

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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R.A./CP/NO 2015
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P. D. Sarker
11/8/15
SECTION OFFICER (JUDL.)

10 AM
07.8.2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 125/2008

2. Mise Petition No. /

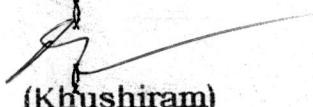
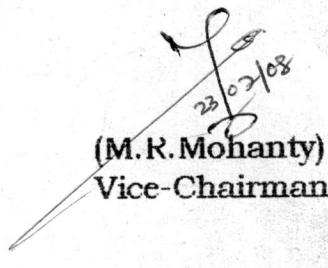
3. Contempt Petition No. /

4. Review Application No. /

Applicant(S) Smti Banita Lyngdoh vs Union Of India & Ors

Advocate for the Applicant(S): Mr. Adil Ahmed
Mr. N. Ahmed.

Advocate for the Respondent(S): C.G.B.C.

Notes of the Registry	(1) Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited at the P. I. D. No. <u>396 344004</u> Dated <u>29.5.08</u>	<u>23.07.2008</u>	Heard. For the reasons recorded separately, this case stands disposed of.
Dy. Registrar <u>AK297</u>	1m	 (Khushiram) Member(A)
		 (M.R. Mohanty) Vice-Chairman
Steps taken with envelope. <u>AK297</u>		
Order received N. Ahmed Advocate for Applicant 29/07/08		
26.8.08 Copy of the order alongwith copy of the application sent to Dyer for issue the due to the app No/ to the and copy the order to the applica n & 1/1/2008 for the party's <u>AK</u>		

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
O.A. No. 125 of 2008

Date of order: the 23rd, July 2008

Smti Banita Lyngdoh ..

Applicant

By Advocate: Mr. Adil Ahmed

Versus

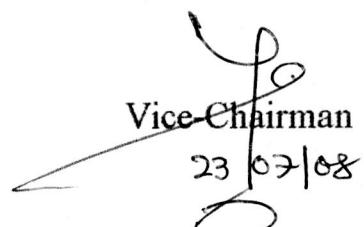
U.O.I. and others

Respondents

By Advocate Mr. G. Baishya, Sr. C.G.S.C

CORAM: The Hon'ble Shri Manoranjan Mohanty, Vice-Chairman
The Hon'ble Shri Khushiram, Member [A]

1. Whether reporters of local newspapers may be allowed to see the judgment or not? Yes/No.
2. Whether to be referred to the Reporters or not? No
3. Whether to be forwarded for including in the Digest being compiled at Jodhpur Bench and other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No


Vice Chairman
23/07/08

0CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 125 of 2008

Guwahati, this the 23rd day of July, 2008

Hon'ble Shri Manoranjan Mohanty, Vice-Chairman
Hon'ble Shri Khushiram, Member [Administrative]

Smti Banita Lyngdoh
Wife of Shri Parijata Das Dalukldar,
Draughtsman, Grade II,
Office of the Superintendent
Engineer [P&A] NEZ,
Central Public Works Department,
Shillong-793 003,
Permanent Resident of Loribon
Cottage, Behind Laban Bengali
Higher Secondary School, Laban,
Shillong- 793 004.

By Advocate Mr. Adil Ahmed

Applicant

Versus

1. The Union of India represented
By the secretary to the
Government of India, Ministry of
Urban Affairs, Nirman Bhawan,
New Delhi-110 011

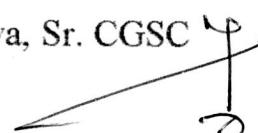
2. The Director General Works,
Central Public Works Department,
118-A, Nirman Bhawan,
New Delhi- 110 011

3. The Superintending Engineer
Co-ordination Circle [ER] CPWD
2nd M.S.O. Building,
Nizam Palace, 17th Floor
234/4 A.J.C. Bose Road,
Kolkata-700 020

4. The Superintending Engineer [P]
[NEZ], Central Public Works Department,
Cleve Colony,
Shillong-793 003

By Advocate Mr. G. Baishya, Sr. CGSC

Respondents

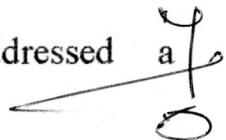


O.A. No.125 of 2008
[Oral Order Dated 23.07.2008]

Manoranjan Mohanty, Vice-Chairman:-

Applicant, an S.T. Woman, having faced an order of transfer from the Office of SE [P&A] of NEZ at Shillong [in the State of Meghalaya] to the Office of ACC-II at Guwahati [in the State of Assam] under Office Order No.37 of 2008 of SE [Co-ordination]ER/Kolkata Dated 08.04.2008; has filed this Original Application, on 22.07.2008, under Section 19 of the Administrative Tribunals Act, 1985.

2. Applicant; a D'man Gr.II [Civil] of Central Public Works Department [in short 'CPWD']; had to be hospitalized, following to an emergency, on 29.02.2008 and was discharged on 03.03.2008. Later, she was again admitted to the Hospital [for treatment of her ailments] on 01.04.2008 and was discharged on 08.04.2008. At that stage, she faced the impugned order [of transfer] dated 08.04.2008; for which she submitted a representation, under Annexure-V, dated 15.04.2008, and approached Shillong Bench of the Hon'ble High Court [of Assam, Nagaland, Meghalaya, Manipur and Tripura] in WP [C] No.75 [SH] 2008 [by impleading [a] the Union of India, represented by the Secretary to the Govt. of India, Ministry of Human Resource Department and [b] the Superintending Engineer of Co-ordination Circle [ER] CPWD, Nizam Palace, Kolkata] and the said writ petition was permitted to be withdrawn, on 18.04.2008, on the point of maintainability. On 20.04.2008, she was, again, admitted in a local hospital, on emergency, and addressed a

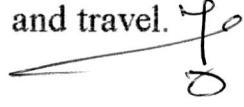


representation, on 24.04.2008, to the SE [Co-ord.]ER of CPWD/Kolkata; which was forwarded [by the SE[P]NEZ/CWD/Shillong] on 29.04.2008 with following recommendations;

“The case of transfer of Smt. Banita Lyngdoh, D/Man Grad-II [C] may kindly be considered sympathetically.”

Applicant, being sick, was ultimately admitted in ICCU of Cardiology Department of North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences at Shillong on 08.05.2008 [from where she was discharged on 12.05.2008]; for she was suffering from “Dilated Cardiomyopathy with LV function [EF=40%] with Sub-clinical Hypothyroidism”. Professor of the said Hospital, while asking her to remain in prolong treatment, advised her [on 23.06.2008] “not to take up any heavy work and travel”. It appears from Annexure X to this OA, that the Applicant submitted a representation, on 24.06.2008, to the SE [Co-ord. Circle] CPWD/Kolkata; the text of which reads as under:-

“With due respect in continuation to my earlier representation dated 29th April 2008 [copy of the letter enclosed], I would like to request your goodself kindly to grant me stay at Shillong as I am suffering from some severe Cardiac problem and under treatment at Cardiology Department NEIGRIHMS, Shillong and is advised for regular follow up since it is a prolonged process of treatment. I am also advised not to take up any heavy work and travel.



Further more, I have my old ailing mother who is also to be looked after besides my two school going children.

Under the circumstances, I shall be highly obliged and grateful to you if I am allowed to stay here at Shillong.

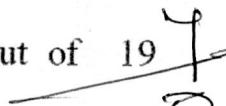
It shall not be out of way that there is a vacancy of 3 [three] D/M Grade I [C] in the office of SE[P&A], CPWD, Shillong against whom I may kindly be adjusted.”

After submitting the above-said representation dated 24.06.2008, the applicant has filed the present Original Application, on 22.07.2008, with the following prayers:-

“8.1 That the Hon’ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Office Order No.37 of 2008/SE[CO-OR ER vide Letter No.9/57] D’Man [E]/SE[C] /ER/CDNIV/313 dated 08-04-2008 [Annexure-IV] issued by the Respondent No.3 in case of the applicant.

