

18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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P.S.
07/07/2015
SECTION OFFICER (JUDL.)

8/7/2015

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 85 / 2009

2. Misc Petition No _____

3. Contempt Petition No _____

4. Review Application No _____

Applicant(s) Dr. (Mrs) Roopali Deka

Respondent(s) Union of India & ops.

Advocate for the Applicant(s): Hp. A. Chameah,

Hps. K. Barpujari,

Hp. R. Duarah or Miss A. Barooah

Advocate for the Respondent(s): 6

Rly. Standing Counsel.

Notes of the Registry	Date	Order of the Tribunal
This application is in form. is filed/C. P. for Rs. 50/- deposited vide DR. R.D. No. 396 406725 Dated..... 7.5.09 D. Registrar 8/5/09	14.05.2009	1. The Applicant a Gynaecology & Obst. specialist of Railway Central Hospital at Maligaon, is a known sick person suffering from a case of complete heart block (with an old Pace Maker) and other ailments. She was asked to go to Lumding Railway Hospital for two days (Wednesday and Thursday) of a week to discharge her duties there, at Lumding. Because of her bad health condition, she repeatedly represented the authorities not to assign her duties at Lumding Hospital. Without appreciating her grievances, the authorities have now asked the Applicant to face disciplinary proceeding for not attending Lumding Hospital. 2. In the above said premises, the Applicant rushed to the Hon'ble Gauhati High Court with a Writ Application (W.P.C.No.1586 of 2009) raising point relating to her right to
Received 4 (Four) copies of Application with envelope for issue notices to the Respondents No. 1 to 4 (with Address). Copy Served. Annexure 18 is not clear. 8/5/09		Contd/-

Contd/-

14.05.2009

life and protection of life. By an interim order dated 08.04.2009, the said Hon'ble Court restrained the Respondents from taking any coercive measure against the Applicant. Finally, by an order dated 27.04.2009, while allowing the Applicant to approach this Tribunal, the Hon'ble Gauhati High Court, directed the Respondents 'not to take any coercive measure against the Applicant nor to compel her to go to Lumding, for a period of four weeks'.

3. Within the said four weeks, the Applicant has approached this Tribunal by way of filing the present Original Application under Section 19 of the Administrative Tribunals Act, 1985. A copy of this O.A. has already been supplied to Dr. M.C. Sarma, learned counsel for the Railways, who is present in the Court to-day.

4. Having heard Mr. A. Chamuah, learned counsel appearing for the Applicant and Dr. M.C. Sarma, learned counsel for the Railways, and having found a *prima facie* case in favour of the Applicant, this case is admitted.

5. Notices be issued to the Respondents requiring them to file their reply/written statement by 30.06.2009.

6. Mr. A. Chamuah, learned counsel for the Applicant, has prayed for an order granting interim protection to the Applicant. Dr. M.C. Sarma, learned counsel appearing for the Railways stated that since Hon'ble Court has granted protection, which shall remain in force till 25.5.2009, no further interim protection need be granted now.

7. However, without prejudice to the rival claims to be adjudicated finally in this case, the Respondents are directed not to take any coercive measure against the Applicant nor she should be compelled to undertake journey from Maligaon/Guwahati to Lumding for two days in a week.

Copies of notices alongwith the order dated 14/5/2009 relating to the notice sent to Dr. S. Sekhar Baruah, learned counsel for issuing the order to the Respondents by registered post A/D post

Free copies of this order send to D/Sect for giving to applicant and learned counsel for both the parties.

*18/5/09 D/No-2506 to 2509
18/5/09 D/No-2573
Date 19-5-2009*

Notice copies clearly served on R.No 1

Contd/-

O.A.85 of 2009

Contd/-

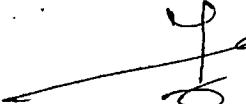
14.05.2009

8. Pendency of this O.A. shall not stand on the way of the Respondents to recall the order dated 18.03.2009, so far, it relates to the Applicant.

9. Send copies of this order to the Respondents (along with notices) and free copies of this order be sent to the Applicant and be supplied to the learned counsel appearing for both the parties.

N/S not filed.

Lm

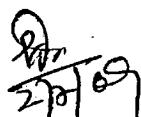

(M.R. Mohanty)
Vice-Chairman


29.6.09

30.06.2009

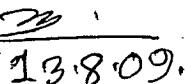
No written statement has yet been filed by the Respondents. On the prayer of Dr.M.C.Sarma, learned counsel for the Railways, call this matter on 14.08.2009 awaiting written statement from the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.


27.7.09

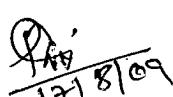
/bb/

No w/s filed.


13.8.09.

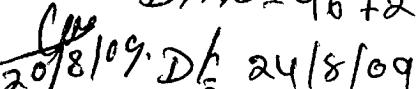
K.Das

Send copies of this order to the Respondents in address given in O.A. immediately.


13.8.09

Copies of order dt. 14/8/09
Send to D/Sec. for issuing
to respondents by post.

D/No - 9672 to 9675


20/8/09. D/t 24/8/09

14.08.2009 Ms.A.Baruah, learned counsel for the Applicant is present. On the prayer of Dr.M.C.Sarma, learned Counsel for the Railways, call this matter on 07.10.2009, awaiting written statement from the Respondents.

Send copies of this order to the Respondents in the address given in the O.A.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

O.A. 85-09

No. w/s bil. 6.

3
6.10.09

7.10.09
W/S filed by the
Respondent.
KG 7/10/09

K. Das

Send w/s of this
order to the Applicant
and the Respondents.

PNB
8/10/09

Copies of order dt. 7/10/09
send to D/Sec. for issuing
to the applicant and the
respondents by post.

Free copies of this
order also handed over
to the L/counsel for both
the parties.

D/No-

CC
26/10/09. D/

w/s bil. 6.

3
9.11.09

10.11.09

Rejoinder has been
filed by the L/Adv.
for the Applicant in
the Court. Copy servd.

KG
10/11/09

07.10.2009

Ms.A.Baroodeh, learned counsel

appearing for the Applicant is present.
Dr.M.C.Sarma, learned counsel for the
Railways files written statement in Court after
serving a copy thereof on Ms.A.Baroodeh.

Ms.A.Baroodeh, learned counsel for
the Applicant, undertakes to file a rejoinder
within next four weeks. Her said undertaking
is accepted. She shall remain free to file
rejoinder on behalf of the Applicant by
05.11.2009.

Call this matter on 10.11.2009 for
hearing; as Dr.M.C.Sarma presses for
vacation of the interim order that was
passed in this case.

Send copies of this order to the
Applicant and the Respondents in the
address given in the O.A. and free copies of
this order be handed over to the learned
counsel appearing for both the parties; so
that parties shall come ready for final
hearing on 10.11.2009.

M
J

(M.R.Mohanty)
Vice-Chairman

Mr. A. Chamuah, learned counsel for
applicant has submitted a letter of absence. Dr.
M.C. Sarma, learned counsel for Railways is present.
Since learned counsel for applicant is absent for
some personnel reasons, the matter is adjourned till
14th December, 2009.

M
C

(Madan Kumar Chaturvedi)
Member (A)

M
K

(Mukesh Kumar Gupta)
Member (J)

/bb/

14.12.2009

5
Applicant challenges order dated 18.3.2009

(A- 12) and dated 3rd April 2009 (Anexure-16) whereby she has been deputed to attend LMG Divisional Hospital at Lumding for two days in a week on rotation basis. Learned Counsel for the Applicant has drawn our attention to findings of Medical Board dated 10.02.2009 which reads as under:

"She is suffering from Coronary Artery Disease with chronic stable angina Grill, Type 2 DM on OHA, Hypertension, Anaemia and Complete Heart Block with four implants."

It was further observed that:-

"taking into consideration of her multiple problems and the pace maker of last implant which has crossed six years and any moment there may be component battery depletion requiring urgent replacement."

She was also advised to avoid strenuous and exertional activities.

It is contented that despite aforesaid advice of the Medical Board, she has been deputed to interior area i. e. Lumding more than 350 K.M. away. Learned counsel for the Applicant also contended that in view of a grave Medical situation, as described by the Medical Board, She has been praying to entrust her with light Duty. No positive response has been seen from the Respondents.

In view of this, direction is issued to the Respondents to produce the related records to establish as to how this aspects was taken into consideration while issuing aforesaid order dated 18.03.2009, particularly when she made representation dated 30th March 2009 which vide communication dated 3rd April, 2009, had been rejected by the authority without assigning any reason.

List the matter on 18.12.2009 for hearing.

Chaturvedi
Madan Kumar Chaturvedi
Member (A)

Gupta
(Mukesh Kumar Gupta)
Member (J)

lm/

O.A. No. 85/2009

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18.12.2009

The case is ready for hearing.

33
8.1.2010

1960/1961

1980-1981
BOSTON
Massachusetts
USA

WICM behaviour: entry/leave

Received order dt. 16/11/10 on behalf of the
for Mr. A. Chatterjee
by me on behalf of
Mr. Kumaar Bro. Advocate
18/11/10
Received two files
containing records
as desired by
you

2009 On the written request of Dr. M. C. Sarma, learned counsel for Respondents list the matter on 11th January, 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

JUDGMENT pronounced in open Court.
Kept in separate sheets. Application is
disposed of. No costs.

