

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORDER SHEET

1. ORIGINAL APPLICATION No : ----- / 2010
2. Transfer Application No : ----- / 2010 in O.A. No. -----
3. Misc. Petition No : ----- / 2010 in O.A. No. -----
4. Contempt Petition No : 34 / 2010 in O.A. No. 200/2007
5. Review Application No : ----- / 2010 in O.A. No. -----
6. Execution Petition No : ----- / 2010 in O.A. No. -----

Applicant (S) : Sri Satya Narayan pandey

Respondent (S) : Union of India & Ors

Advocate for the : Mr. S. Dasgupta
{Applicant (S)}

Advocate for the : -----
{Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>This C.P. is filed by Mr. S. Dasgupta, Adv. on behalf of the applicant. Praying for re-consideration the applicant was found to have got back/bb/ his medical/physical 20.10.2010 status in A-1 Category.</p>	<p>05.10.2010 28.10.2010.</p>	<p>Being Division Bench matter, list on 28.10.2010.</p>
<p>Laid before The Hon'ble Court for favour of order.</p>		<p>Mr. S. Dasgupta, learned counsel for the applicant fairly states that present C.P. is not maintainable under the provisions of</p>
<p><u>Section Officer (J)</u> 24.9.2010</p>		

24.9.2010

28.10.2010

Mr S. Dasgupta, learned counsel for the applicant fairly states that present C.P. is not maintainable under the provisions of Contempt of Courts Act, 1971, being filed beyond limitation period of one year. He seeks to withdraw present proceedings with liberty to take appropriate steps for remedial measure i.e. by filing execution proceedings under appropriate provision of the Act seeking execution of order dated 18.05.2009 passed in O.A.No.200/2007.

With the aforesaid provisions, permission is granted.

C.P. is dismissed as withdrawn.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

No. Till 1st term notice period ending

101020120

101020182

(Mukesh Kumar Gupta)
Member (J)

28.10.2010

Mr S. Dastgupta, learned counsel for the applicant fairly states that present C.P. is not maintainable under the provisions of Contempt of Courts Act, 1971, being filed beyond limitation period of one year. He seeks to withdraw present proceedings with liberty to take appropriate steps for remedial measure i.e. by filing execution proceedings under appropriate provision of the Act seeking execution of order dated 18.05.2009 passed in O.A.No.200/2007.

With the aforesaid provisions, permission is granted.

C.P. is dismissed as withdrawn.


(Madan Kumar Chaturvedi)

Member (A)

nkm


(Mukesh Kumar Gupta)

Member (J)

30/9/2010

Case No. 1129	केन्द्रीय प्रशासन का न्यायालय
23 SEP 2010	
Guwahati Bench गुवाहाटी न्यायालय	

File No.

Case No. 1129
Date 23/09/2010
P.T. 23/09/2010
Songy Manohar Choudhury
Solicitor

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application Under Section 17 of the Central Administrative
Tribunal Act, 1985)

34
CONTEMPT PETITION NO. 34 of 2010.
in

Original Application No 200 of 2007

Shri Satya Narayan Pandey
S/O Late Devi Ram Pandey,
Senior Clerk (G)
Under SSE/Elect/MXN N.F. Railway

..... Petitioner
-Vs-

Union Of India & others

..... Respondents

IN THE MATTER OF:

An application under Section 17 of the Administra-
tive Tribunals Act, 1985, read with Article 215
of the Constitution of India.

AND

IN THE MATTER OF:

Order dated 18-05-2009 passed by this Hon'ble
Tribunal in Original Application No-200 of 2007
directing the respondent authorities to reconsi-
deration in the fact that the Applicant was
found to have got back his medical/physical status
in A-1 category and to give back his Safety
category post by setting aside the impugned order
dated 13th April, 2007

AND

Contd....P/2

W

SHAH SYED SAMADUR RAHMAN
M.A.,B.Ed.,LL.B

NOTARY
Guwahati, Kamrup.
Regd. No:-KAM. 03

23 SEP 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

- 2 -

IN THE MATTER OF:

Representation dated 03-07-2009 submitted by the petitioner alongwith the certified copy of the aforesaid order dated 18-05-2009 passed by this Hon'ble Tribunal in Original Application No-200 of 2007 before the respondents praying, interalia to arrange his promotion to original running category.