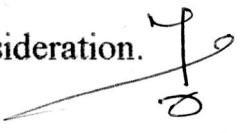
8.2 To pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon’ble Tribunal.
 8.3 To pay the cost of the application.”

3. Transfer, being an incidence of service, the authorities in control of the matter are best judge to decide as to who should be posted where [on transfer] and the Courts/Tribunals should not interfere with the same like an Appellate Authority and, therefore, the ground that ‘while, out of 19



personnel named in the impugned transfer order under Annexure-IV dated 08.04.2008, 09 have been accommodated in the same station and that the Applicant [who is a woman of S.T. Community] has been disturbed from one station to another and discriminated' cannot be sustained.

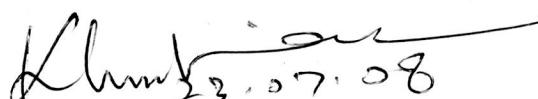
4. As it appears, the authority [who passed the impugned transfer order dated 08.04.2008 at Kolkata] apparently did not know about the sickness/ailment of the Applicant; while passing the impugned transfer order. But when it was pointed out [under Annexure-VIII dated 24.04.2008 & 29.04.2008 at pages 27 & 28 and Annexure-X dated 24.06.2008 at page 30 of the OA] to the said authority [SE-Co-ord. Circle/NE/Kolkata] about the sickness and family problem [old ailing dependant mother and young children]; the authority in control of the matter [at Kolkata] ought to have acted promptly to accommodate her in the vacant posts available at Shillong as pointed out in Annexure-X; especially when the local authority [SE-P-NEZ/CPWD/Shillong] recommended for sympathetic consideration in his forwarding letter dated 29.04.2008 at page 28 of the OA. It appears, the representations of the Applicant are still pending and revised orders are yet to be passed by the authorities. Early consideration of the representations of the members of staff is a healthy personnel management. It has also been pointed out in the OA that the Applicant has not yet been relieved from Shillong Office [to join in Guwahati Office of CPWD]; apparently for the reason of the fact that the local SE at Shillong is in know of the problems of the Applicant and forwarded her representation with recommendation to give sympathetic consideration.



5. In the above premises, this case is hereby disposed of with direction to the Respondents to give [a] due consideration to the grievances of the Applicant [as raised in her representations and in the present Original Application] pertaining to her prayer for cancellation of the order of her transfer from Shillong to Guwahati and to accommodate her as against vacant post under the SE [P&A] CPWD at Shillong and [b] pass consequential orders as expeditiously as possible and [c] until then, the Respondents [especially the SE [P&A]NEZ/Shillong] should allow her [Applicant] to continue as D/Man at Shillong notwithstanding the impugned order [of transfer] dated 08.04.2008.

6. With the above observations and directions, this case stands disposed of at admission stage.

7. Send copies of this order to the Applicant and all the Respondents [along with copies of this O.A.] in the address given in this OA and free copies of this order be supplied to Mr. A. Ahmed, learned Counsel appearing for the Applicant and to Mr. G.Baishya, learned Sr.CGSC; on whom a copy of this Original Application was served.



[Khushiram]
Member[A]

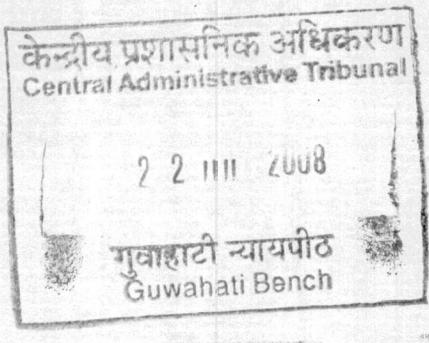


[Manoranjan Mohanty]
Vice-Chairman

cm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985)



ORIGINAL APPLICATION NO. 125 OF 2008

BETWEEN

Smti. Banita Lyngdoh -Applicant

-Versus-

The Union of India & Others -Respondents

SYNOPSIS

The applicant is working as Draughtsman, Grade-II, in Central Public Works Department, Shillong, Meghalaya. She is a permanent resident of Shillong, Meghalaya. The applicant belongs to Schedule Tribe (Hills) 'Khashi' Community of Meghalaya. As such, she is also entitled for service concession as guaranteed by the Government of India from time to time. The applicant was admitted in Nazareth Hospital, Shillong on 29.02.2008 as an emergency case, as she was suffering from Pneumonitis. She was discharged from hospital on 03.03.2008. The Applicant was again admitted in Nazareth Hospital, Shillong on 01.04.2008 and treated for PSLE, she was released on 08.04.2008. She was advised to take rest. The applicant was transferred from Shillong to Guwahati on 08.04.2008. In the aforesaid impugned transfer order out of total 19 Draughtsman, Grade-II, 11 were posted in the same city or town. Except the instant applicant, all other female Draughtsman, Grade-II, were transferred in the same city or town. After receiving the transfer order the applicant filed a representation on 15.04.2008 before the respondent No.4 requesting him to keep her transfer abeyance on the medical ground. She filed a writ petition (C) No. 75(SH) of 2008 before the Hon'ble High Court, Shillong Bench. On 18.04.2008 the said writ petition was disposed of by the Hon'ble Court and was pleased to allow the petitioner to withdraw the case and granted liberty to approach this Hon'ble Tribunal. On 20-04-2008 the applicant was again admitted at Bethany Hospital, Shillong as an emergency case. She filed a representation on 24.04.2008 before the respondent No.3 to review her transfer order issued by him on medical ground. On 08.05.2008 the applicant was again admitted at North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong in cardiology department in ICCU ward. She was discharged on 12.05.2008. The applicant filed another representation on 24.06.2008 before the respondent No.3 for retention of her at Shillong due to medical and family problem. But, till date the respondents have not taken any step in this matter.

Hence, the applicant has filed this Original Application before this Hon'ble Tribunal for seeking justice in this matter.

Banita Lyngdoh.

22/11/2008

गुवाहाटी न्यायपीठ
Guwahati Bench

THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 125 OF 2008.

Smti. Banita Lyngdoh -Applicant

- Versus -

The Union of India & Others -Respondents

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13	Office Memorandum dated 24.06.1985.	XI	31

Date: 22.07.08

Filed By:

Nuruddin Ahmed
Advocate

Banita Lyngdoh.

22 III 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, गुवाहाटी न्यायपीठ
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. OF 2008

BETWEEN

Smti. Banita Lyngdoh -Applicant
-Versus-

The Union of India & Others -Respondents

LIST OF DATES

09.06.1992 Para: 4.3	Applicant had joined service as Draughtsman, Grade-III (Civil) under the Respondents.
25-02-2000 Para : 4.3 Annexure : I	Applicant was promoted to the post of Draughtsman, Grade-II (Civil).
29-02-2008 Para : 4.4 Annexure : II	Applicant was admitted as an emergency case in Nazareth Hospital, Lattumkhrah, Shillong-793003.
03.03.2008 Para: 4.4	Applicant was discharged from Hospital.
01.04.2008 Para: 4.5	Applicant was again admitted in Nazareth Hospital, Lattumkhrah, Shillong for PSLE treatment.
08.04.2008 Para: 4.5 Annexure:III	Applicant was discharged from the Nazareth Hospital, Lattumkhrah, Shillong.
08.04.2008 Para: 4.6 Annexure:IV	Applicant was transferred from the Office of the Superintending Engineer (P&A) NEZ, Shillong to Assam Central Circle-II, C.P.W.D., Guwahati.
15.04.2008 Para: 4.7 Annexure-V.	Applicant filed a representation before the respondent No.4 and requested him to keep her transfer order in abeyance.
18-04.2008 Para: 4.8 Annexure: VI	The applicant had filed a W.P. (C) No. 75(SH) of 2008 before the Hon'ble High Court, Shillong Bench and the same was withdrawn with liberty to approach this Hon'ble Tribunal.

Banita Lyngdoh.