Mukesh Kumar Gupta
Member(J)

Judgement / Final order dated

11/1/2010 Prepared and sent to the
D. Schloss for issuing me all the
information to vision
respondents by Post

vide No - 200 to 203

dated — 20-01-2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI:

O.A. No. 85 of 2009

Date of Decision 11.1.2010.

Dr.(Mrs) Roopali Deka

Applicant/s

Mr.A.Chamuah

Advocates for the
Applicant/s

- Versus -

U.O.i. & Ors.

Respondent/s

Dr.M.C.Sarma, Railway Advocate

Advocate for the
Respondents

CORAM :

HON'BLE MR.MUKESH KUMAR GUPTA, JUDICIAL MEMBER
HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Whether reporters of local newspapers may be allowed
to see the Judgment ?

Yes/No

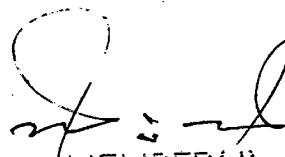
2. Whether to be referred to the Reporter or not ?

Yes/No

3. Whether their Lordships wish to see the fair copy
of the Judgment ?

Yes/No

Judgment delivered by


MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No.85 of 2009

Date of order: This the 11th Day of January, 2010.

HON'BLE MR.MUKESH KUMAT GUPTA, JUDICIAL MEMBER
HON'BLE MR.MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Dr.(Mrs) Roopali Deka
Wife of Dr. B.R.Deka
Resident of Railway Quarter No.417,
Mumbai, Maligaon, Guwahati-781011
Kamrup, Assam Applicant

By Advocate Mr.A.Chamuah

-Versus-

1. The Union of India
Represented by the Secretary,
Ministry of Railway,
"Rail Bhawan", New Delhi-110001.
2. The General Manager
N.F.Railway Head Quarter
Maligaon, Guwahati-781011,
Kamrup, Assam
3. The Chief Medical Director,
N.F.Railway Head quarter
Maligaon, Guwahati-781011,
Kamrup, Assam
4. The Medical Director,
N.F.Railway, Central Hospital
Maligaon, Guwahati-781011
Kamrup, Assam

Respondents.

Dr.M.C.Sarma, Railway advocate

ORDER (ORAL)

MUKESH KUMAR GUPTA: (MEMBER-J):

By present O.A, Dr.Roopali Deka, Senior
Divisional Medical Officer (Selection Grade) challenges
validity of order dated 18.3.2009 (Annexure 12) whereby she
along with two other doctors has been directed to attend

Lumding on Wednesday & Thursday in a week on rotation basis. She also challenges communication dated 3.4.2009 (Annexure 16) rejecting her representation dated 30.3.2009 (Annexure-15). Mr.A.Chamuah, Learned counsel for the Applicant contends that a detailed medical examination of the Applicant had been carried out by the Medical Board on 10th February, 2009 consisting of five Sr. Medical Officers namely; Dr.N.K.Hazarika, MD/MLG, as a Chairman, Dr.SD.K.Das, CS/MLG, Dr.M.K. Sutradhar Sr. DMO/ICU/MLG, Dr. A.K.Saikia, Sr.DMO/P/MLG & Dr.B.P.Deka, Sr.DMO/P/MLG as Member/coopted Members. Applicant is attaining the age of superannuation on 31st December 2013.

As per diagnosis said Medical Board submitted its report, relevant portion of which reads as under:-

"Conclusive findings of Medical Board:

The members of the Medical Board observes that Dr.(Ms)Deka is a case of complete Heart Block and had four implants in last 27 years and is fully Pace dependent. She is a Type 2 diabetic on OHA, Hypertension and CAD with NYHA class II symptoms due to ischaemic myocardium. She have also Hb E disease.

Opinion findings of Medical Board:

Members of medical board after detailed examination of Dr.(Ms) Roopali Deka Sr. DMO/O&G/Maligaon found that she is suffering from Coronary Artery Disease with chronic stable angina Grill, Type 2 DM on OHA, Hypertension, Anaemia and complete Heart Block with four implants.....

.....Members of the Board taking into consideration of her multiple problems and the pace maker of last implant which has crossed six year and any moment there may be component battery



depletion requiring urgent replacement and opinion of cardiologist of Guwahati Medical College and S.Railway HQ hospital Parambur, advises her avoid strenuous and exertional activities."

(emphasis supplied)

In above back drop it was contended that the journey to be undertaken to Lumding, to perform duties assigned vide impugned order dated 18.3.2009 will be strenuous and exertional. In the aforesaid circumstances, she seeks judicial interference of the Tribunal. Learned counsel for the Applicant contended that she had submitted representation dated 30.3.2009, but the same was rejected in perfunctory manner without assigning any reasons. vide communication dated 3.4.2009 Respondent No.4 directed her to proceed LMG by morning train and to work in Railway Hospital and come back by evening Railway train. Learned counsel for the Applicant contended that even after taking such line of action, the Respondents have been trying to impose Line Duty on her, which is totally unjustified particularly in the light of her conditions & Medical Reports.

Respondents in their reply file have stated that the Applicant has been working in the same place, namely, Maligaon Central Hospital for the last 30 years,i.e since her appointment in Railway Medical service in 1979. For all these years the Respondents have been considerate and have been taking all required care of her medical needs as a cardiac patient since 1982. However, in the recent past a need has arisen for specialized service in adjacent

Divisional Hospitals and therefore a rotational roster of specialists was ordered in the latter part of 1988. Medical condition of the Applicant and opinions of experts have been taken into consideration on the question of rotational line duty assigned to her. By considering her representation made, her rotational duty was reduced from three days a week to two days a week and finally to one day a week. There is no Gynaecologist available at Lumding. There was need to appoint the doctors on rotation basis and this precisely has been done vide order dated 18.3.2009.

We have heard learned counsel for both sides, perused the pleadings and other materials on record. We have also perused the original records produced by the Respondents to satisfy ourselves as to the existence of fair consideration to the Applicant's plea vis a vis consideration of the Medical Board's Report. On perusal of the records, we find that another Medical Board's report dated 3.7.2009 by four Sr. Medical Officers, who were party to earlier Medical Board's report dated 10.2.2009, stating that as present Applicant was: "clinically stable", and fit to resume duty, as she was on medical leave. There is no communication produced, filed or reference made as to whether earlier medical Board report was considered while considering representations dated 20.3.2009 as well as 30.3.2009. Thus, in our considered view, said representations have not been considered objectively and fairly in the light of medical report dated 10.2.2009.

Right to life is primordial right, which is raison d' etre for all other rights. Taking into consideration the entire conspectus of the case, we are of the opinion that the order dated 18.3.2009 and 3.4.2009, are bereft of any such consideration for the probable hazards as revealed from the facts of the case. We, therefore, find that there is no justification in respondents plea. The direction is issued to the Respondents to assign her light duty to avoid strenuous and exertional activities. The aforesaid order has been passed in the peculiar facts and circumstances of the case which should not be treated as precedent.

O.A. is disposed of, accordingly. No costs.

Madan Kumar Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh Kumar Gupta
(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No. 85

केन्द्रीय प्रशासनिक अधिकार परा
Central Administrative Tribunal
158
08 MAY 2009
85 गुवाहाटी न्यायालय
Guwahati Bench

Dr. (Mrs.) Roopali Deka

____ Applicant

Versus

The Union of India & Ors

____ Respondents

SYNOPSIS

The applicant before this Hon'ble Court is a Doctor and a specialist in Obstetrics and Gynaecology (O&G). She is an employee of the Indian Railway and posted at N.F. Railway Central Hospital and now she is a Sr. Divisional Medical Officer (Selection Grade) and Grade-A Gazetted Officer. The Applicant is a heart patient and she is fitted with a Pace Maker since 1982 and she had undergone heart surgery for 4 times for implantation of Pace Maker into her heart and the last implantation was made in the year 2003. Apart from the CAD (Coronary Artery Disease) the Applicant is also a Type 2 Diabetic patient with Hypertension and Anaemia (Hb E). All together the Applicant is living a very shaky and wobbly life.

The Respondents Authority issued an office memo directing, first, all Gynaecologists to move New Bangagaon on Line -Duty i.e. to visit the said place on rotation basis for 2/3 days; thereafter, the Respondents Authority reissued an order of Line Duty for Lumding. But the Applicant filed several representations before the appropriate authority to spare her from Line Duty looking into the deplorable health condition. The applicant as per the advice of Railway Doctor had visited the finest Hospital of Indian Railway having speciality in Cardiology namely Institute for Cardiac Treatment and Research, Southern Railway Head Quarters Hospital, Perambur, Chennai and the Doctor of the said Institute strictly advised the Applicant not to go for any strenuous and exertional works. That apart, the Respondents Authority also constituted a Medical Board to examine where the Respondent no.4 was the Chairman and he himself opined that the Applicant should not go for strenuous and exertional works. But showing the highest instances of arbitrariness and inhumanity, the Applicant was finally ordered on 18/03/09 to move to Lumding on Line Duty two days a week with night stay which is not at all possible for the Applicant and the Applicant again submitted representation before the authority which had been rejected without assigning any reason thereof. And owing to all these anxiety and mental exertion the Applicant again fell sick and she was admitted into the Maligaon Railway Hospital on 03/04/09 where she has been admitted in ICU. The Respondents Authority showing the highest instances of illegality, arbitrariness and discretion has created mayhem in the life of the Applicant and having no way left

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Roopali Deka

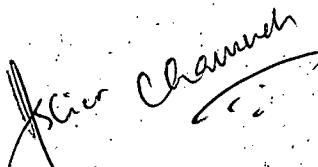
08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

the applicant approached the Hon'ble Gauhati High Court by way of a Writ Petition seeking an appropriate writ, but the Hon'ble Gauhati High Court though given an interim relief on 08/04/09. The Respondents Authority on that had crossed the limit of their oppression while they served show cause notice upon the applicant while she was admitted in ICU i.e. 08.04.09. And on 09/04/09 the concerned doctor of the applicant referred the applicant to Southern Railway Hospital, Chennai for advance treatment. In the mean time, on 27/04/09 the Hon'ble Gauhati High Court ultimately dismissed the Petition on the ground of jurisdiction but protected the applicant for 4 weeks so that she could approach this Hon'ble Tribunal to redress her grievance. By the time, the applicant returned from Chennai. In these compelling circumstances, if the Applicant has to move to Lumding twice a week then it would be nothing but an invitation to her death at the behest of the Respondents Authority. And this would be the unprecedented and utter violation of the fundamental rights of the Applicant.