AND

IN THE MATTER OF:

Disobedience and non-compliance of the aforesaid order dated 18-05-2009 passed by this Hon'ble Tribunal in Original Application No-200 of 2007 for reconsideration of the case of the petitioner to give back his Safety category post as he was found to have got back his medical/physical status in A-1 category.

AND

IN THE MATTER OF:

Sri Satya Narayan Pandey,
Son of Late Devi Ram Pandey,
Senior Clerk(G)
Under SSE/Elect/MXN N.F. Railway,
Mariani, District-Jorhat, Assam.

-Versus-

.... Petitioner

Contd. P/3

23 SEP 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

- 3 -

1. Sri Keshab Chanda,
The General Manager,
North East Frontier Railway,
Maligoan, Guwahati-11.
2. Sri Sanjay Mukarjee,
Divisional Railway Manager,
Tinsukia Railway Division,
Tinsukia, Assam.
3. Sri Vinod Kumar,
Divisional Personal Officer,
Tinsukia Division,
Tinsukia, Assam.

The humble petition of the abovenamed
petitioner.

MOST RESPECTFULLY SHEVETH:

1. That, this application is filed by the petitioner against the willful disobedience and non-compliance of the order dated 18-05-2009 passed by this Hon'ble Tribunal in Original Application No-200 of 2007 directing the respondent authorities for reconsidering the case of the petitioner to give back his original Safety category post as he was found to have got back his medical/physical status in A-1 category and while reconsidering his case the respondents will remain free to send the applicant for a fresh medical examination in accordance with rules and thereby set-aside the impugned order dated 13th April, 2007.

Contd....P/4

(Signature)

SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
N.C.W.C.
Guwahati, Kamrup.
Regd. No.-KAM. 03

23 SEP 2016

Guwahati Bench
गुवाहाटी न्यायपीठ

- 4 -

2. That, the applicant was serving as the 1st Fireman in the Railways, who met with an accident on duty. The post of 1st Fireman was required to be in A-1 Medical Category but after the said accident he was declared to be in Medical C-1 Category and in that situation he was given an alternative employment as a Junior Clerk in the Electrical Division. The applicant while, continuing as a Clerk, he received promotion and is presently working as Senior Clerk. During his continuation in service as a clerk, the applicant was again medically examined and it was found that he is in A-1 Category. In view of the said position, the applicant represented to the authorities to restore him back as 1st Fireman with old seniority and grant him necessary promotion in his original category.

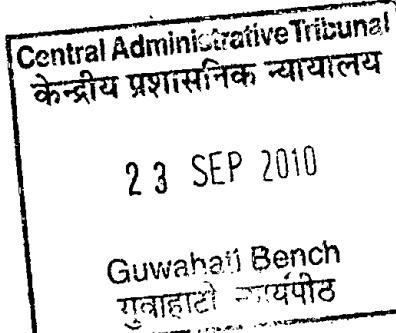
3. That, the applicant approached this Tribunal in the O.A. No- 92 of 2006, which was disposed of on 24-08-2006 with direction to the Respondents to consider the grievances of the Applicant by a reasoned order. The Respondents passed an order on 13th April, 2007, thereby rejected the claim of the Applicant. The applicant filed another O.A. No-200 of 2007 against the said order of the Respondents before this Hon'ble Tribunal, under Section 19 of the Administrative Tribunal Act, 1985.

4. That, the said O.A No- 200 of 2007 filed by the applicant was disposed of as per Judgment and Order dated 18-05-2009 passed by this Hon'ble Tribunal in the aforesaid Original Application directing the respondent authorities to reconsider the case of the applicant by setting aside the impugned order dated 13th April, 2007 passed by the respondents in view of the fact that the Applicant was found to have got back his Medical/physical status in A-1 category and give back his original Category.

W
Contd....P/5

SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B

NUO...
Guwahati, Kamrup
Regd. No: KAM. 03



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A copy of the aforesaid Judgment and order dated 18-05-2009 is annexed hereto as ANNEXURE-1 of this petition.

5. That, the petitioner accordingly, thereafter, submitted a representation dated 03-07-2009 to the respondents alongwith the certified copy of the aforesaid Judgment and Order dated 18-05-2009 (ANNEXURE-1) passed by this Hon'ble Tribunal in Original Application No-200 of 2007, praying thereby to consider his case and to arrange his promotion to original running Category.

A copy of said representation dated 03-07-2009 is annexed hereto as ANNEXURE-2 of this petition.