20-04-2008 Para: 4.9	Applicant was again admitted in Bethany Hospital, Nagrim Hills, Shillong as an emergency case.
23-04-2008 Para: Annexure: VII	Applicant was discharged from Bethany Hospital, Nagrim Hills, Shillong.
24-04-2008 Para : 4.10 Annexure: VIII	Applicant filed representation before the Respondent No.3 praying for review of her transfer order and to allow her to continue at Shillong.
29-04-2008 Para:4.10	The Respondent No.4 forwarded the representation of the applicant before the respondent No.3 with recommendation.
08-05-2008 Para: 4.11	Applicant was again admitted at North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong in ICCU of Cardiology Department for cardiac problem.
12.05.2008 Para: 4.11	Applicant was discharge from North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong.
24.06.2008 Para: 4.12	Applicant filed representation before the respondent No.3 with a prayer for retention at Shillong. <i>Ann-X</i>

Filed by:

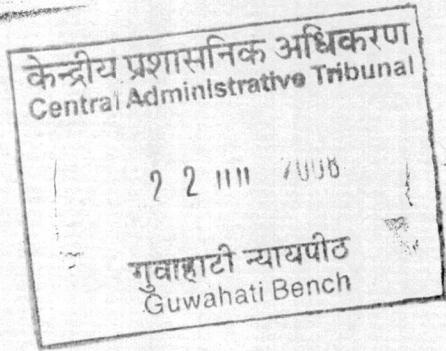
Muradlin Ahmed
Advocate

Banita Lyngdoh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. _____ OF 2008.



BETWEEN

Smti Banita Lyngdoh
Wife of Shri Parijata Das
Talukdar, Draughtsman, Grade-II,
Office of the Superintendent
Engineer (P & A) NEZ, Central
Public Works Department,
Shillong-793003,
Permanent Resident of Loribon
Cottage, Behind Laban Bengali
Higher Secondary School, Laban,
Shillong-793004.

-Applicant

-AND-

- [1] The Union of India represented by the Secretary to the Government of India, Ministry of Urban Affairs, Nirman Bhawan, New Delhi-110011.
- [2] The Director General Works, Central Public Works Department, 118-A, Nirman Bhawan, New Delhi- 110011.
- [3] The Superintending Engineer Co-ordination Circle (ER), C.P.W.D 2nd M.S.O. Building, Nizam Palace, 17th Floor, 234 /4 A.J.C. Bose Road, Central Public Works Department Kolkata-700020.
- [4] The Superintending Engineer (P) (NEZ), Central Public Works Department, Cleve Colony, Shillong-793003.

-Respondents

DETAILS OF THE APPLICATION :

- 1) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

Banita Lyngdoh.

FILED BY

Smti Banita Lyngdoh
Applicant
through Nandini Ghosh
Advocate

This application is directed against the Office Order No.37 of 2008/SE(CO-OR)ER vide Letter No.9(57)/D'Man(E)/SE(C)/ER/CDNIV/313 dated 08-04-2008 (Annexure-IV) issued by the Respondent No.3 in case of the applicant.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

2) JURISDICTION OF THE TRIBUNAL

22 III 2008

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

गुवाहाटी न्यायपीठ
Central Adminstrative Tribunal

3) LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

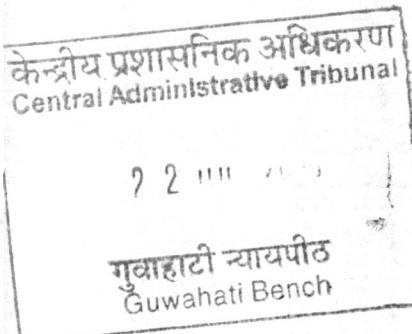
Facts of the case in brief are given below:

4.1) That your applicant is a citizen of India and permanent resident of Loribon Cottage Behind Laban Bengali Higher Secondary School, Laban, Shillong-793004, Meghalaya. As such, she is entitled to all the rights and privileges guaranteed under the Constitution of India.

4.2] That your applicant begs to state that she belongs to Schedule Tribe (Hills) 'Khashi' community of Meghalaya. As such, she is entitled to all the reliefs, benefits and concessions in her service as guaranteed by the Constitution of India and the law framed thereunder from time to time.

Banita Dyzroh

4.3] That your applicant begs to state that she was appointed as Draughtsman, Grade-III (Civil) in Central Public Works Department. She joined in the department as Draughtsman, Grade-III (Civil) on 09-06-1992. She was promoted to the post of Draughtsman, Grade-II (Civil) vide Office Memo No. 9(57)/SE(C)/EZ/Cal/00/DM(C)III/184 date 25-02-2000 issued by the Respondent No.3. Presently she is working as Draughtsman Grade II in the office of the Respondent No. 4.



Photocopy of Office order No. 9(57)/SE©/EZ/Cal DM-I/SE©/ER/Cal/00 /DM© III/184 dated 25/2/2000 issued by the Respondent No.3 is annexed herewith and marked as Annexure I.

4.4] That your applicant begs to state that on 29-02-2008 she was admitted in Nazareth Hospital Hospital, Lattumkhrah, Shillong-793003 Meghalaya as an emergency case as she was suffering from Pneumonitis and she was discharged from hospital on 03.03.2008.

Photocopy of medical certificate dated 29.02.2008 along with discharge certificate issued by the Medical Officer, Nazareth Hospital is annexed herewith and marked as Annexure- II.

4.5] That your applicant begs to state that on 01-04-2008 she was again admitted in Nazareth Hospital Hospital, Lattumkhrah, Shillong-793003 Meghalaya and treated for PSLE. She was released on 08.04.2008. She has been advised to take rest for 15 (fifteen) days.

22 III 2008

गुवाहाटी न्यायपीठ

Photocopy of medical certificate along with Bench
discharge certificate dated 08-04-2008 issued
by the Medical Officer, Nazareth Hospital is
annexed herewith and marked as Annexure-III.

4.6] That your applicant begs to state that the Superintending Engineer, (Coordination Circle) ER, Respondent No.3 vide office order No.37 of 2008/SE(C-Ord) ER under Letter No.9(59)/D'Man(E)/SE(c)/ER CDNIV/313 dated 08.04.2008 transferred the applicant from the Office of the Superintending Engineer (P&A) NEZ, Shillong to Assam Central Circle-II, C.P.W.D., Guwahati. In the aforesaid transfer order the applicant's name appeared at serial No.15. Total 19 number of Draughtsman were transferred by the said order. Out of 19 (nineteen) Draughtsman, Grade-II, 11 (eleven) were posted in same city or town. Except the instant applicant all other female Draughtsman, Grade-II, were posted at the same city or town.

A copy of transfer order dated 08.04.2008 issued by the Superintending Engineer, (Coordination Circle) ER, Respondent No.3 is annexed herewith and marked as Annexure- IV.

4.7] That your applicant begs to state that the after receiving the transfer order the applicant immediately filed a representation on 15.04.2008 before the Respondent No.4 requesting him to kept her transfer abeyance on the medical ground.

Copy of representation dated 15.04.2008 is annexed herewith and marked as Annexure- V.

Banita Dnydoh.

22 III 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

4.8] That your applicant begs to state that the after getting no response from the respondents she filed a Writ Petition (C) No. 75(SH) of 2008 before the Hon'ble Gauhati High Court, Shillong Bench, vide his order dated 18.04.2008 disposed of the writ petition on ground of preliminary objection raised by learned C.G.C. about the jurisdiction of the Hon'ble High Court. The Hon'ble Gauhati High Court, Shillong Bench was pleased to allow the petitioner to withdraw the case and granted liberty to approach the Hon'ble Central Administrative Tribunal.

Copy of order dated 18.04.2008 passed in W.P. (C) No. 75(SH) of 2008 is annexed herewith and marked as Annexure-VI.

4.9] That your applicant begs to state that she was again admitted on 20-04-2008 at Bethany Hospital, Nongrim Hills, Shillong as emergency case.

Copy of medical certificate dated 23.04.2008 issued by the Medical Officer, Bethany Hospital, Shillong is annexed herewith and marked as Annexure- VII.