Hence this Petition.

Filed By


Ashim Chamuah
Advocate

Roopali Rakha

16
05 MAY 2009

मुख्यमंत्री न्यायालय
Chief Justice's Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No. 85 2009

Dr. (Mrs.) Roopali Deka

Applicant

Versus

The Union of India & Ors

Respondents

LIST OF DATES

<u>Sl No.</u>	<u>Date</u>	<u>Particulars</u>
01.	13/09/08	Office Order directing the Petitioner to proceed to New Bongaigaon on rotation basis.
02.	15/09/08	Modification order of the order dated 13/09/08
03.	15/09/08	Representation of the Petitioner.
04.	17/09/08	Letter to General Manager
05.	13/10/08	Treatment at Southern Railway Hospital, Perumbur, Chennai.
06.	06/11/08	Intimation to the Respondents regarding Treatment in Permbur.
07.	08/11/08	Letter issued by the Medical Director directing the Petitioner to move on Line duty when fit to join.
08.	10/02/09	Report of Medical Board.
09.	18/03/09	Final Order issued on the Petitioner to move to Lumding on Line Duty on rotation basis.
10.	03/04/09	Last order to move to Lumding on Line Duty
11.	08/04/09	Interim order of Hon'ble Gauhati High Court passed in Writ Petition(C) 1586/09.
12.	27/04/09	Judgment and Order of Hon'ble Gauhati High Court passed in Writ Petition(C) 1586/09.

13. WTS — 58 → 64
14. Rejoinder — 65 → 70

Filed By

Ashim Chamuah
Ashim Chamuah

Advocate

Roopali Deka

08 MAY 2009

गुवाहाटी बैच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION NO.

85 2009

Dr. (Mrs.) Roopali Deka

Applicant

Versus

The Union of India & Ors

Respondents

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✓ Ashim Chamua
Filed by
Ashim Chamua
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No. 85 2009

Filed By the Applicant
through
Focus Channel
18

Dr. (Mrs.) Roopali Deka

Wife of Dr. B.R. Deka

Resident of Railway Quarter No.417,
Numbari, Maligaon, Guwahati-781011,
Kamrup, Assam.

____ Applicant

Versus

1. **The Union of India**

Represented by the Secretary,
Ministry of Railway,
"RAIL BHAWAN", New Delhi-110001

2. **The General Manager**

N.F. Railway Head Quarter
Maligaon, Guwahati -781011,
Kamrup, Assam

3. **The Chief Medical Director**

N.F. Railway Head Quarter
Maligaon, Guwahati781011,
Kamrup, Assam.

4. **The Medical Director**

NF Railway Central Hospital,
Maligaon, Guwahati-781011
Kamrup, Assam.

____ Respondents

DETAILS OF APPLICATION

Contd. to page-2

01 MAY 2009

1. PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE

This application has been preferred against 2 orders vide No. H/207/2 dated 18/03/09 (Annexure-12) and H/207/2 dated 03/04/09 (Annexure-16) issued by the Medical Director (i.e. the Respondent No.4) directing the applicant to move to Lumding Divisional Hospital in "Line Duty" twice a week i.e. on Wednesday and Thursday, which is not at all possible to perform by the applicant due to her severe cardiac illness. This is pertinent to mention herein that the applicant is a Doctor and a specialist in Obstetrics and Gynaecology but she is suffering from Coronary Artery Disease (herein after referred to as CAD) with Type 2 Diabetics, Hypertension and Anaemia. Since 1982 the applicant has already implanted 4 numbers of Pace-Maker and she is now absolutely pace dependent and the MEDICAL BOARD headed by the respondent no.4 had opined that the applicant should not be entrusted with strenuous works but on the contrary the said same person issued the impugned order.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

The Applicant declares that the application is within the limitation prescribed under section of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE

4(a) That the Applicant joined the Indian Railways in the year 1979 as Assistant Divisional Medical Officer and was posted at Central Hospital, Maligaon under N.F. Railway. Now, she has been working as Senior Divisional Medical Officer (Selection Grade) (in short "Sr. DMO"), specialist in Obstetrics and Gynaecology (O&G) in the said Hospital and she is due to retire on January 2014 on attaining her age of superannuation. It is worthy to mention herein that her husband Dr. B.R. Deka, an Ophthalmologist is also posted at Central Hospital, Maligaon under N.F. Railway.

4(b) That in the year 1982 while the Applicant was in Calcutta on official duty, she suffered from a sudden cardiac arrest and she had to be rushed to the Railway Hospital, Calcutta by her colleagues where she had to undergo a cardiac surgery and a Pace Maker was implanted. Since then she has undergone pace maker implantation for 4 (four) times till date and the last upgraded double chambered Pace Maker was implanted in the year 2003. It may be mentioned herein that already 6 (Six) years have been elapsed since the last Pace Maker was implanted hence at any moment the component battery may require an urgent replacement due to

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Roopali Deka

depletion. As per medical opinion the Applicant has a complete heart block and she is on Bench totally Pace dependent, besides she is a Type 2 Diabetic with Hypertension and Hb E Disease (Anaemia).

Photocopies of the Identity Card of implantation of Pace Maker is Annexed herewith and marked as Annexure-1 (series)

4(c) That due to the aforesaid multiple illness the Applicant has to take sick leave off and on and her ill health does not permit her to perform strenuous activities and require strict and continuous medical vigilance. The Applicant is continuously under treatment for all the multiple diseases in various hospitals including Guwahati Medical College Hospital and Institute for Cardiac Treatment and Research, Southern Railway Head Quarters Hospital, Perambur, Chennai and thus the Applicant somehow carrying her day to day official duties at the Central Hospital, Maligaon, Guwahati, where there are enough medical facilities including provision of ICU where the Applicant could get immediate medical attention at any moment even during the odd hours.

4(d) That on 13/09/2008 the Respondent No. 4 issued an order directing the Applicant to proceed to New Bongaigaon by one morning Train on 29/09/08 and perform her duties there till 04/10/08 and then return to Maligaon by evening Train. It may be mentioned herein that the said order was issued to all the Gynaecologist of Central Hospital to attend New Bongaigaon Sub-Divisional Hospital from Monday to Saturday on rotation basis.

A copy of the order dated 13/09/2008 is annexed hereto and marked as Annexure 2.

4(e) That on 15/09/2008 the said order was modified and the name of one Dr. M. Baruah, Sr. DMO (O&G) was deleted from the list whereas the name of the Applicant remained as it was.

A copy of the order dated 15/09/2008 is annexed hereto and marked as Annexure -3

4(f) That on the same day (15/09/08) the Applicant filed a representation before the Respondent No.4 with a prayer to consider her case on medical ground as it would be very difficult to carry on the aforesaid order of the authority since it would exert immense physical stress. The Respondent No.4 vide order dated 16/09/2008 inform the Applicant that her appeal has been forwarded to the competent authority for a decision on her prayer and till any communication is received from the competent authority the order dated 16/09/2008 would stand.

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A copy of the representation dated 15/09/2008 and order
लक्ष्मी नाथाठी न्यायपीठ
letter dated 16/09/08 are annexed hereto and marked as Nahati Bench
Annexure 4 & 5 respectively.

4(g) That on 17/09/2008 the Applicant again approached the General Manager, NF Railway, Maligaon, to consider her case but the same was not attended. In the mean time on 18/09/2008 the Applicant, who was suffering from uncontrolled high Blood Sugar and Hypertension, had to undergo treatment by Dr. B.P. Deka, Sr. DMO, Central Hospital, Maligaon and the Applicant reported the aforesaid sickness and her inability to attend her regular hospital duties before the Medical Director vide letter dated 18/09/08. In the meantime, the Applicant was also informed by the Respondent No.4 on 17/09/08 that her appeal to the General Manager, NF Railway had been forwarded to Chief Medical Director, NF Railway for onward transmission to General Manager, NF Railway.

Photocopies of the letters dated 17/09/08 are annexed hereto and marked as Annexure 6 & 8 and letters dated 18/09/08 is marked as Annexure-7.

4(h) That while undergoing treatment in Maligaon Hospital, the Applicant was advised on 03/10/2008 to visit Southern Railway Hospital at Perambur, Chennai for advance treatment and accordingly the Applicant visited the Institute of Cardiac Treatment and Research at Southern Railway Head Quarter Hospital, Perambur, Chennai and she was admitted in the special Cardiac ward and had undergone treatment therein. The attending physician Dr. Rama Rajagopala, Sr. DMO/IC/Cardiology also advised the Applicant to avoid exertion or strenuous works. Hence after coming back from Chennai, the Applicant vide letter dated 06/11/2008 informed the Chief Medical Director (Respondent No.3) about her treatment in Chennai and also made a prayer before him to allow her to work in Central Hospital, Maligaon, where intensive Cardiac Care facilities are available.