6. That, the Respondents/Contemnors, despite receipt of the aforesaid representation dated 03-07-2009(Annexure-2) submitted by the petitioner alongwith the Certified copy of the aforesaid order dated 18-05-2009(Annexure-1) passed by this Hon'ble Tribunal, deliberately and intentionally did not do anything till today to consider the prayer of the applicant though he is medically fit for his original category. The respondents rather passed an order on 17-9-09 thereby rejected his prayer and allowed him to remain in the ministerial cadre as Sr. Clerk.

A copy of said order of the respondents dated 17-9-09 is annexed hereto as ANNEXURE-3 of this petition.

7. That, the order dated 17-9-09 passed by the respondents is with utter disregard and disobedience to the aforesaid Judgment and Order dated 18-05-09(Annexure-1) passed by this Hon'ble Tribunal

Contd....P/6

23 SEP 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

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Satyajit Baruah, Lawyer, Dibrugarh

which has resulted in an obstruction in the process of administration of justice, besides it has also resulted in denial of justice to the petitioner. The respondents/contemnors have accordingly made themselves liable to be punished in accordance with law.

8. That, the petitioner states that the respondents/contemnors have no regard to the aforesaid Judgment and Order dated 18-05-2009 (Annexure-1) passed by this Hon'ble Tribunal. The respondents/contemnors have accordingly deliberately and intentionally disobeyed and declined to comply with the aforesaid Judgment and Order dated 18-05-2009 (Annexure-1) passed by this Hon'ble Tribunal which has lowered the authority and dignity of this Hon'ble Tribunal and it has also resulted into an obstruction in the process of administration of justice. The Respondents/Contemnors have accordingly made themselves liable to be punished with imprisonment for contempt of the Court in accordance with the law and in order to restore confidence of justice delivery system and under the facts and circumstances of the case in the interest of justice.

Under the circumstances stated above it is most humbly prayed that Your Lordships may be pleased to admit this petition, call for the records and issue notices upon the respondents/contemnors and on perusal of the records and after hearing the parties be pleased to punish the respondents/contemnors for their disobedience and non-compliance of the Judgment and Order dated 18-05-2009.

W

AND/Or

SHAH-SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B.

Guwahati, Assam
Regd. No.-KAM. 43

Contd... P/7

23 SEP 2010

Guwahati Bench
गुवाहाटी न्यायालय

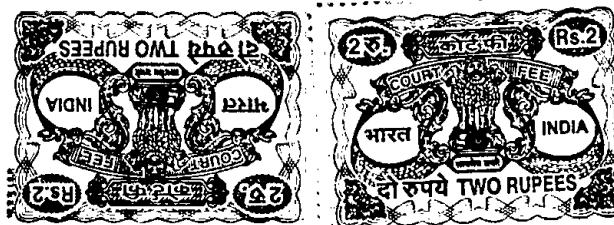
- 7 -

Pass such further and other order(s)
as Your Lordships may deem fit and proper
under the facts and circumstances of the
case in the interest of justice.

And for this act of kindness Your petitioner, as in duty bound
shall ever pray.

Contd....8(Affidavit)

shah
SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
NO. 1400
Guwahati, Kamrup.
Regd. No.: KAM. 03



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A F F I D A V I T

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

23 SEP 2011

Guwahati Bench
গুৱাহাটী ন্যায়ালয়

I, Sri Satya Narayan Pandey, son of Late Devi Ram Pandey, Senior Clerk(G), under SSE/Elect/MXN N.F. Railway, resident of Mariani, District-Jorhat, Assam, aged at about years do hereby solemnly affirm and say as follows:-

1. That, I am the petitioner in the above case and as such I am acquainted with the facts and circumstances of the case.

2. That, the contents of this affidavit and the statements made in paragraphs 1,2,3,4,5,6 and 7 of the above petition are true to my knowledge and the rest are my prayer and submissions before this Hon'ble Tribunal which I also believe to be true and no materials has been concealed thereon.

And I sign this affidavit on this the 14th day of September, 2010 at Guwahati.

Identified by:-

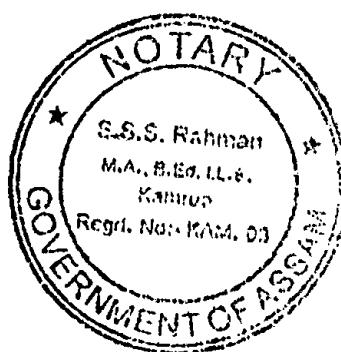
S. Dasgupta

(S. DASGUPTA)

ADVOCATE.