4.10] That your applicant begs to state that on 24.04.2008 she filed a representation before the respondent No.3 to review her transfer order and to allow her to continue at Shillong by mentioning her critical medical condition along with her personal problem. The aforesaid representation was forwarded by the Respondent No.4 vide his letter No.21(3)SE (P) (NEZ)/2008/8899 dated 29-04-2008. In the forwarding the Respondent No.4 requested the Respondent

Banita Dymdoh

92 III 2008

गुवाहाटी न्यायपाली
Guwahati Bench

No.3 to consider the case of the applicant sympathetically.

Copy of representation dated 24.04.2008 submitted by the applicant along with the forwarding dated 29.04.2008 issued by the Respondent No.4 is annexed herewith and marked as Annexure-VIII.

4.11] That your applicant begs to state that on 08-05-2008 she was again admitted at North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong in Cardiology Department in ICCU as she was suffering from Dilated Cardiomyopathy with LV function (EF=40%) with subclinical Hypothyroidism. She was discharged on 12.05.2008.

Copy of Medical Certificate No. NEIGR/CARDIO/Ref-149/2007 issued by A/Professor, Cardiology, Department Head, NEIGRIHMS, Shillong is annexed herewith and marked as Annexure-IX.

4.12] That your applicant begs to state that she has filed another representation before the respondent No.3 on 24.06.2008 with a prayer for retention at Shillong by mentioning sever medical problem and family problem. However, till date the respondents have not considered her genuine case for her retention at Shillong. Hence, finding no other alternative she has filed this Original Application before this Hon'ble Tribunal for setting aside and quashing the impugned Transfer Order/Office order No.37 of 2008/SE(C) (CO-ORD) ER

22 III 2010

गुवाहाटी न्यायपीठ
Guwahati Bench

vide No. 9(57)/D'Man(E)/SEC/ER/CDNIV/313 dated 08.04.2008 issued by the Respondent No.3.

photocopy of representation dated 24-06-2008 submitted by the applicant before the Respondent No.3 is annexed herewith and marked as Annexure-X.

4.13] That your applicant begs to state that although she had filed the writ petition (Civil) No.75 (SH) of 2008 in the month of April, 2008 before the Hon'ble Gauhati High Court, Shillong Bench, Shillong challenging the impugned transfer order and the same was disposed by the Hon'ble High Court on 18.04.2008 by granting her liberty to approach this Hon'ble Tribunal for redressal of her grievances. However, due to her critical medical problem and frequent hospitalization at Shillong, she could not immediately approach before this Hon'ble Tribunal at Guwahati for redressal of her grievance. It is to be stated that till date she has not been released from her present place of posting at Shillong.

4.14] That your applicant begs to state that she is suffering from severe cardiac problem and under regular treatment in Cardiology Department at North Eastern Indira Gandhi Regional Institute of Health and Medical Science, Shillong, Meghalaya. She has been advised by doctors for regular follow up since it is a prolong process of treatment and she is advised not to take up any heavy work and travel. Therefore, she has filed several representations before the authority concerned to reconsider her transfer order. Moreover, in the aforesaid transfer order out of 19 (nineteen) Draughtsman, Grade-II, 11 (eleven) were posted in same city or town. Except the instant applicant all other female Draughtsman, Grade-II were posted at the same city or town.

Banita Deydoh.

72111

गुवाहाटी न्यायपीठ
Guwahati Bench

4.15] That your applicant begs to state that the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) vide its O.M. No.36026/3/85-Estt(SCT) dated 24th June, 1985 has given guidelines and instructions regarding transfer of SC/ST officer to far of places. In the aforesaid instructions it has been clearly stated that scheduled caste/scheduled Tribe officers should not be posted outside their place of posting.

Copy of aforementioned Office Memorandum dated 24.06.1985 is annexed herewith and marked as Annexure-X1.

4.16] That your Applicant begs to state that she belongs to Matrimonial "Khasi" Society and also being a youngest daughter she is bound to look after her own parents. The mother of the Applicant is aged about 74 years and suffering from various old age ailment, who is staying at Shillong and is totally dependent on the Applicant. The Applicant is also entitled to get the benefit of posting at the same station with her husband as per Office Memorandum No.28034/2/97-Estt. (A) dated 12th June 1997 and O.M. No.28034/23/2004-Estt. (A) dated 23rd August 2004 issued by the Government of India, Ministry of Personnel and Training. The extract relevant portion of the said O.M. are quoted below for kind perusal of this Hon'ble Tribunal.

"It is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No.28034/7/86-Estt. (A) dated 03-04-1986 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the

Banita Lyngdoh.

22/11/2006

गुवाहाटी न्यायपीठ
Guwahati Bench

appropriate level exists in the organization at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a Government servant, the concession elaborated in this O.M. would be admissible to the Government servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

[G.I.Dept. of Per & Trg. O.M. No.28034/2/97-Estt. (A), dated the 12th June, 1997 and O.M. No.28034/23/2004-Estt. (A), dated the 23rd August 2004.]"

4.17]That your Applicant begs to state that she has two sons who are reading at Class-IX and VI at Shillong, Meghalaya and it is also not possible to transfer them to outside Meghalaya at the mid-session of school.

4.18]That your applicant begs to state that it is a basic principle of Legal policy is that law should afford equal treatment for all with equal concern and respect. Like people, situated alike are to be treated alike. If one chooses to exclude others from the like benefit without good and valid reason it will be arbitrary, therefore discriminatory and thus unreasonable. The Article 14 of the Constitution of India guarantees equal before the law as well as equal protection of the laws.

4.19]That your applicant submits that she has got reason to believe that the Respondents are resorting

Bonita Lyngdoh.

the colorable exercise of power to accommodate their interested persons in their favourable place.

4.20] That your applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the constitution of India and also in violation of principles of natural justice.

4.21] That this application is filed bonafide and for the interest of justice.

5] GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1] For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence, the impugned transfer order dated 08-04-2008 in case of the applicant may be set aside and quashed.

5.2] For that, in the impugned transfer order out of 19 Draughtsman, Grade-II 11 were posted in the same city or town. Except the instant applicant all other female Draughtsman, Grade-II were posted at the same city or town. Hence, the impugned transfer order dated 08-04-2008 in case of the applicant may be set aside and quashed.

5.3] For that, the applicant is suffering from critical cardiac problem and under regular treatment in cardiology department at North Eastern Indira Gandhi Regional Institute of Health & Medical Science, Shillong, Meghalaya. She has been advised by doctor for regular follow up and not to take heavy work and travel. Hence, the impugned transfer order dated 08-04-2008 in case of the applicant may be set aside and quashed.

22 III 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

5.4] For that, the applicant being a Schedule Tribe person is entitled for the benefits O.M. No.36026/3/85-Estt(SCT) dated 24-06-1985 issued by the Government of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training) whereby it has been stated that Schedule Caste/Schedule Tribe Officer should not be posted outside their place of posting. Hence, the impugned transfer order dated 08-04-2008 in case of the applicant may be set aside and quashed.

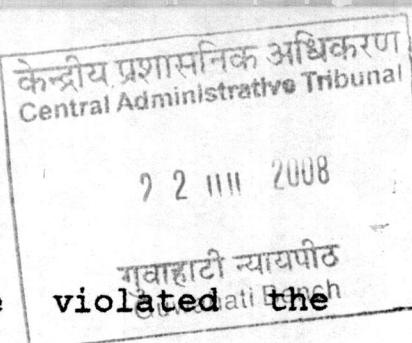
5.5] For that, the applicant belongs to matrimonial Khashi society and also being a youngest daughter she is bound to look after her own mother, who is suffering from various old age ailment staying at Shillong.

5.6] For that, the applicant is also entitled to get the benefit of posting at the same station with her husband as per Office Memorandum No. 28034/2/97-Estt(A) dated 12-06-1997 and O.M. No. 28034/23/2004-Estt.(A) dated 23-08-2004 issued by the Government of India, Ministry of Personnel and Training.

5.7] For that, the applicant has two sons, who are school going sons and it is also not possible to transfer them to out side Meghalaya at the mid-session of school.