A copy of the letter dated 06/11/2008 along with the medical report dated 13/10/2008 annexed hereto and marked as Annexure-9 (Series) and typed copy of the medical report is annexed as Annexure-9A.

4(i) That in the meantime, the Applicant again fell ill and was on sick leave and by the Respondent No.4 again issued an order dated 08/11/2008 by which one Dr. R Saikia was introduced in the rotation duty register in place of the Applicant. But in the said order it was also mentioned that the Applicant will be included in the schedule as and when become fit and resume service. In this context, it may be worthy to mention herein that aforesaid Dr. R Saikia,

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Guwahati Bench

Sr. DMO (O&G), was posted at Lumding Divisional Hospital, who was unilaterally transferred to Guwahati Bench
Maligaon as a result of which the post of Sr. DMO (O&G) at Lumding Divisional Hospital fall vacant and hence the Respondents authorities have issued the aforesaid rotational order to fill the vacancy temporarily with an implied intention to accommodate Dr. R. Saikia in Guwahati.

A copy of the order dated 08/11/2008 is annexed hereto and marked as Annexure-10

4(j) That it is worth mentioning herein that the Applicant who was on medical leave for undergoing her treatment at Perambur, Chennai was subsequently under the treatment of Dr. J. Barkataky, Professor of the Department of Cardiology, Guwahati Medical College Hospital declared the Applicant to be fit to resume her duty from and on 09/02/2009 but she was advised to go for light duty only and accordingly the Applicant went to resume her duty on the same day (i.e. on 09/02/09) and on the same day the authorities Constituted a Medical Board to make assessment of the health condition of the Applicant. In the said Medical Board, Dr. N.K. Hazarika, i.e. the Medical Director was the Chairman (Respondent No.4).

After examination of the Applicant by the said medical board, the Board had framed the final diagnosis and framed their opinion too, which reads as follows:

Final Diagnosis: *Complete heart block with Pace-Maker (4th Implant) with DM T2 with Stg. II, Hypertension and CAD with NYHA (New York Heart Association) Class II angina and Hb E disease"*

Opinion of the Medical Board: *Members of medical board after detailed examination of Dr. (Mrs) Roopali Deka, Sr. DMO/O&G/Maligaon found that she is suffering from Coronary Artery Disease with chronic stable angina Gr.II, Type 2 DM, on OHA, Hypertension, Anaemia and complete Heart Block with four implants. She had received treatment at Central Hospital N.F. Railway, S. Railway Head Quarter Hospital, Perambur and Guwahati Medical College: At present she has improved significantly and members opined that she is fit for duty which is also certified by Professor Cardiology Guwahati Medical*

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College too. However, members of the board taking
into consideration of her multiple problems and the नान्दनीय चैन्ची बैच
pace maker of last implant which has crossed 6-(six)
years and any moment there may be component
battery depletion requiring urgent replacement and
opinion of Cardiologist of Guwahati Medical College
and S. Railway HQ hospital Parambur, advises her to
avoid strenuous and exertional activities."

After perusal of the above paragraph any non-medical person could perceive that the Respondents Authority not only resorted to inhuman act but also issued the impugned letter in contradiction with their own findings and opinions. That apart, the respondent no.4 issued the impugned order who was the Chairman of the Medical Board also.

A copy of the Report of the Medical Board dated 10/02/2009 is annexed hereto and marked as Annexure 11.

4(k) That on 18/03/2009 the respondent no.4, who was the Chairman of the said Medical Board and being a Doctor he was well aware about the poor and precarious health condition of the Applicant, issued a fresh order directing the Applicant to go to Lumding for 2 days in a week i.e. on Wednesday and Thursday. According to the aforesaid order the Applicant had to go to Lumding in Janasatabdi Express, stay overnight, and come back by Janasatabdi Express on the next day evening.

A copy of the aforesaid **impugned** order dated 18/03/09 is annexed hereto and marked as Annexure 12.

4(l) That on receipt of order dated 18/03/2009 the Applicant and her husband Dr. B.R. Deka, filed two separate representations on 20/03/2009 for considering the case of the Applicant and spare her from the "Line-Duty" only on her precarious health ground.

Photocopies of the letters dated 20/03/08 are annexed hereto and marked as Annexure 13 & 13 A.

4(m) That most surprisingly on 24th March 2009, the Respondent No.4 issued a letter to the Applicant that going to Lumding will not be strenuous since she has been continuously performing her routine duties in Central Hospital, Maligaon, which includes Casual duties, Operation Theatre Duties, Rounds in Wards etc. In the said letter it was surprisingly mentioned that the volume of work performed by the Applicant in Central Hospital, Maligaon can not be less strenuous than that of the weekly 2 days Line Duty in Lumding.

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From the bare perusal of the aforesaid letter dated 24th March 2009 it could easily be perceived that the Respondent No.4 is having a bias attitude against the Applicant and has been trying to impose Line Duty on the Applicant only to show his official supremacy.

A copy letter dated 24th March 2009 is annexed hereto and marked as Annexure 14.

4(n). That on 30/03/2009 the Applicant informed the Respondent No.4 about her inability to perform the Line Duty as she was, at that moment, having palpitation in slightest exertion and breathlessness at night. In the said letter she also prayed for some days to prepare herself. But on 03/04/2009 the Respondent No.4 issued another order directing the Applicant to proceed to Lumding by the morning train on 04/04/2009 and come back by evening train and by the said order it was also informed that the appeal for not visiting Lumding Hospital as per previous order has not been accepted by the authorities.

Copies of the Letter dated 30/03/2009 and another **Impugned Order** dated 03/04/2009 are annexed hereto and marked as Annexure 15 and 16 respectively.

4(o). That at about 10.30pm on 03/04/2009 the Applicant, having severe chest pain and breathlessness and rising Blood Sugar, was taken into the Central Hospital Maligaon, where she was admitted in ICU (*ICU Indoor Regd. No. 06/09*) and the Applicant was admitted there in the ICU upto 09/04/2009 under intensive cardiac and diabetic care.

4(p). That the Applicant being highly aggrieved with the said two orders approached the Hon'ble High Court by way of a Writ Petition being W.P. (c) No. 1586/2009 filed and moved on the same day i.e. 09/04/2009 and the Hon'ble High Court was pleased to grant stay of the aforesaid 2 (two) impugned orders and directed the respondent authorities not to take any coercive measures to send the Applicant to Lumding until 27/04/2009 and ordered the matter to be listed again on 27/04/2009.

A copy of the said interim order dated 08/09/2009 passed in W.P.(C). 1586/2009 is annexed hereto and marked as Annexure-17.

4(q) That in the mean time, while the respondent authorities got the information that the Hon'ble High Court has stayed the impugned order, the Respondent No.3 through the Respondent No.4 on 08/04/09 at about 5 pm served another **show cause** notice/letter upon the applicant vide letter reference H/SS/1/PTV dated 03/04/09 directing her to show cause why disciplinary action shall not be taken for disobeying the order of the superior authority and how she has obtained the Medical Report which is confidential in nature. This is to be noted that

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while the said show cause notice was served upon the applicant the applicant was admitted in the ICU of the Central Hospital Malgao. That apart, the applicant has gathered a knowledge that though the letter is dated as 3rd April 2009 but indeed the letter has been issued in the evening on 8th April 2009, however, the truth will be proved by the despatch register only. The above mentioned act of the Respondents Authority itself is most unbecoming of a Government Servant more particularly for the organisation like Railway, which is a welfare organisation. The act of serving show cause notice to an employee who is admitted in ICU probably will be the last instance of arbitrariness in any Government Organisation not to speak of the inhuman nature of the said act.

A copy of the said letter dated 3rd April 2009 issued by the Chief Medical Director (Respondent No.3) is annexed hereto and marked as Annexure-18.

4(r) That after receiving the show cause notice by the applicant while she was admitted in ICU the medical health of the applicant further deteriorated and the concerned doctor had to refer the applicant on 9th April 2009 vide their Letter No. H/184/1/O.Rly dated 09/04/09 for further treatment at the Southern Railway Head Quarter Hospital, Perambur, Chennai which is a specialist Institute of Cardiac Treatment and Research where the applicant was treated in earlier occasion also. The applicant immediately rushed to the said institute for further treatment.

A copy of the said referral letter is annexed hereto and marked as Annexure-19.

4(s) That in the mean time, on 27th April 2009 the aforesaid Writ Petition was listed for orders and the Respondents Authority raised a preliminary objection as to the jurisdiction of the High Court to entertain the matter since there is an alternative remedy to redress the grievance of the applicant. The Hon'ble High Court while dismissing the Writ Petition on a technical ground makes necessary observation in favour of the Petitioner/applicant and advised the Petitioner/applicant to approach this Hon'ble Tribunal for redressal of her grievance and looking into the facts and circumstances of the case the Hon'ble High Court while dismissing the Petition has passed an interim order also protecting the Petitioner/applicant at least for 4 weeks from 27/04/2009.

A copy of the Judgment and Order dated 27/04/2009 passed in W.P.(C). No.1586/2009 is annexed hereto and marked as Annexure-20.

