 6500-10,500/- is made available with the approval of the CMD, Maligaon for effecting promotion of the applicant granted vide letter dated 02.06.2004 in the scale of Rs. 6,500-10500/-, which is evident from CM (P)'s letter bearing no. E/90/E/3/Mod/Sister Tutor dated 16/17.03.2005. Therefore it is quite clear that the applicant was initially accommodated against a regular vacancy at Central Hospital, Maligaon as Sister Instructor, which is evident from the letter dated 04.12.2001 (Annexure-2) and on her promotion, one post of Matron, Gr-II was made available at Central Hospital, Maligaon for effecting her promotion. As such question of her repatriation to parent division does not arise at all for effecting benefit of promotion, pursuant to railways order dated 02.06.2004, moreso when a post is also made available by the CM (P) in terms of request made by the Medical Director through his letter dated 14.08.2004. Therefore promotion benefit with retrospective effect pursuant to the order dated 02.06.2004 cannot be denied to the applicant on as-is-where is basis, when the said benefit has already been granted to other similarly situated employees by the same order. Denial of promotional benefit to the applicant with retrospective effect is highly arbitrary, unfair and the action of the respondent attracts Article 14 of the constitution. It is pertinent to mention here that it would be evident from the letter no. H/197/1 (NTI) dated 27.08.2003, whereby the applicant was instructed to undergo one of the training courses as indicated in the letter dated 27.08.2003 in order to fulfill the norms for the post "sister tutor/Clinical instructor. The applicant

*Alpana Mazumder*

- 5 May 2008

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Guwahati Bench

accordingly carried out the order and went to training course at Bhopal and the applicant was granted study leave vide letter no. 321 E/2/254 (H)/II dated 07.08.2004. On completion of the training course from 08.07.2004 to 31.05.2006, she resumed her duty as sister instructor at Central Hospital, Maligaon on 01.06.2006. The period is liable to be treated as on duty subject to adjustment against the leave salary in terms of letter dated 07.08.2004. It would be evident from her representation dated 07.03.2007, wherein she has stated that she was never instructed that she is required to proceed to Lunding to avail the promotional benefit.

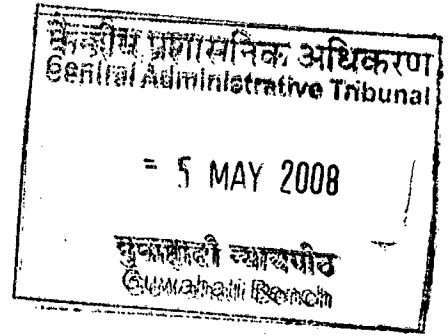
(Copy of the letter dated 28.04.2003, 16/17.03.2005, letter dated 27.08.2003, 07.08.2004 and representation dated 07.03.2007 are enclosed as Annexure- A, B, C, D and E respectively).

3. That with regard to the statement made in paragraph 6, it is categorically stated that the contention of the Railway authorities is not factually correct as because it would be evident from railway letter dated 31.12.2007 issued by the Medical Director, wherein it appears that all the sister tutor/sister instructor at present being utilized for nursing duty at Central Hospital, Maligaon till re-open the school or further decision. It would be further evident from the letter dated 10.1.2008 bearing no. HE/2008/1 that all the staffs have been deputed in ward's duties till the re-opening of the nursing school. As such question of repatriation of the present applicants on pick and choose basis does not arise at all. Moreover, when the post of Matron, Grade-II is made available to the Central Hospital, Maligaon for effecting the promotion of the applicant. As such impugned letter dated 27.02.2007 and letter dated 05.03.2007 are not sustainable in the eye of law.

(Copy of the letter dated 31.12.2007 and 10.01.2008 are enclosed as Annexure-F and G respectively).

4. That in the facts and circumstances stated above, the applicant most humbly submits that he is entitled to the relief prayed for, and the O.A deserves to be allowed with costs.

*Alpana Mazumdar*



### VERIFICATION

I Smti. Alpana Mazumdar, D/O late Dhirendra Chandra Mazumdar, aged about 49 years, resident of Adarsha Colony, Maligaon, Guwahati-11 Assam, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and legal advise and I have not suppressed any material fact.

And I sign this verification on this the 1st day of May, 2008.

*Alpana Mazumdar*

N. E. RAILWAY

MEMORANDUM

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

- 5 MAY 2008

(i) posts of Nursing Sister in scale Rs. 3,70,000/- were temporarily transferred from DMH to Central Hospital, Maligaon to operate these posts as Nursing Instructor under ID/CH/MLG.

The transferred posts have not been clubbed with other posts of Nursing Cadre of Maligaon Unit & Identity of the posts were maintained separately as Ex. Cadre.

The incumbents working against the posts are of S/units and hence their lien etc. are to be maintained by the respective division for their further advancement etc.

This issue with the approval of CMD.