5.8] For that, the action of the Respondents is illegal, arbitrary, malafide and also violative of administrative fair play. Hence the impugned transfer order dated 08-04-2008 in case of the applicant may be set aside and quashed

Banita Lyngdoh



5.9] For that, the Respondents have violated the Article 14, 16 & 21 of the Constitution of India.

5.10] For that, it is settled proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the said benefits.

5.11] For that, the action of the Respondents are arbitrary, mala fide and discriminatory with an ill motive.

5.12] For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law as well as fact.

The applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of the instant application.

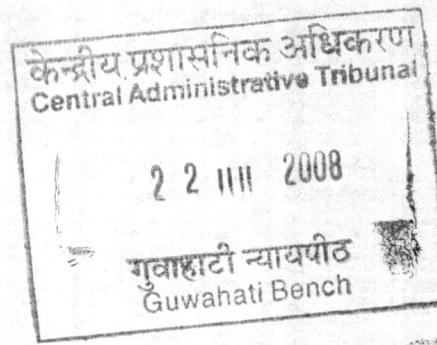
5) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant further declares that she has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, Writ Petition or suit is pending before any of them.

Banita Gyreddh



8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the impugned Office Order No.37 of 2008/SE(CO-OR)ER vide Letter No.9(57)/D'Man (E)/SE(C)/ER/CDNIV/313 dated 08-04-2008 (Annexure-IV) issued by the Respondent No.3 in case of the applicant.
- 8.2) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

Bonita Lyngdoh

The applicant prays before this Hon'ble Tribunal seeking an interim order by this Hon'ble Tribunal by giving a direction to the Respondents not to implement the impugned Office Order No.37 of 2008/SE(CO-OR)ER vide Letter No.9(57)/D'Man (E)/SE(C)/ER/CDNIV/313 dated 08-04-2008 (Annexure-IV) issued by the Respondent No.3 in case of the applicant till disposal of this Original application.

10) Application is filed through Advocate.

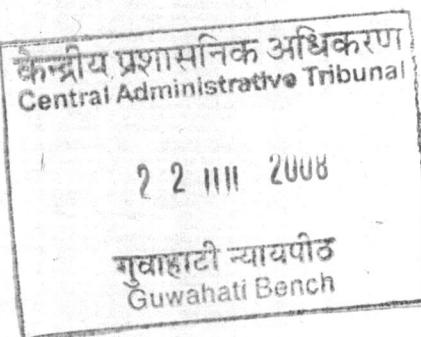
11) Particulars of I.P.O.

I.P.O. No. : 396 344004

Date of Issue : 29.05.2008

Issued from : Guwahati G.P.O.

Payable at : Guwahati



12) LIST OF ENCLOSURES:

As stated above.

Verification . . .

Banita Dypdoh.

22 III 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Smti Banita Lyngdoh, aged about 38 years, Wife of Shri Parijata Das Talukdar working as Draughtsman Grade -II (CIVIL) in the Office of the Superintendent Engineer (P&A)NEZ Central Public Works Department Shillong-793003 and permanent residence of Loribon Cottage, behind Laban Bengali Higher Secondary School, Laban Shillong-793004, East Khasi Hills, Meghalaya do hereby solemnly verify that the statements made in paragraph Nos. 4.1 to 4.4 (Partly), 4.7 to 4.10^{4.11 to 4.14, 4.16 (Partly), 4.17} are true to my knowledge, those made in paragraph Nos. 4.3 to 4.5, 4.6 (Partly), 4.8 to 4.9^{4.10 (Partly), 4.11, 4.15} are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 22th day of July 2008 at Guwahati.

Banita Lyngdoh.

DECLARANT

9-2-2000

गुवाहाटी न्यायालय
Guwahati Bench

ANNEXURE-- I

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT

No. 9(57)/SEC/EZ/Cal/00/DMC/III/ 184

Dated: 25.2.2000

OFFICE ORDER

The undermentioned D/Man Gr.III© are hereby promoted to the post of Draftsmen Grade- (Civil) in the scale or Rs. 5000-150-8000/- from the date of assuming charges of higher posts.

1. A.K. Saha	3. Smt.B. Lyngdol
2. A.K. Biswas	4. Smt. Rita Tham

Consequent on the above, the transfer/posting of Draftsmen Grade-II are hereby ordered with immediate effect in the interest of Public Service.

Sl. no	Name	From	To	Remarks
1.	Sri A.K. Saha	CCD-IV/Cal	SE(P)/IBBZ/Siliguri	Ex-Vacancy
2.	Sri A.K. Biswas	CCC-III/Cal	SCC/IBBZ/Siliguri	Ex-Vacancy
3.	Smt. B. Lyngdol	SE(P&A)/NEZ/Shillong	SE(P&A)/NEZ/Shillong	Ex-Vacancy
4.	Smt. Rita Tham	SE(P&A)/NEZ/Shillong	SE(P&A)/NEZ/Shillong	Ex-Vacancy

The promoted D/Man will have to intimate their acceptance/refusal of promotion/posting within 7(seven) days for Calcutta and 15(fifteen) days for out stations whichever later.

The Controlling officer are also requested that if any Vigilance disciplinary case is pending or contemplated against any promotee, the effect of promotion should not be given to him and the fact may please be communicated to this office forthwith.

Further, the Controlling Officer are requested to release the officials who accept promotion without waiting for substitute as per instruction of higher authorities within 15(fifteen) days from the date of issue of this order.

Superintending Engineer, Coordination
25/2

Copy to:

1. The Director General Works, CPWD, New Delhi.
2. The Addl. Director General(ER), CPWD, Cal.
3. Concerned Chief Engineer under Region 'B'
4. Concerned Supdg. Engineer under Region 'B'
5. Concerned Executive Engineer under Region 'B'
6. All Person concerned through Controlling Officer by REGISTERED POST
7. The Secretary, CPWD Engineering Drawing Staff Association, CPWD, Cal.

EA To SUPERINTENDING ENGINEER(CO-ORD.)
25/2

ATTESTED
ADVOCATE

NAZARETH HOSPITAL

LAITUMKHRAH, SHILLONG - 793 003
MEGHALAYA

EMERGENCY MEDICAL CERTIFICATE

This is to certify that BANITA LYNGDOH

was admitted to this Hospital on 29.02.08 at 9 PM

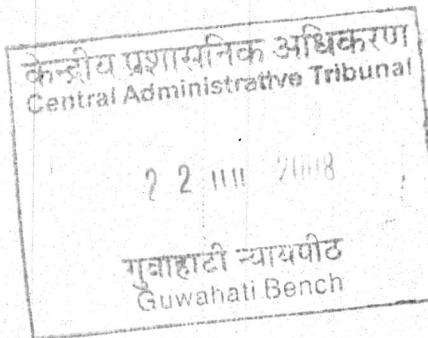
as an emergency case suffering from Pneumonitis

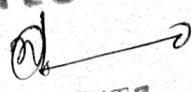
He/She was treated and discharged on Still undergoing treatment in
the hospital

Immediate hospitalization was essential in order to prevent further deterioration in the
condition of the patient.

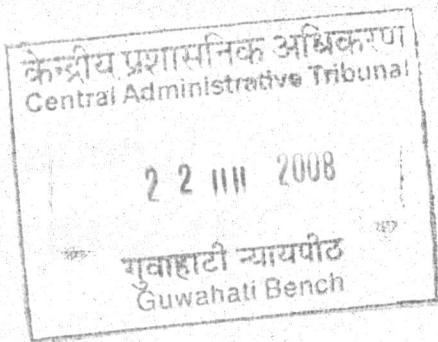
Date 29.02.08


Medical Officer



ATTESTED

ADVOCATE

Tel. Phone: 2224052, 2210188



DISCHARGE SUMMARY

Patient's Name: Manita Lipugdon
Reg. No: 7816910
Date of Admission: 29/08/08
Clinical Summary:

Age: 38 yrs Sex: F
Department: Med.
Date of Discharge: 3/24/08

Relevant Investigation:

TLL 10, 500.
Duc Pd 6 22.
ZSA - C.
Hd - 9.8 1.
operation: *Q*.

Treatment / Operation:

FINAL DIAGNOSIS:.....ERIT.....