Koopali Sekar

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4(t) That the applicant had been admitted in the Southern Railway Head Quarter Hospital, Perambur, Chennai on 20/04/2009 and discharged on 29/04/2009. The applicant went through various tests there in the said Hospital where the specialist opined that she must go through a test called "CORONARY ANGIOGRAM" for further and advance treatment, which, however, could not be done due to the low level of Haemoglobin since the applicant is suffering from anaemia also. In the discharge certificate issued by Dr. (Mrs) Lakshmi Gopalakrishnan, Senior Divisional Medical Officer/Cardiology advised her rest for 2 (two) months and to avoid strenuous physical exertion in view of undergoing Coronary Artery Disease (CAD) and Anaemia.

A copy of the discharge certificate is annexed hereto and marked as Annexeure-21.

4(u). That It is most respectfully submitted by the applicant that the action of the respondent authorities are out and out illegal, unjust, arbitrary and malafide and hence not sustainable in Law. It is further submitted that the action of the Respondents are entirely whimsical and bias against the well settled Principles of Service Jurisprudence. The Indian Railways being a welfare State ought not to have acted in such an inhuman manner in not considering the case of the Applicant whose life is at stake. The Respondent Authorities ought to have considered the ill health of the Applicant and ought to have taken into consideration that the Applicant has been suffering from multiple diseases including complete heart block. The Medical Board, constituted by the Respondent Authorities itself, also during the medical examination of the Applicant could come to know that in 1982 the Applicant was fainted due to cardiac arrest in the Howrah Station itself and it has also been observed by the Board that she should avoid strenuous and exertional activities and therefore, the Respondent Authorities ought not have imposed Line-Duty which is inclusive of one night stay in Lumding every week and extensive travelling. The same may lead to fatal consequences thus the convenient and comfortable service condition, which is one of the main objects of the Indian Railway as a welfare State, has not been provided to the Applicant. That apart, there is no Advance Medical Facilities in Lumding Railway Hospital, where, if the Applicant suffers a sudden cardiac arrest, there will be no immediate and appropriate medical attention by which the life of the Applicant could be saved. Since the Medical Board and the latest medical report is also of the view that the battery of the Pace Maker is on the verge of replacement, there is every possibility that the 6 (six) years old Pace Maker may stop working at any moment and in such circumstances putting the Applicant to undergo exertion and strenuous activities is wholly unwarranted and unbecoming being of a welfare State.

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पात्री

Chair Bench

4(v) That the Respondents Authority not only erred in Law but also showed the highest instances of arbitrariness and discretion by not considering the medical report of their own **Medical Board** and the report of the **Institute for Cardiac Treatment and Research, Southern Railway Head Quarters Hospital, Perambur, Chennai** as regard the medical health of the Applicant as such the impugned action of the Respondents is not tenable in law and the impugned order of the Respondents Authority directing the Applicant to go in Line Duty is liable to be set aside.

4(w). That the Applicant begs to submit that it is very pivotal that the Medical Director (Respondent No.4) Mr. N.K. Hazarika, himself was the Chairman of the Medical Board, which assessed the medical health of the Applicant (Annexure 11) and opined that the Applicant should not be entrusted with strenuous works and the said same person on the very next date issued order to the Applicant to move to Lumding on Line Duty twice a week with night stay. A reasonable question, at this juncture, could be posed whether this is a fair administrative act and humanly behaviour of the Respondents Authority? The answer would be certainly negative and if such act of the Respondents Authority is allowed then it would definitely lead to the death of the Applicant and in common parlance it would be termed as a cold blooded murder. The Applicant also firmly believes that the "Right to Life" includes "Right to leave" and "Right to work peacefully" and hence such illegal and malafide act of the Respondents are liable to be interfered with, set aside and/or quashed.

4(x). That the Hon'ble Apex Court of India in its innumerable Judgments have been explicitly defining Article 21 of our Constitution which is the "Centri Fugal" of our Constitution. Amongst those landmark judgment a Judgment reported in "AIR 1989 SC 2039" had considered the human life in the following words:

"That the preservation of human life is of paramount importance, because if one's life is lost, the Status Quo Ante can not be resorted as resurrection is beyond the capacity of man."

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5(a) That the respondent authorities failed to apply judicious mind in passing the impugned orders and rather took the matter in a different manner to harass the Applicant and the action of the Respondents Authority is a crystal clear example of violation of administrative fair play and discretion as such the impugned orders are to be set aside and/or quashed.

Contd. to page-11

Rasika
Rasika

5(b) That the action of the Respondents authority is hit by the doctrine of "Malice" and bad in Law. The impugned action of the Respondents Authority can not sustain a judicial scrutiny and hence the impugned orders are liable to be interfered with.

5(c) That the action of the Respondents Authority in rejecting the representations/appeals made by the Applicant without assigning any reason thereof is wholly illegal, unjust, unfair and violative of the principles of natural justice.

5(d) That the respondent authorities failed to appreciate that by putting the Applicant to perform the Line-Duty by travelling such a distance every week, would cause the Applicant to suffer immensely which would be detrimental to her life. As such the impugned action of the Respondents Authority is highly violative of the Fundamental Rights of the Applicant guaranteed by the Constitution of India, more particularly Article 21 and 14 as well as a total departure from the welfare nature of the respondents' organisation.

5(e) That the Respondents Authority not only erred in Law but also showed the highest instance of arbitrariness and discretion of the administrative power by not considering their own medical report as regard the health of the applicant and entrusted the applicant with much more strenuous works hence the impugned orders are liable to be set aside and/or quashed.

5(f) That the action of the Respondents Authority has crossed all the limit of arbitrariness, discretion, inhumanity and abuse of administrative power and highest instance of **oppression** of the **administrative authority**.

5(g). That the Railway is a welfare State and the respondent authorities can not, in any circumstances, say a total go-bye to the welfare nature of the organisation and can not put its worker/employee in an adverse condition to work for it. It is the duty rather it is the aims and objectives of the Railway to provide a congenial and comfortable working environment to its every worker and in the instant case the Respondents have acted in such a harsh and cruel manner which is perhaps unprecedented in the history of N.F. Railway.

5(h) That the Respondents by not considering the medical advice given to the applicant and pushing the applicant to work in Lumding on Line-Duty is out and out violation of the fundamental rights of the applicant.

5(i) That the Hon'ble Gauhati High Court in its judgment (Annexure-20) has made an observation that the protection of life of the applicant can be taken care of by this Hon'ble Tribunal also.

Roopali Sekar

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গুৱাহাটী সাহিত্যিক Guwahati Bhashan

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6. DETAILS OF REMEDIES EXHAUSTED

The applicant stated that there is no remedy under any rule and this Hon'ble Tribunal is the only remedy.

7. MATTER NOT PENDING BEFORE ANY COURT OF LAW

The applicant declares that there is no case pending before any other court of law or Tribunal pertaining to the same subject matter between the same parties, however, the applicant first approached the Hon'ble Gauhati High Court seeking an appropriate writ. The Hon'ble High Court while dismissing the Petition on jurisdictional ground advised the applicant to approach the Central Administrative Tribunal for redressal of her grievance.

8. RELIEF SOUGHT FOR

In the above facts and circumstances of the case the applicant prays for the following relief (s):-

8(i) The impugned order vide Letter No.H/207/2 dated 18/03/09 and order vide Letter No.H/207/2 dated 03/04/09 directing the applicant to go on Line-Duty twice a week (Wednesday and Thursday) with night stay shall be quashed and/or set aside.

8(ii) The Respondents Authority shall be directed to entrust the applicant with Light-Duty so that the applicant can avoid strenuous and exertional physical activities.

8(iii). The applicant shall be sent and/or transferred to any such places where advance medical facilities are not available to cope up with the medical exigencies which may arise due to the component battery depletion of the Pacemaker of the applicant.

9. INTERIM RELIEF

In the above facts and circumstances, pending disposal of this Original Application, the applicant prays for an interim order staying the operation of the order vide Letter No.H/207/2 dated 18/03/09 and order vide Letter No.H/207/2 dated 03/04/09

10. That this application is filed through Lawyer.

Contd. to page-13

11. PARTICULARS OF POSTAL ORDER

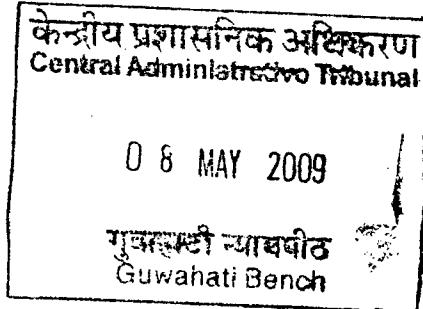
IPO No. 396 - 406775

Date of Issue: 7.5.09

Issuing Post office: GPO Guwahati

Issued in favour of : Central Administrative Tribunal, Gauhati Bench.

Value: Rs.50/- (Fifty) only



12. List of Enclosures as per index

Koopali 2009

संघीय प्रशासनिक अदालत
Central Administrative Tribunal

०८ MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

VERIFICATION

I, Dr. (Mrs.) Roopali Deka, Wife of Dr. B.R. Deka, Resident of Railway Quarter No.417, Numbari, Maligaon, Guwahati-781011, Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in the aforesaid paragraphs are true to the best of my knowledge, belief and information and I have not concealed anything material therefrom.

And I put my hand unto this verification on this 8th day of May 2009 in Guwahati, Assam.