( A. K. SSI )

AFO/ADM.

for GENERAL MANAGER (D)

MALIGAON

NO. P/30/110017-11

dated: 28 /04/03

Copy for information & necessary action to:

1. CMD/MLG
2. FA & CAO/MLG
3. Dy. CMD/MLG
4. ID/CH/MLG
5. DRM(D)/M/MLG

for GENERAL MANAGER (D)

MALIGAON

*Attested  
Mulla  
Advocate*

CM/MLG has accorded his approval for temporary variation of one post of Matron Gr-II in scale Rs. 6500-10500/- from LHO division to HM/CH/MLG to accommodate ant. A. Majumdar Nursing sister in scale Rs. 5500-8000/- who has been working as Sister Instructor in Mat. at Nursing school of Nursing/CH/MLG and promoted to the post of Matron Gr-II in scale Rs. 6500-10500/- vide DM(P)/LHO's O/O No. 17 No. 7/26/23/Mod/Pt-II dtd. 2/6/04.

Consequent on above, one post of Nursing Sister in scale Rs. 6500-8000/- which was vacated from TSK division vide DM(P)/MLG's Memorandum No. 1/20/5/3(Mod) Sister Tutor dt. 30/5/01 is released and directed to be operated at LHO division till further orders.

Authority:- PP 8 of case No. 321E/2/254/1(H)/II

( N. H. THAKUR )

SIO/II

for GENERAL MANAGER (P)

MALIGAH

dated 16/03/05

NO. P/20/5/3(Mod)/Sister Tutor

Copy forwarded for information & necessary action.

- CH/MLG
- HM/CH/MLG
- DM(P)/LHO
- DM/TSK
- CHS/LHO & CHS
- DM/LHO & TSK

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

- 5 MAY 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

for GENERAL MANAGER (P)

MALIGAH

*Noted  
With  
Advocate*

-9- ANNEXURE - C  
N. F. Railway.

No.F/107/1(N11)

Office of Medical Director  
Maligaon, Guwahati-781011  
Dated 27-08-2003

To  
Ms. Alpina Mazumder,  
S/Instructor/CH/MLG.

Subj:- Post Certificate Nursing Training Course for Sister Tutor/Clinical Instructor.

To fulfil the norms of INC/New Delhi for the post of Sister Tutor/Clinical Instructor.  
You are to undergo one of the following training courses.

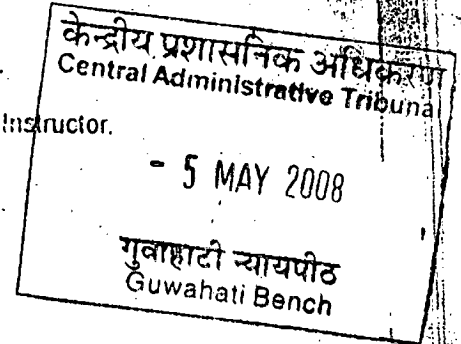
- 1) P.C. B.Sc. Nursing
- 2) Diploma in -
  - (a) Community Health Nursing
  - (b) Paediatric Nursing
  - (c) Psychiatric Nursing
  - (d) Nursing education and administration
  - (e) Midwifery.

You may select one of the above mentioned courses and please do the necessary arrangement to get admission in the particular course immediately.

*W. 27/8/03*  
Medical Director/CH/MLG

Copy to: Chief Medical Director/MLG for information please.

Medical Director/CH/MLG



*Attested  
Data  
Advocate*



N.F. RAILWAY

Office of the  
Medical Director  
Central Hospital, Maligaon

No. 3212/2/254(H)/II.

the 7th August

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

Mrs. Alpna Mazunder,  
Sister Instructor,  
School of Nursing/MLG,  
Rly. Qrs. No. 162/A, Adarsha Colony,  
Maligaon,  
GUWAHATI-781 011

- 5 MAY 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

Through Sister Tutor, SON/CH/MLG

Sub: Study Leave

Ref: Your application dtd 30.06.04

Chief Medical Director, N.F. Railway,  
Maligaon, has sanctioned you Study Leave ~~for~~ initially  
for a period of 12 months (out of a total of 24 months)  
with effect from 08.07.04 for undergoing Post Basic  
BSC (Nursing) Course in Bhopal Memorial Hospital &  
Research Centre, Raipur Bye Pass Road, Bhopal-462038(MP),  
with the following terms & conditions:

1. That you have to execute a Bond before  
entering the Study Leave;
2. You will have no option to resign  
before expiry of 3 years after the  
end of the study leave;
3. During Study Leave, your leave salary  
shall be equal to the pay (but  
without allowances other than Dearness  
Allowance) that you drew while on duty;
4. No Study Allowance shall be payable  
to you;

The period spent on study leave shall  
not count for earning leave other than  
LHAP but it will be counted for service  
promotion, pension, seniority and for  
your next increment in the grade;

That any Scholarship or Stipend or any  
remuneration in respect of any parttime  
employment during study leave will be  
adjusted against the leave salary  
subject to the condition that the leave  
salary shall not be reduced to an amount  
less than that payable as leave salary  
during half pay leave;