ADVICE ON DISCHARGE

ADVICE ON DISCHARGE

① Pal. Clamor 625
o - o + 100.

② Anestezine
3 mg. Dose 200.

③ Rawhse 1100
o - o + 100.

(A) H.

ATTESTED

⑧ →
ADVOCATE

ANNEXURE--III

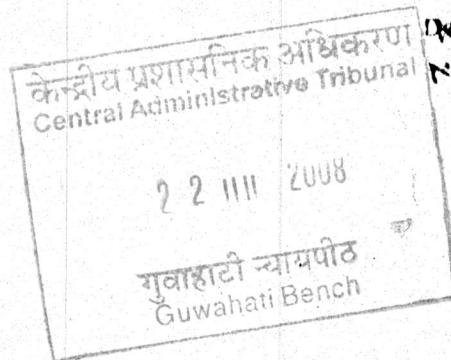
Nazareth Hospital, Shillong
MEDICAL SICKNESS CERTIFICATE

Date ... 8/4/08

Hospital No. 90/6910

This is to certify that Sri/Smt. Banita Digmatol was admitted to Nazareth Hospital on 1/4/08 was treated for ? SLK and was discharged on 8/4/08. He/She is advised rest for 15 (fifteen) days following discharge.

Ronald
Medical Officer



Medical Officer
Nazareth Hospital
Shillong

ATTESTED

[Signature]
ADVOCATE



22 III 2008

গুৱাহাটী ন্যায়পীঠ Guwahati Bench

DISCHARGE SUMMARY

Patient's Name: Banta Lyggdoh

Reg. No: 98/6910

Date of Admission: 09/24/08 11/4/08

Clinical Summary:

Age...38y. Sex...F.....

Department W.....

Date of Discharge.....8/4/08

Relevant Investigation:

PI flint TC 4400
Sogn. 100 mg 0 CNS 864
PI. 1401. FIR 62
2000-1000

RBSS. 82
Mar. 25
No. 140
K. 41
G. 118

L/T. DNA M.L.
13th Segm) not
ROS: E-2 /
W.M.: 0-1/49
LT Cells Neg x 3 sec
DNA) repeat anal
As DNA)

Treatment / Operation: *visc. B.1 P. off*

ADVICE ON DISCHARGE

CHARGE
1) Test Pantop 40g Ox today - (9)
2) Ly Betonin 100 ml - London
3) Rein > today at M&W Ox

R
87410

ATTESTED

① ADVOCATE

ADVOCATE

- 21 -
ANNEXURE--IV

GOVERNMENT OF INDIA
 CENTRAL PUBLIC WORKS DEPARTMENT
 OFFICE OF THE SUPERINTENDING ENGINEER COORDINATION CIRCLE (ER),
 2ND MSO BUILDING, NIZAM PALACE, 17TH FLOOR, 234/4 A.J.C. BOSE ROAD, KOLKATA - 20.
 TEL: (033) 2287-7416. FAX NO. (033) 2281-3183.

No. 9(57)/D'Man(E)/SE(C)/ER/CDNIV/ 313

Dated: 08.4.08.

OFFICE ORDER NO. 37 OF 2008/SE(CO-ORD)ER

Transfer/posting of the following D'man Gr.II (Civil) are ordered in public interest with immediate effect.

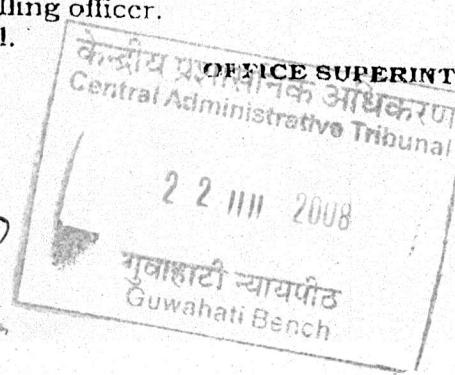
Sl.No.	Name	From	To	Remarks
1	Debashis Nath	KCC-II, Kol	KCD-III, BBSR	Vice Baul Ganguly
2	Babul Ganguly	BCD-II, BBSR	KCC-II, Kol	Vice Debasis Nath
3	Pradip Sarkar	KCD-VIII, Kol	KCD-I, IBBZ, Krishnanagar	Vice Sailen Das
4	Sailen Das	KCD-I, IBBZ, Krishnanagar	SE(P&A), EZ-I, Kol	Vice Nabani Aich
5	Nabani Aich	SE(P&A), EZ-I, Kol	KCD-VIII, Kol ✓	Vice Pradip Sarkar
6	Pratik Chakraborty	KCD-VII, Kol	SE(P&A), IBBZ, Siliguri	Vice B. Mazumdar
7	Biswajit Majumdar	SE(P&A), IBBZ, Siliguri	SCD, EZ-I, Siliguri	Vice Anjan Misra
8	Anjan Misra	SCD, EZ-I, Siliguri	GCD, Gangtok	Vice M. Kanjilal
9	Moloy Kanjilal	GCD, Gangtok	SE(P&A), EZ-I, Kol	Vice S.P. Ghosh
10	S.P. Ghosh	SE(P&A), EZ-I, Kol	KCD-VII, Kol ✓	Vice Pratik Chakraborty
11	B.C. Bora	AAWD, Guwahati	ACC-II, Guwahati	Vice Niva Gogoi
12	Niva Gogoi	ACC-II, Guwahati	AAWD, Guwahati	Vice B.C. Bora
13	Dilip Adhikari	TzCD, Tezpur	MgCD, Shillong	Vice S. Uddin Ahmed
14	S. Uddin Ahmed	MgCD, Shillong	SE(P&A), NEZ, Shillong	Vice Bomita Lyndoh
15	Bomita Lyndoh	SE(P&A), NEZ, Shillong	ACC-II, Guwahati	Vice K.C. Baruah
16	K.C. Baruah	ACC-I, Guwahati	GCD, Guwahati	Vice P.K. Bora
17	P.K. Bora	GCD, Guwahati	TzCD, Tezpur	Vice Dilip Adhikari
18	S.C. Biswas	ACMD, IBBM, Agartala	TCD-I, Agartala	Vice R.L. Das
19	R.L. Das	TCD-I, Agartala	TCD-II, Agartala	Ex. Vacancy

Bhattanayak
 SUPERINTENDING ENGINEER(COORD.)ER

Copy to

1. DGW, CPWD, Nirman Bhawan, New Delhi-11.
2. ADG(ER), CPWD, Nizam Palace, Kol-20.
3. Concerned SE, CPWD under ER.
4. Concerned EE, CPWD under ER.
5. Person concern through controlling officer.
6. Regional Secretary, AIEDSA, Kol.

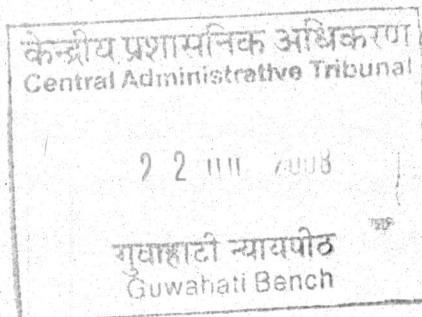
My document/D'Man

ATTESTED*Ab***ADVOCATE**

Danij 8/4/08

To,

The Superintendent Engineer (P&A) NEZ,
C.P.W.D
Dhankheti,
Cleve Colony,
Shillong-03



Sub:- Ref. to the Office Order No. 37 of 2008/ SE (CO- ORD) ER dt. 08.01.08
issued by the Superintending Engineer, Coordination Circle (ER),
CPWD, Nizam Palace, Kolkata.

Sir,

With regard to the subject cited above, I, Smti. Banita Lyngdoh would like to bring to your notice that towards the last part of 2007, I started suffering from cough, breathing difficulties, and pain in my Chest and as such I had approached Dr. P.S. Chaudhury, Physician and Diabetologist, Superintendent, R.P. Chest hospital, for treatment and was under his care and supervision since then. However as there was no improvement on my health, and in order to prevent further deterioration my health Condition I had to be admitted to Nazareth Hospital, Shillong on 29.02.2008 and was discharged therefrom only on the 03.03.2008.