Identified by

Mamunil Das

815109

Advocate/ Advocate's Clerk

Roopali Deka

Signature/Deponent

केन्द्रीय प्रशासनिक अधिकारपाल
Central Administrative Tribunal

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AFFIDAVIT

गुवाहाटी बैच
Guwahati Bench

I, Dr. (Mrs.) Roopali Deka, aged about 54 years Wife of Dr. B.R. Deka, Resident of Railway Quarter No.417, Numbari, Maligaon, Guwahati-781011, Kamrup, Assam, do hereby solemnly affirm and declare as follows:

1. That I am the applicant in the instant case as such I am well acquainted with the facts and circumstances of the case and I am authorised to swear this affidavit.
2. That the statements made in this affidavit and its accompanying petition's statements made in the paragraph 1, 2, 3, 4(a) to 4(i), 4(j)pt, 4(k) to 4(x), 5 to 7 are true to the best of my knowledge and belief and the statement made in the paragraphs 4(i)pt, are information derived from the record which I believe to be true and rest are my humble submission before this Hon'ble Tribunal

And I sign this affidavit on this 8th day of May 2009 at Guwahati.

Identified by

Maniel das.

8.5.09

Advocate's Clerk

Roopali Deka

Deponent

*solemnly affirmed
and declared before me*

B.R.

8.5.09





IMPLANTED DEVICE
IDENTIFICATION CARD

Dr. Miss Ruplai Niog,
 c/o Late B. R. Neog, Pubsarauia
 P. O. Silpukuri, Model 5989 Rate
 Phone India. Serial Number EE1010110R
 Device: Cardiac Pacemaker Type of Leads 6961
 Type: Demand Date of Implant Jan. 9, 1982

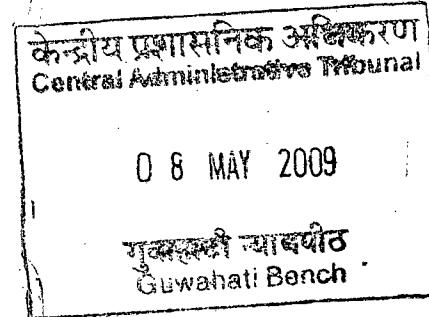
**IN CASE OF EMERGENCY CONTACT PHYSICIAN
IDENTIFIED ON REVERSE OF CARD**



Physician Dr. S. C. Kundu

2691 Sealdah, Calcutta, W.B.,
India.

1144 *Verma*



08 MAY 2009

गुवाहाटी न्यायपीठ Guwahati Bench

Medtronic

Certified to be true copy

~~Autumn in the lab~~

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**IMPLANTED DEVICE
IDENTIFICATION CARD.**

Central Administrative Tribunal, India, India

Dr. Rupali Deka,
C/O N. F. Railway,
Maligaon,
Gauhati.

Model: 8403 Rate: 70

Phone:

Serial Number:

Device: Cardiac Pacemaker

Type of Leads:

Type: Demand

Date of Implant: 4.12.87

IN CASE OF EMERGENCY CONTACT PHYSICIAN
IDENTIFIED ON REVERSE OF CARD

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench



Physician: Dr. T.D. Bhattacharjee,

Dr. Basu Mallik

Address: B.R. Singh Hospital,
Sealdah,
Calcutta.

1E-703

Phone Number: 35 4075

Medtronic

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CARDIAC PACEMAKER

IDENTIFICATION CARD

Intermedics Inc.

P.O. Box 617 • Freeport, Texas 77541

Name DR. RUPALI DEKA Rate 70PPM
Address 276, Nambiar Maligaon,
Phone 571574. GUWAHATI-781011
Model 292-05
Serial Number 102356
Type of Leads 6961
Date of Implant 20.5.98

IN CASE OF EMERGENCY CONTACT PHYSICIAN
IDENTIFIED ON REVERSE OF CARD

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Physician's Name DR. K. A. ABRAHAM.

Address Chief Cardiologist
Railway Hospital,
Perambur, CHENNAI-600023.

Phone 6443051

91-42-681

FCRM 80-1511-0400/1

INSTITUTE FOR CARDIAC TREATMENT & RESEARCH
DEPARTMENT OF CARDIOLOGY
SOUTHERN RAILWAY HEADQUARTERS HOSPITAL
AYANAVARAM, CHENNAI 600 023.

DUAL CHAMBER PACEMAKER IMPLANTATION DATA

Patient's Name : Ms. ROOPALI DEKA Age/Sex: 49/F Rly.

Address : Sr.DMO, MLG/NF Rly.
1/2003/8846

Referred by : Sl.No.1037

Indication for Pacing : CHB PPI implanted in 1982, PG replacement on 1987 & 1998

Date of Implantation : 23.07.03

PACEMAKER DETAILS

a) Manufacturer & Type : MEDTRONIC, DUAL CHAMBER
c) Model No. : SIGMA SD203
d) Serial No. : PJD1975554
e) Polarity : Bipolar

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

LEAD ATRIAL VENTRICULAR

a) Manufacturer : MEDTRONIC MEDTRONIC
b) Model : Capture SP Novus Capture SP
c) Serial : LER081062V LAJ420333V

ENDO/EPI : Endocardial

CARDIOLOGIST : Dr. SRIRAM RAJAGOPAL

Comments/Complications : *See remarks*

Next follow up on : Review after three months.

Doctor's signature

Dr. SRIRAM RAJAGOPAL, MD, DM (Card)
SIRIRAM CLINIC
SOUTHERN RAILWAY HEADQUARTERS HOSPITAL
AYANAVARAM, CHENNAI 600 023.

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

08 MAY 2009

N. F. Railway

Office of the Medical Director
Central Hospital
Maligaon, Guwahati-781011

গুৱাহাটী অধিকার

OFFICE ORDER

Sub:- Duty at NBQ Rly. Hospital by Gynaecologists of CH/MLG.

In terms of CMD/MLG's letter No. H/98/G/Pl. dated. 11-09-08, all the Gynaecologists of CH/MLG are to attend NBQ Sub-divisional hospital from Monday to Saturday on rotation basis. They will proceed to NBQ by one of the morning train of Monday, to remain at NBQ from Monday to Saturday and come back to MLG by one of the evening train of Saturday. The ~~order~~ of duty at NBQ will be as follows-

1. Dr. A. Goswami, Sr.DMO will attend w.e.f. 15th to 20th Sept/08.
2. Dr. M. Barua, Sr.DMO will attend w.e.f. 22nd to 27th Sept/08
3. Dr. R. Deka, Sr.DMO will attend w.e.f. 29th Sept to 4th October/08

and thereafter, Gynaecologists will visit NBQ in the same order during the subsequent periods.

(Dr. N. K. Hazarika)
Medical Director/MLG

No.H/207/2

Dated. 13-09-2008

Copy to:-

- 1) Secy. To GM/NFR for kind information of GM please.
- 2) CMD/MLG for information please in reference to his letter No. H/98/G/Pl. dated. 11-09-08.
- 3) DRM/RNY for information please with request to arrange for accommodation for the Gynaecologists.
- 4) Dr. R. Deka, Sr.DMO/O&G/IC/CH/MLG. She is requested to re-organize OT schedule and O&G special clinic if felt necessary in view of the above order and the same is to be intimated to the undersigned as well as all concerned.
- 5) Dr. M. Barua, Sr.DMO/O&G/CH/MLG for information and necessary action please.
- 6) Dr. Ms. A. Goswami, Sr.DMO/O&G/CH/MLG for information and necessary action please.
- 7) MS/NBQ for information please.
- 8) Sr.DMO/OT, Radio, OPD

(Dr. N. K. Hazarika)
Medical Director/MLG

2009-09-17-08

Guwahati

Guwahati - 781011

ANNEXURE-3

- 21 -

N. F. Railway

Office of the Medical Director
 Central Hospital
 Maligaon, Guwahati-781010
 केन्द्रीय प्रशासनिक अधिकारी
 Central Administrative Officer

OFFICE ORDER

Sub:- Modification of this office order of even No. dated 13-09-2008 for duty by Gynaecologists at NBQ hospital.

01 MAY 2009

गुवाहाटी न्यायालय
 Guwahati-Bench

This office order of even No. dated. 13-09-2008 is being modified as under-

- 1) Dr. Ms. A. Goswami, Sr.DMO/O&G/CH/MLG will attend NBQ hospital on Monday and come back to MLG on Wednesday. She can go to NBQ by 2423 Rajdhani Express of Monday and come back to MLG by any convenient evening train of Wednesday.
- 2) Dr. Ms. R. Deka, Sr.DMO/O&G/CH/MLG will attend NBQ hospital on Thursday and come back to MLG on Saturday. She can go to NBQ by 2423 Rajdhani Express of Thursday and come back to MLG by any convenient evening train of Saturday.

This schedule is to be maintained till further order.
 This will take effect immediately.

(Dr. N. K. Hazarika)
 Medical Director/MLG

No.H/207/2

Dated. 15-09-2008

Copy to:-

- 1) Secy. To GM/NFR for kind information of GM please.
- 2) CMD/MLG for information please in reference to his letter No. H/98/G/PI, dated. 11-09-08.
- 3) DRM/RNY for information please.
- 4) CMS/RNY for information please.
- 5) Dr. R. Deka, Sr.DMO/O&G/CH/MLG. She is requested to re-organize OT schedule and O&G special clinic if felt necessary in view of the above order and the same is to be intimated to the undersigned as well as all concerned.
- 6) Dr. M. Barua, Sr.DMO/O&G/CH/MLG for information please.
- 7) Dr. Ms. A. Goswami, Sr.DMO/O&G/CH/MLG for information and necessary action please.
- 8) MS/NBQ for information please.
- 9) Sr.DMO/OT, Radio, OPD

(Dr. N. K. Hazarika)
 Medical Director/MLG

Certified to be true copy

ASK-2 Chamuah

Armenia, 15/09/2008

- 22 -

STRUCTURE 4

To

The Medical Director,
N F Railway Central Hospital,
Maligaon.