Satya Narayan Pandey
D'E P O ' N E ' N T

Solemnly affirmed and sworn in before me by the deponent, who is identified by Sri S. DASGUPTA, Advocate on this 14th day of September, 2010 at Guwahati.



38
14-9-10

SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B.
NOTARY
Guwahati, Kamrup.
Regd. No.: KAM. 03

DRAFT CHARGE

The petitioner aggrieved for non-compliance of Judgment and Order dated 18-5-2009 passed by this Hon'ble Tribunal in O.A. No- 200 of 2007. The Contemners/Respondents have not regard and carried out the aforesaid Judgment and Order to reconsider the case of the petitioner by setting aside the impugned order dated 13th April, 2007 passed by the respondents to restore him back back as 1st Fireman with old seniority and grant him necessary promotion in his original category. The Contemners/Respondents have willfully and deliberately violated the Judgment and Order dated 18-5-2009. Accordingly, the Respondents/Contemners are liable for contempt of Court proceedings and severe punishment thereof as provided under the Law. They may also be directed to appear in persons and reply the charges leveled against them before this Hon'ble Tribunal.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 200 of 2007

23 SEP 2010

Date of Order : This, the 18th of May, 2009

HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

Guwahati Bench
गुवाहाटी न्यायालय

HON'BLE MR. N.D. DAYAL, MEMBER (ADMINISTRATIVE)

Sri Satya Narayan Pandey
S/o Late Devi Ram Pandey
Senior Clerk (G)
Under SSE/Elect/MXN N.F. Railway

..... Applicant

(By Advocate : M.K. Mazumdar)

-Versus-

1. The Union of India
represented by the General Manager
North East Frontier Railway
(N.F.Railway), Maligaon, Guwahati- 11.
2. The General Manager
North East Frontier Railway
(N.F.Railway), Maligaon, Guwahati- 11.
3. The Divisional Personal Officer
Tinsukia Division, N.F. Railway
Tinsukia.
4. The Divisional Railway Manager (P)
N.F. Railway, Tinsukia.

(By Advocate : Smt. B. Devi, Railway Counsel)

O.A. No. 200 of 2007

ORAL ORDER

18.05.2009

MR. M.R. MOHANTY, VICE-CHAIRMAN

MR. N.D. DAYAL, MEMBER (A)

1. Applicant, while serving as the 1st Fireman in the Railways, met with an accident. While the post of 1st Fireman was required to be in A-1 Medical Category, he was declared to be in Medical C-1 Category; after

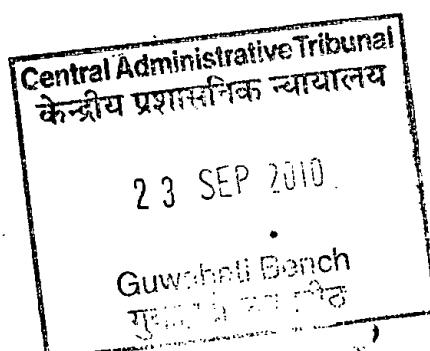
the said accident in the said premises, he was given an alternative employment as a Junior Clerk in the Electrical Division of Railways.

2. While continuing as a Clerk, he received promotion and is, presently, working as a Sr. Clerk. During his continuation in service as a clerk, the Applicant was again medically examined and it was found that he is in A-1 Category. in the said premises, the Applicant represented to the authorities to restore him back as 1st Fireman with old seniority and grant him necessary promotion in that category. The Applicant approached this Tribunal in the earlier O.A. No. 92 of 2006 ; which was disposed of on 24.08.2006; with direction to the Respondents to consider the grievances of the Applicant by a reasoned order. An order was passed by the Respondents on 13th April, 2007 rejecting the claim of the Applicant. The present O.A. No. 200 of 2007, filed under Section 19 of the Administrative Tribunals Act, 1985, is directed against the said order dated 13th April, 2007 of the Railways.

3. By way of filing a written statement, the Respondents/Railways have taken the stand as in the impugned order dated 13th April, 2007. They have stated that the Applicant having accepted the alternative job with full knowledge, he is estopped now from seeking to go back to his earlier cadre in the Safety category.