That even after I was discharged from the Hospital there was no improvement on my health condition and on the contrary I developed fluids in my chest as such I had to revisit Dr. P.S. Chaudhury on 24.03.2008 and once again had to be admitted to Nazareth Hospital, Shillong on 01.04.2008 and was discharged on 08.04.2008 and was advised complete bed rest for a period of 15 (Fifteen) days pending investigation of certain test reports of which were awaited from Mumbai.

It is further to inform you that after my discharge from hospital I am totally immobilized and bed ridden as on today and am further advised complete

ATTESTED

15/04/08
ADVOCATE

rest and to avoid any kind of stress and journeys and as such it would be practically impossible for me at this stage to undertake the transfer to Guwahati.

In the circumstances stated hereinabove, I most humbly request you that the Office order No. 37 of 2008/ SE (CO- ORD) ER dt. 08.04.08. may kindly be kept in abeyance as I am awaiting the investigating Reports from Mumbai and also have to undergo further treatments.

This is for your kind information and necessary actions from your end.

Thanking You.

Yours Sincerely,

B. Lyngdoh

Smti. Banita Lyngdoh
D'Man Gr. II
O/o SE (P&A), NEZ,
CPWD, Shillong,

Dated, Shillong.

The 15th day of April, 2008

Copy Enclosed:

Medical Prescriptions, and Discharge Certificates.

Copy to:

1. Superintendent Engineer Coordination Circle (ER)
C.P.W.D 2nd MSO Building, Nizam Palaca,
17th Floor, 234/4
A,J,C Bose Road,
Kolkata-20
2. Executive Engineer,
Meghalaya Central Division,
CPWD,
Dhankheti, Cleve Colony,
Shillong-03

B. Lyngdoh

ATTESTED
②
ADVOCATE

In for	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamp and folios	Date on which the copy was ready for delivery	Date of making over the copy to the applicant.
108.	18/11/08	18/11/08	18/11/08	18/11/08

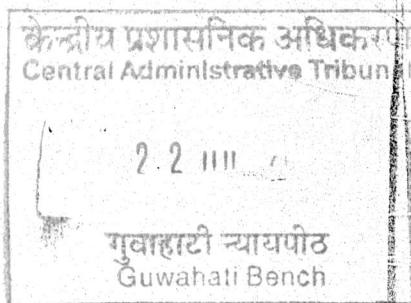
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR AND TRIPURA)

SHILLONG BENCH
CIVIL APPELLATE SIDE

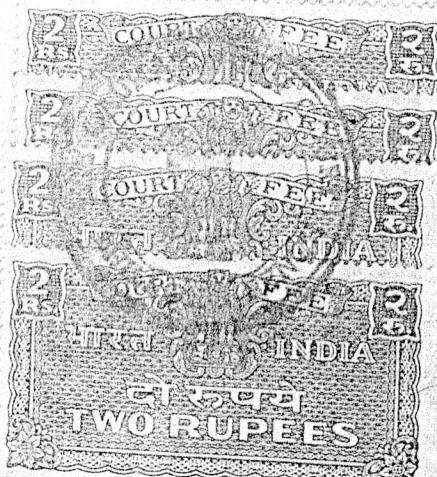
Appeal from NSC No 7550 of 2008

Civil Rule

Smti. Banita Lyngdoh Appellant
Versus Petitioner
Union of India vs
Mr. K. Pocet Appellant
For Mr. R. Deb Nath C.G.C Respondent
Petitioner Opposite-Party



Noting by Office or Advocate	Serial No	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4



Smti. Banita Lyngdoh,
W/o Shri. Parijata Das Talukdar,
Resident of Loribon Cottage, Behind
Laban Bengalee Higher Secondary
School, Laban,
Shillong,
East Khasi Hills District,
Meghalaya

... Petitioner

-VERSUS-

ATTESTED
W.B.
ADVOCATE

1. Union of India
Represented by the Secretary,
to the Government of India,
Ministry of Human Resource
Development.

2. Superintendent Engineer Coordination

Circle (ER)

CPWD,

Nizam Palaca,

Kolkata.

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

92/111/2008

... Respondents
गुवाहाटी न्यायपीठ
Guwahati Bench

Noting by Office or Advocate	Date	Office notes, reports, orders or proceedings with signatures
	<u>18.4.2008</u>	<p>B E F O R E THE HON'BLE MR. JUSTICE T VAIPHEI</p> <p><u>WP(C) NO.75(SH)2008</u></p> <p>Heard Mr. K Paul, the learned counsel for the petitioner.</p> <p>Mr. R Deb Nath, the learned CGC at the outset raises preliminary objection on the very maintainability of the writ petition on the ground that the case is exclusively within the jurisdiction of the Central Administrative Tribunal. It is an admitted fact that the petitioner is an employee of a Central Government Department. Faced with this situation, the learned counsel for the petitioner prays for allowing him to withdraw this writ petition with a liberty to approach the Central Administrative Tribunal. Prayer is allowed.</p> <p>This writ petition stands disposed of.</p> <p>Let a copy of this order be furnished to the learned CGC within the course of the day.</p>

ATTESTED
By
ADVOCATE

Typed By.....
Read By.....
Compared By.....

30/4/2008
T. Vaiphei
Judge
Guwahati High Court
Assist. Registrar
Guwahati High Court
By Shillong Bench

BETHANY HOSPITAL

NONGRIM HILLS, SHILLONG

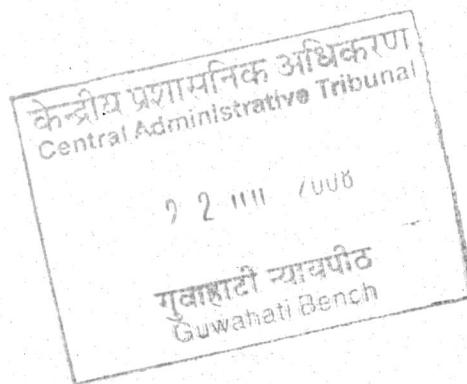
Phone : 2520300

Ref. No.

Date 23/4/08

TO WHOM IT MAY CONCERN

This is to certify that Smt/Shri... BANITA... LYNGDOH... was admitted on 20/4/08... as emergency case and is found suffering from... D.C.M.P. of 8000 L.V. dysfunction. Moderate TR/MR & mild PR. & pericardial & pleural effusion.



Damshun

Medical Officer
Bethany Hospital
Medical Officer
BETHANY HOSPITAL

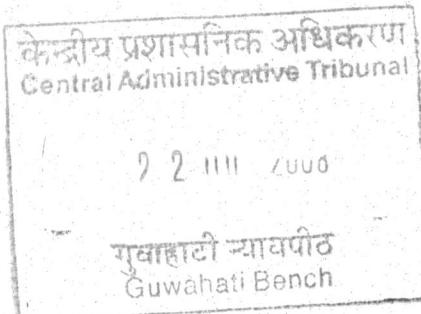
ATTESTED
ADVOCATE

To,

The Superintending Engineer
Co-ordination Circle (ER)
C.P.W.D.
234/4, AJC Bose Road,
NIZAM PALACE,
Kolkata - 700020

(Through proper channel)

ANNEXURE-- VIII



Subject : Transfer/Posting of D/Man - Gr. II (c) -
Regarding transfer and posting of Smti. Banita Lyngdoh, D/M - Gr- II (c)
to Guwahati.

Ref : Your order No. 37 of 2008/SE (CO-ORD) ER

Sir,

With due respect I would like to state that I have been transferred and posted to ACC - II, Guwahati & Vide your order mentioned above Vide file No. 9 (57)/D'Man(E)/SE (C)/ER/CDNIV/313 dated 08/04/2008.

In this connection my humble submission to you that, at present I have been hospitalized and in a very critical condition since long (Medical certificates enclosed) and not in a position to move.

It is also to bring to your kind notice that my mother who is about 74 years old and is suffering from various illnesses whom I cannot leave back in Shillong all alone as there is no one else to look after.