Date: 15.09.2008

सेन्ट्रल अधिकारी अदालत
Central Administrative Tribunal

Subject: Duty at NBQ Hospital.

Ref No. H 207 2 Office of The Medical Director, Dated 13.09.2008

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Reference your letter no as above I would like to inform you that I am a Diabetic, Hypertensive and completely Pace Maker dependent person. Irregular food habit and irregular living condition is detrimental for my health. As such the type of duty entrusted for visiting NBQ hospital will not be possible for me. So I would like to request you to consider the matter and spare me from such duty.

Roopali Deka

Dr. (Mrs.) Roopali Deka
Sr. DMO/O&G/MLG

18/9/08

Dr. (Mrs.) Roopali Deka

18/9/08

Dr. (Mrs.) Roopali Deka

N. F. Railway

No.II/207/2

Office of the Medical Director
Central Hospital
Maligaon, Guwahati-781011
Dated. 16-09-2008.

To
Dr. Ms. R. Deka
Sr.DMO/O&G/CH/MLG.

Sub:- Duty of Gynaecologists at NBQ hospital

Ref:- Your letter No. Nil dated. 15-9-08.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी बैचन
Guwahati Bench

This is in reference to this office order of even No. dated. 13-9-08 and your appeal dated. 15-9-08. Your appeal has been forwarded to the competent authority for decision. However, till such time any communication is received from the competent authority, the earlier office order vide this office order of even No. dated. 13-09-08 and well as modification order of even No. dated. 15-9-2008 stands

This is for your information and necessary action please.

P. K. Hazarika 16. 9. 08
(Dr. N. K. Hazarika)
Medical Director/MLG

Copy to CMD/MLG for kind information please.

P. K. Hazarika 16. 9. 08
(Dr. N. K. Hazarika)
Medical Director/MLG

Copy to the concerned authority
in this case

Dr. N. K. Hazarika
Guwahati High Court

To

The General Manager,
N F Railway,
Maligaon.

Through Proper Channel.

Date: 17.09.2008

Subject: Visit to NBQ Hospital for seeing M&G Patient.
Ref MD/CH/MLG's letter No. H 207/2 dated 13.09.2008

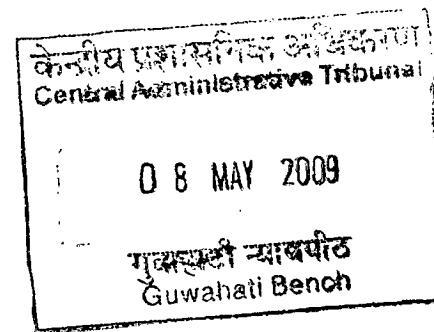
Sir,

Most respectfully I would like to state that I have been issued an office order vide MD/CH MLG's letter No H/207/2 dated 13.09.2008 to visit NBQ Hospital every week continuously. But Sir, I would like to mention that I am a cardiac patient of Complete Heart Block and is completely under support of Pace Maker. I have undergone four surgeries for the same with replacement of Pace Makers. Moreover I am a patient of uncontrollable Diabetes and Hypertension and continuously under treatment. I cannot stand any irregularities in life style and irregular food habit. As such visiting the NBQ hospital is completely impossible for me.

Therefore sir I would like to request you to kindly look in to the matter and request your intervention to spare me from visiting New Bongaigaon.

Yours Faithfully

Dr. (Mrs) Roopali Deka
Sr. DMO/O&G/CH/MLG



Roopali Deka
Certified & Ac. Tmz
Copy
Almalti

32
- 25 -

ANNEXURE - I

To

The Medical Director,
N F Railway Central Hospital,
Maligaon.

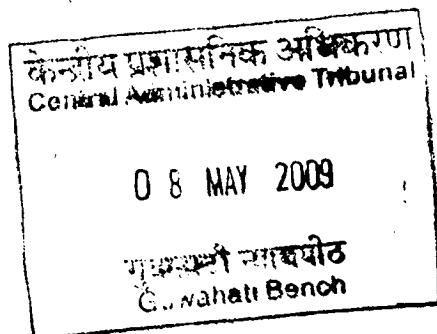
Date: 18.09.2008

SUBJECT: Reporting sick and inability to attend hospital and NBQ Hospital Duty.

I would like to inform you that I am very sick due to Hypertension and high blood sugar level for which I am unable to attend hospital duty as well as NBQ hospital visit duty. I am under treatment of Dr. B P Deka, Sr DMO/Physician/CH/MLG and like to report sick from today the 18th September 2008.

Roopali Deka

Dr. (Mrs) Roopali Deka
Sr. DMO/Physician/CH/MLG



- 26 -

ENR/EP/CE-8.

53

N. F. Railway

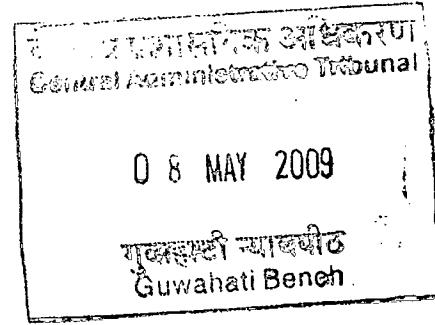
Office of the Medical Director
Central Hospital
Majigaon, Guwahati-781011
Dated. 17-09-2008.

No.H/207/2

To
Dr. Ms. R. Deka
Sr.DMO/O&G/CH/MLG.

Sub:- Visit to NBQ Hospital.

Ref:- Your application dated. 17-09-2008.



Your above appeal to the General Manager/N.F.Railway is being forwarded to CMD/N.F.Rly. for onward transmission to GM for appraisal & decision.

However, it may please be noted that the office order No.H/207/2 dated. 13-09-08 has been modified vide this office order of even No. dated. 15-09-2008 copy of which was also sent to you but was not received by you. The copy of the same is again enclosed herewith.

The order was issued as per directive of competent authority. Any alteration or action on the appeal will be decided by the competent authority only and therefore, the office order H/207/2 dated. 15-09-2008 stands.

Enclo:- As above.

(Dr. N. K. Hazarika)
Medical Director/MLG

Enclosed to be sent
to Dr. N. K. Hazarika
Medical Director/MLG

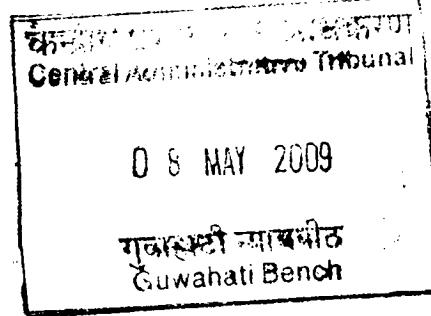
-27-

ANNEXURE-9 (series)

To

The Chief Medical Director,
N F Railway,
Maligaon.

Through Proper Channel



Date: 06.11.2008

Subject: Intimation about medical examination and treatment at Southern Railway HQ Hospital, Dept. of Cardiology, Perambur, Chennai and Request for sparing from line duty.

Sir,

I have the honour to inform you that I have been referred to Southern Railway HQ Hospital Perambur for investigation and treatment of my ailment vide referral letter No. H/184/I/O. Rly. Office of the Medical Director Central Hospital, Maligaon, Dated 3/10/2008. A copy of the examination and advice report of Dr. Sri Ram Rajagopala, Sr. DMO/IC/Cardiology of Institute of Cardiac Treatment & Research Southern Railway HQ Hospital is attached herewith which is self explanatory. Therefore sir I request you again to kindly spare me from performing line duty and allow me to work undisturbed in Central Hospital Maligaon where intensive cardiac care and medical care facilities are available..

Yours sincerely

Roopali Deka
Dr. Roopali Deka
Sr. DMO/O&G/Central Hospital
Maligaon.