4. By way of filing a rejoinder, the Applicant has reiterated his stand taken in the O.A. and stated that he, having got back his old medical fitness status, should be restored back to his Safety category post.

5. Heard Mr. M.K. Mazumdar, learned counsel appearing for the Applicant, and Mrs.B. Devi, learned counsel appearing for the Respondents/Railways, and perused the materials placed on record.



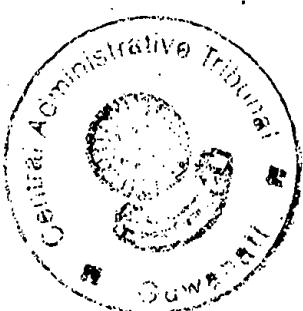
6. It is seen from the impugned order dated 13th April, 2007 that the fact 'that the Applicant was again assessed as A-1 Medical Category' has not been taken in to consideration while passing the impugned order dated 13th April, 2007. Non consideration of the said material fact, at the time of passing the impugned order dated 13th April, 2007, has resulted in miscarriage of justice in the decision making process. The impugned order dated 13th April 2007 is, therefore, set aside.

7. In the aforesaid premises, while setting aside the impugned order dated 13th April, 2007, we remit this matter back to the Respondents to reconsider the grievances of the Applicant by taking in to consideration the fact that the Applicant was found to have got back his medical/physical status in A-1 category and has raised a grievance to give back his Safety category post.

8. The Respondents are directed to give reconsideration to the matter by issue of a reasoned order within a period of 90 (ninety)days/ from the date of receipt of a copy of this order. While reconsidering the matter, the Respondents will remain free to send the Applicant for a fresh medical examination in accordance with ~~the~~ rules.

9. This case is, accordingly, allowed to the above extent. No costs.

Sd/-
M.R.Mohanty
Vice-Chairman
Sd/-
N.D.Dayal
Member(A)



TRUE COPY
Sachet Office, Central Admin. Tribunal
Guwahati
13/9/2009

Certified to be true copy

S. Deka, A.D.
14/9/10

Central Administrative Tribunal
केन्द्रीय प्रशासन न्यायालय
Guwahati Bench
ज्योहति न्यायालय
23 SEP 2010

To,

Date : 03.07.2009

DRM(P) TSK,
N.F. Railway.

Through : Proper Channel.

Sub. : Prayer for restore back to running category.

Ref. : 1. My previous appeal dtd. 09.05.2006.

2. Central Administrative Tribunal order dtd. 18th May, 2009.

Respected Sir,

With due respect and humble submission I beg to state the following few lines with a hope that this receive your active consideration and benign order thereon please.

That Sir, referring to my previous appeal dtd. 09.05.2006 which was not responded by the administration for which I was compelled to prefer my case to CAT, Ghy. Branch and the Honourable CAT, Ghy. Branch issued an order dtd. 18.05.2009 (Copy enclosed).

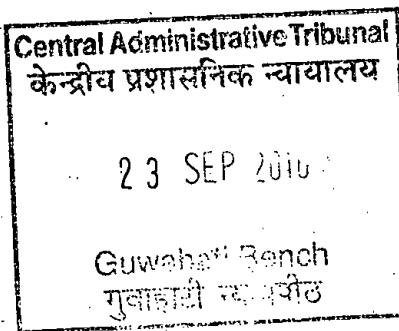
In view of the above, I once again request your honour kindly to look into the matter and arrange my promotion to original running category so that I may not be deprived natural justice from your end.

With kind regards.

D.A. 2 copies

O.A. No. 200 of 2007,

Oral Order 18.05.2009



Yours faithfully,

Satya Narayan Panday.

(Satya Narayan Panday)

Sr. Clerk(G) Electric,

N.F. Railway, Mariani

Copy to :

The Branch Secretary,
N.F.R.E.U., Mariani.

For kind information and necessary action please.

D.A. 2 copies

O.A. No. 200 of 2007,

Oral Order 18.05.2009

✓ main 03-G7-att.
Date : 03.07.2009 (星期五)
By : S. Engineer (Electric)
S. C. E. U., Mariani
N.F. Railway, Mariani

(Satya Narayan Panday)

Sr. Clerk(G) Electric,

N.F. Railway, Mariani

Certified to be true copy
S. D. Dassupti, Adv.
14/9/10

N.F.Railway

Office of the
Divisional Railway Manager (P)
Tinsukia
Dated 17.09.2009.