Under these circumstances it is requested to your honour kindly to review my transfer order and post me at Shillong for which I shall remain ever grateful to you.

Thanking You

Dated : 24th/April/2008

Yours faithfully

B. Lyngdoh
Smt.(BANITA LYNGDOH)
D'Man Gr. II (C)
O/O the SE (P) NEZ
Shillong - 793003

Copy To :
1. SE (P & A) NEZ
CPWD
Dhankheti,
Shillong - 3

2. The Regional Secretary, AIEDSA, CPWD 234/4
AJC Bose Road, Kolkata

For your information and kind necessary action please.



ATTESTED

B. Lyngdoh
ADVOCATE

B. Lyngdoh
Smt. (BANITA LYNGDOH)

Government of India
Central Public Works Department
O/O Superintending Engineer (P)(NEZ)
Cleve Colony, Shillong-3.

Phone No : 0364 - 2225975

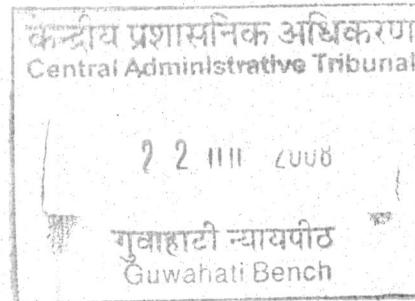
Fax : 0364 - 2503150

No.21(3)/SE (P)(NEZ)/2008/ ८८७७

Dated, Shillong, the २२ अप्रैल April, 2008

To

The Superintending Engineer,
Co-ordination Circle (ER),
2nd MSO Building, Nizam Palace,
234/4 A.J.C. Bose Road
Central P.W.D.,
Kolkata - 20.



Sub: Transfer/Posting of D/Man - Gr-II © -
Regarding transfer and posting of Smti Banita Lyngdoh, D/Man - Gr-II © to Guwahati.

Enclosed please find herewith representation for transfer and posting received from Smt. Banita Lyngdoh, Draughtsman Grade-II (Civil) alongwith enclosure on the above subject for further necessary action please. The case of transfer of Smt Banita Lyngdoh, D/Man Grade-II © may kindly be considered sympathetically.

Enclo: As stated

Superintending Engineer (P)(NEZ),
Central P.W.D., Shillong - 03.

Copy to: -

1. Smt. Banita Lyngdoh, Draughtsman Grade-II (Civil).

for G. Exer.
Superintending Engineer (P)(NEZ).

ATTESTED

ADVOCATE

NEIGRIHMS

ANNEXURE--TX

North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong
(An Autonomous Institute, Ministry of Health and Family Welfare, Government of India)
Director's Block, GPO Post Bag No. 92, Mawdiangdiang, Shillong 793012, Meghalaya

E-mail : neigri@sancharnet.in
neigri_shg@dataone.in
Phone (0364) 2536538 (Tele-Fax)
2004681 (O)

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

22 III 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

No. NEIGR/CARDIO/Ref – 149/2007

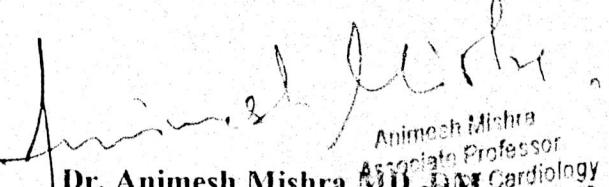
To Whom It May Concern

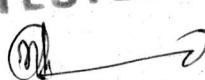
This is to certify that Mrs. Banita Lyngdoh, a 38 year old female is a diagnosed as a case of Dilated Cardiomyopathy with LV function (EF = 40%) with Subclinical Hypothyroidism and was under going treatment with Cardiology department NEIGRIHMS, Shillong. She was admitted in ICCU on 8/5/08 and was discharged on 12/5/08.

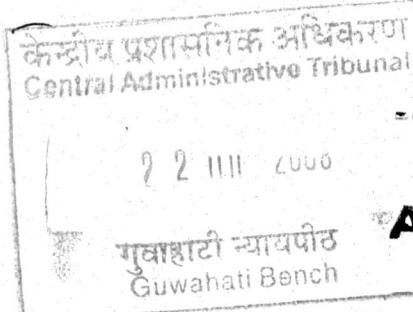
She is advised for regular follow-up in the Cardiology department since it is a prolonged process of treatment.

She is advised not to take up any heavy work and travel.

Shillong, the 23rd June, 2008


Dr. Animesh Mishra M.D., DNB, Cardiology
Associate Professor
A/ Professor Cardiology
Department Head, NEIGRIHMS, Shillong -18.

ATTESTED

ADVOCATE

**ANNEXURE-X**

To,

The Superintending Engineer,
Coordination Circle,
CPWD, 234/4 Nizam Palace,
A.J.C.Bose Road Kolkata-20.

(Through Proper Channel)

Sub: Prayer for retention at Shillong.

Sir,

With due respect in continuation to my earlier representation dated 29th April 2008 (copy of the letter enclosed), I would like to request your goodself kindly to grant me stay at Shillong as I am suffering from some severe Cardiac problem and under treatment at Cardiology Department NEIGRIHMS, Shillong and is advised for regular follow up since it is a prolonged process of treatment. I am also advised not to take up any heavy work and travel.

Further more, I have my old ailing mother who is also to be looked after besides my two school going children.

Under the circumstances, I shall be highly obliged and grateful to you if I am allowed to stay here at Shillong.

It shall not be out of way that there is a vacancy of 3(three) D/M Grade-I(C) in the office of SE(P&A), CPWD, Shillong against whom I may kindly be adjusted.

Thanking You,**Yours faithfully,**

B. L. L.
(BANITA LYNDOH)
 D/Man-Gr.II
 O/o the SE(P&A), NEZ,
 CPWD, Shillong-03.

Copy to:-

1. The Chief Engineer (NEZ), CPWD, Shillong for your kind information and necessary action please.
2. The Superintending Engineer (P&A), NEZ, CPWD, Shillong with reference to my earlier representation dated 29th April 2008 for favour of kind necessary action please.
3. The Regional secretary AIEDSA, CPWD, Kolkata-20 for information and necessary action please.

*Received
11/6/08
25/6/08*

ATTESTED

[Signature]
ADVOCATE

B. L. L.
(BANITA LYNDOH)

Annexure-XI

(Typed Copy)

Copy of O.M. No. 36026/3/85-Estt (SCT) dated 24th June, 85, Government of India, Ministry of Personnel, Public Grievances And Pensions (Department of Personnel & Training).

Subject: Harassment of and discrimination against Scheduled Caste and Scheduled Tribes employees in Central Government Services/posts.

Ministries/Departments are aware that the Government, as a part of the programme for the general welfare of the persons belonging to the SCs/STs, have provided reservation in Central Government Services accompanied by various other benefits, concessions and relaxations. The main objective for providing reservation for Scheduled Castes and Scheduled Tribes in appointment to civil posts and services of the Government is not just give jobs to some persons belonging to these communities and thereby, increase their representation in services but to uplift these people socially and merge them in the mainstream of the nation.

2. It has, however, been pointed out to this Department that the Scheduled Castes and Scheduled Tribes Officers, after appointment, are subject to harassment and discrimination on grounds of their social origin. It has been pointed out that SC/ST officers are sometimes transferred to far-off places and also placed at insignificant positions. It has also been stated that these officers are not accepted at their places of

posting by the concerned superior officers in some cases.

Central Administrative Tribunal

22/11/

3. In this connection, it is emphasized that Government servants should desist from any act of discrimination against members of SC/ST communities on grounds of their social origin.

गुवाहाटी न्यायालय
Guwahati Bench

It is also requested that senior officers, including the Liaison Officers of the Ministry/Department should keep a close watch to ensure that such incidents do not occur at all. However, if any such incident comes to the notice of the authorities, action should be taken against the erring officials promptly.

4. Ministry of Finance etc. are accordingly requested to being the contents of this Office Memorandum to the notice of all concerned.

ATTESTED
M
ADVOCATE