*Attested.  
Advocate*

SA: One Sample Bond Form (A.K. Chatterjee), APO/M  
for MEDICAL DIRECTOR

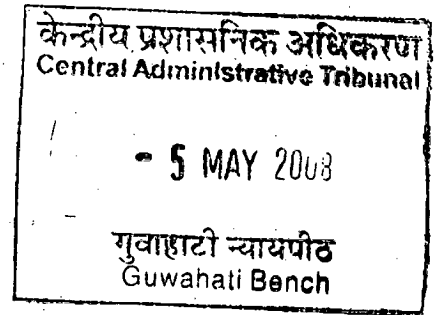
- 11 -  
Date: 07.03.2007

ANNEXURE - E

To  
The Medical Director  
Central Hospital, Maligaon.  
N.F.Rly.

Through proper channel.

Sub: Spare of Smt. Alpana Mazumder,  
Sister Instructor/SON/CH/Maligaon.  
Ref: GM (P) Maligaon's letter No E/90/5/13.(Med).  
Sister Tutor. Date 05.03.2007.



Sir,

With reference to your office order No. and dated quoted above, I beg to state you that the order issued in favor of me regarding spare is not transparent to me which has created a lot of confusion, as my transfer to Maligaon from Lumding was called a permanent vide letter No.E/2/254(H)pt-II, date 10.08.2005 and an Ex cadre vide GM(P) MLG's order No.E/GC/4/(Med) pt-II. Date 28.04.03. also your letter for retention of Ms A.Mazumder, Sister Instructor/SON/Maligaon. office order No. 17 of 2004 of 02.06.2004.

The promotion order was issued in the year 2004 but the administration is going to effect the same in the year 2007. For no fault of mine. Even no information was communicated to me to proceed to Lumding to avail the promotional effect.

Sir, since my transfer is a permanent one now under what circumstances I am being spared to join at Lumding to avail the promotional benefit as Mat-Gr II and from which period let me inform please to comply with the order and oblige herewith.

Thanking you.

DA: Office orders

- 1.No. E/283/1(Med).
- 2.No. E/321/E/2/254(II) pt-II
- 3.No. MLG's order No. E/GC/4/(Med) pt-II
- 4.No. 283/1/ pt.- IV.

Date 07.03.2007.  
Maligaon

Yours faithfully

*Alpana Mazumder*  
(ALPANA MAZUMDER)  
Sister Instructor/School of Nursing  
Central Hospital, Maligaon, N.F.Rly.

*Attested  
by  
Advocate*

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ANNEXURE → F

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

- 5 MAY 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

N.F.Railway

Office of the  
Medical Director  
Central Hospital, Maligaon  
Dated - 31-12-08

No: H/O-4/mj

To  
The ANO  
Central Hospital, Maligaon

Subject :- Utilization of Tutorial Staff of Nursing School, Maligaon

The following staff of Nursing Cadre may be utilized for nursing duty at CH/MLG for utilization of the manpower till re-open of the school or further decision.

1. Salomi Indwar -- Sister Tutor
2. Kasturi Dutta ----Sister Tutor
3. Alpana Mazumder -- Sister Instructor
4. J.J.Hemlata ----- Sister Instructor(On Study Leave)

*[Signature]* 31/12/08  
Medical Director  
Central Hospital, Maligaon

*Attested  
Adm. Officer*

- 13 -

ANNEXURE → 6

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

- 5 MAY 2008

Office of the  
Asstt. Nursing Officer  
Central Hospital, Maligaon

गुवाहाटी न्यायपीठ  
Guwahati Bench

Office Note.

In pursuance of the Medical Director/MLG's letter No.H/0-4/Med dated. 31-12-07 (copy enclosed) is hereby directed the following staff of Nursing Cadre to perform their duties in wards of the Central Hospital, Maligaon with immediate effect till re-open of the Nursing School or until further order.

- 1) Smt.Salomi Inddwar, Sister Tutor
- 2) Smt.Kasturi Dutta, Sister Tutor
- 3) Smt.Alpana Mazumder, Sister Instructor
- 4) Smt.J.J.Hemalatha, Sister Instructor (on study leave)

( Sushila Das )  
ANO/CH/MLG.

No.HE/2008/1

Dated. 10-01-2008.

Copy for information to:-

- 1)MD/CH/MLG in reference to his letter No.H/0-4/Med dated. 31-12-07.
- 2)CS(ENT)/CH/MLG
- 3)Sr.DMO/Admn./CH/MLG

Copy for information & necessary action to:-

- 1) Smt.Salomi Inddwar, Sister Tutor
- 2) Smt.Kasturi Dutta, Sister Tutor
- 3) Smt.Alpana Mazumder, Sister Instructor
- 4) Smt.J.J.Hemalatha, Sister Instructor

They are directed to perform their duties in wards of CH/MLG from 12-01-2008

( Sushila Das )  
ANO/CH/MLG

*Attested  
Dutta  
Advocate*