No. E/201/Law-Cell/TSK/Misc-SNP/MXN

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

To

Sri Saitya Narayan Pandey, Sr.clerk /G under SSE/Elect./MXN.
Through: SSE/Elect/MXN.

23 SEP 2010

Sub: Prayer for restore back to Running category

Ref: Your letter No. - nil, dtd. 03.07.2009.

Guwahati Bench
গুৱাহাটী ন্যায়পাঠ

Reference to your letter dated 3.7.09 and in compliance with the order passed by Hon'ble CAT/GHY, dtd. 18/05/2009 in O.A.NO.200 / 2007 and after carefully consideration the following remarks are furnished: -

1. You were appointed as cleaner under Estt. LOCO Fireman /Marinai and promoted to First Fireman and during that period while performing duty, you met with an accident and remained in sick list of Rly. authority from 22.9.96 to 15.12.97. Again you remained in sick list w.e.f. 11/08/98 to 19/03/1999 and with proper treatment you were found fit as first Fireman for a period of six month with effect from 19/03/99. There after you were spared to join duty at DRM/P/APDJ to work as DAD on the basis office order no-E/210/1/TSK dt-05/08/88 due to closing of steam Loco shed.
2. It is revealed that 32 nos. surplus diesel train first fireman were transferred to APDJ division and accordingly 31 nos. joined there and are still working in APDJ division vide this office order no E/210/1(M)/Trans dt. 05/08/98.
3. After six month from 19/03/1999 you were found unfit for A/1 Medical category but fit for C/1 medical category. On being unfit for A/1 category you did not submit any appeal against the decision within seven days as prescribed in master circular circulated by Rly. Board
4. As per medically de-categorisations rules of IREC, IREM you were absorbed in the post of Junior Clerk/G on 23/12/1999, in the same scale and pay of previous job, having been medically de-categorized. Subsequently, you were promoted to Sr. clerk /G w.e.f. 19/04/02, because your lien was fixed in clerical category & accordingly you enjoyed promotional benefit there.
5. After lapse of three years, you requested for your re- medical examination vide your application No - nil dt. 13/11/02 & accordingly you were found fit for A/1 medical category.

Accordingly, you were advised to submit your written consent for re-absorption as DAD within ten days in the terms and conditions of this office L/No- ES/752/TSK dt-24/03/03, based on the CPO/MLG's L/No E/285/57(M) Pt. dtd. 23/26.03.1998 but no consent letter was submitted by you to this office. Only you sought to know through your application No nil dt. 10 / 04 / 2004, regarding reasons of bottom seniority in regard to absorption in running category in lieu of consent letter.

6. Since you did not submit your consent letter for absorption in running category on the basis of medical category A/1 & as per terms and condition vide this office letter No ES/752 dt-24/03/03 as issued to you during that period, the question of re.employment in the category of 1ST Fireman doesn't arise now, , since by not responding to the Rly. Administrations offer at the material time, you have forfeited your right to return to safety category.

7. The administration considered your application with a sympathetic view within the framework of rules. You have been working as Sr. Clerk / G and medically A/I fit persons as per rule can be appointed in the ministerial cadre as Sr. Clerk/G also.

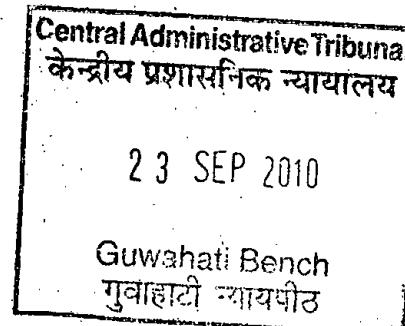
Hence your prayer for restoring back to running category is not covered in conformity with the rule. So, it is cannot be considered and disposed accordingly with records and merits of the case.

(AM) 14/9/10
Divisional Personnel Officer,
N.F.Railway/Tinsukia

Copy to-

1. Smti. Bharati Devi, is requested to take necessary action and may submit the copy of the letter to Hon'ble CAT/GHY.
2. Law Officer/ MLG, for kind information and necessary action please.
3. APO/Legal cell /MLG For kind information and necessary action please.

Divisional Personnel Officer,
N.F.Railway/Tinsukia



*Certified to be true copy
S. Dasgupta, Adv.
14/9/10.*