DR. ROOPALI DEKA

- 28 -

RAILWAY HOSPITAL PERAMBUR OPD SLIP
OP. No. : 0/2008/104085 Card No. : RF 135687 [80]
Name : ROOPALI DEKA 34 YEARS F Reln: WIFE
Address : HOUSE NO 276, NAMBARI, MALIGHAN, GOUHATI, ASSAM STATE.
Emp Name: DEKA, B.R. SR. DMO Working Stn:
PF No. : Tkt No:
Cont. Off: CMS/MLG Dept: MEDICAL Divn: MLG Rly: NFR

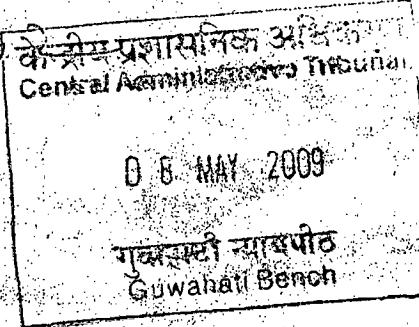
14/10/2008 10:20

Details in members
Rly -

Elmo LV systolic fm

LA : 40x40x4

LV : 33/57



Impression
- Complete heart block - an
- ① complete permanent pacemaker
- ② hypertension - control not
- ③ Diabetes Mellitus
④ Diabetes Mellitus

⑤ C/S - AS & I

⑥ Anemia

(Hb: 9.4 g%) PRO

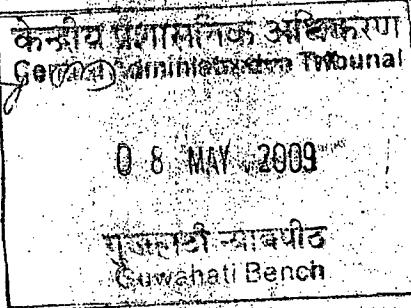
SOUTHERN RAILWAY CHENNAI - 600 0

-29- Tretiarium song 10

- T. DIAMICROS Ma 30mg 00

~~T. COFFEE~~

- T. COSMOPOLIS song 10



Adv:

Centchine

T. NEOPAONIA song 10

T. DIAMICROS Ma 30mg 00

Adv: STOP LOCATION

T. TELMISARTAN 80 mg 00

T. DOXAZOSIN 10 mg 00

T. CLOSPIDOGREL 75 mg 00

T. MONATROTE 20mg 00

In view of HT & CAD & RBS

advised to avoid exercise

or strenuous work

Bl. sugar 4-800 to be kept

well controlled (180, 181 sugar)

& HbA1c to be monitored

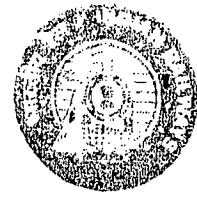
If symptoms persist or increase
may require convey hospitalization

08 MAY 2009

हृदय रोग चिकित्सा & अनुसंधान स्थान
INSTITUTE FOR CARDIAC TREATMENT & RESEARCH

हृदय रोग विभाग
DEPARTMENT OF CARDIOLOGY

AK ROOPKAR DEPT



Sp/12.

-30-

दक्षिण रेलवे मुख्यालय अस्पताल,
पेरम्पुर, चेन्नई - 600 023. भारत,
Southern Railway Headquarters Hospital,
Perambur, Chennai - 600 023. India

बिएसएनएल/BSNL : 2644 3051
रेलवे/Railway : 29000

र. नं.

दिनांक/Date... 13/10/2008

13/10/08

- Known to have complete heart block. On permanent pacemaker since 1982 (1st implant). PG replaced in 1987 and 1998. 3rd PG replacement in 2003 with upgrade to 15 dual chamber pacemaker.
- Known hypertension (poorly controlled - persistently elevated systolic BP).
- Known diabetic - not well controlled
- Go Breslow grade on excision biopsy.
- One chest pain in D1 pleural region.
- Swelling of feet on off (swelling with diuretics).
- Persistent giddiness.

N

20. 7. 2009 -31- 112d pedal
solen

Pedal: 80/min. Blg.

160. 160. 84 mm Blg.

05 MAY 2009

Q.C.: G.D. MR.

1/4 sec in collecting

S. Suitable para-odontal
splen.

No (1)

Al: Clean

✓ G.C. 1. Axial occlusion
2. Vermic-pain
3. DS-VP 100%
negative one

Plant below for 1 yr.

A - complete
rest work on
permanent
pains
- HT
- DM type II
- ?Cervical
artery disease
& AOE cl II.

Bl inv.

Admit special condition
- No 1001 - R. No. 7

Dr.

Relevant Portion Only

Annexure- 9A
Typed Copy

RAILWAY HOSPITAL PERAMBUR OPD SLIP

O.P. No. : 0/2008/104085 Card No. RF 135687 (80)

Name **Roopali Deka**, 54 yr F Reln: Wife.

Address: House No. 278 Nambari Maligaon, Guwahati, Assam State

Emp Name: Dr. B R Deka, Sr. DMO/working station:

PF No. : Tkt No.

Cont off: CMS/MLG Dept: Medical Divn. MLG Rly. NFR
14/10/2008 10-20

1 Details in previous slip

Echo: LV Systolic function. N

LA: 40 x 40 x 42

LV 33/51

Impression:

- 1) Complete heart block on permanent pace maker.
- 2) Hypertension.not eligible.
- 3) Diabetes Mellitus. Type II
- 4) CAD- AOE CI II
- 5) Anaemia. (Hb. 9.4 gm%)

Patient is on :

- T Metformin 500 mg BD
- T Diamicron MR 30 mg OD
- T. Losartan 50 mg)D

Adv: Continue T. METFORMIN 500 mg BD

Tab DIAMICRON MR 30 mg OD

Ad. Stop LOSARTAN

T. TELMISARTAN 80 mg OD

T. ATROVASTIN 10 mg OD

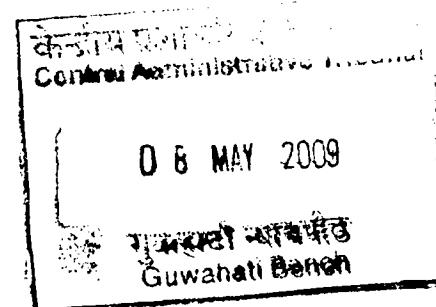
T. CLOPIDOGREL 75 mg OD

T. MONOTRATE 30 mg)D

In view of HT & CAD with AOE advised to avoid exertion and strenuous work.

Blood sugar and BP to be kept well controlled. (BP, Bl. Sugar, HbA1C to be monitored)

If symptom persist or increase may require Coronary angiography and revascularization if required.



Chamukhan
Chamukhan

Sd/- Illegible
Dr. Sriram Rajagopala
Sr. DMO(Cardiology/Perambur
Southern Railway, Chennai

Name Roopali Deka, 54 yr F Reln: Wife.
Address: House No. 278 Nambari Maligaon, Guwahati, Assam State
Emp Name: Dr. B R Deka, Sr. DMO/working station:
PF No.: Tkt No.
Cont off: CMS/MLG Dept: Medical Divn. MLG Bly. NFR
14/10/2008 10=20

1 Details in previous slip

Echo: LV Systolic function. N

LA: 40 x 40 x 42

LV 33/51

Impression:

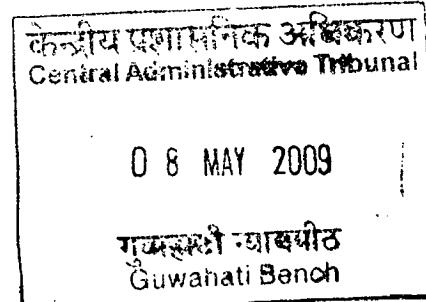
- 1) Complete heart block on permanent pace maker.
- 2) Hypertension.not eligible.
- 3) Diabetes Mellitus. Type II
- 4) CAD- AOE CI II
- 5) Anaemia. (Hb. 9.4 gm%)

Patient is on :

- T Metformin 500 mg BD
- T Diamicron MR 30 mg OD
- T. Losartan 50 mg)D

Adv: Continue T. METFORMIN 500 mg BD
Tab DIAMICRON MR 30 mg OD

Ad. Stop LOSARTAN
T. TELMISARTAN 80 mg OD
T. ATROVASTIN 10 mg OD
T. CLOPIDOGREL 75 m...g OD
T. MONOTRATE 30 mg)D



In view of HT & CAD with AOE advised to avoid exertion and strenuous work.
Blood sugar and BP to be kept well controlled. (BP, Bl. Sugar, HbA1C to be monitored)
If symptom persist or increase may require Coronary angiography and revascularization if required.

Sd/- Illegible
Dr. Sriram Rajagopal
Sr. DMO(Cardiology/Perambur
Southern Railway, Chennai

Annexure - 10

N T Railway

Office of the Medical Director
Central Hospital Maligaon
Guwahati 781011
dated 08.11.08

No 11/2072

To
Dr. M. Barua, SrDMO O&G
Dr. (Mrs.) A. Goswami, SrDMO O&G
Dr. R. Saikia, SrDMO/O&G

Sub: Working at LMG Divisional hospital
Ref: CMD-MLG's letter No 11/98 G/Ph.VII dated 5.11.08

In terms of CMD-MLG's above quoted letter dated 5/11/08, all the Gynaecologist of CH/MLG are to attend LMG Div. Hospital on rotational basis. They will attend LMG by 2067 on the morning of the nominated day, stay overnight and come back by 2108 of next day. The same cycle is to be repeated by the next doctor in the following order-

1. Dr. M. Barua, SrDMO/O&G	-	-	Mon & Tuesday
2. Dr. R. Saikia, SrDMO/O&G	-	-	Wed & Thurs
3. Dr. (Mrs.) A. Goswami, SrDMO O&G	-	-	Fri & Sat

Dr. R. Saikia, SrDMO O&G is on leave at present and he will pick up above duty on the nominated days on resumption.

Dr. (Mrs.) R. Deka, SrDMO O&G on sick leave at present will be included in the above schedule as and when becomes fit and joins etc.

Dr (Mrs.) A. Goswami, SrDMO/O&G will also attend RNY once a week as per previous schedule.

This is to be carried out with immediate effect.

N K Hazarika
(Dr. N. K. Hazarika)
Medical Director

Copy forwarded to -

1. CMD-MLG for kind information please. This is in reference to his above mentioned letter dated 5/11/08
2. CMS/1 MG, RNY
3. MBBQ for information please. In terms of CMD-MLG's letter No.11/98 G/Ph.VII dated 5/11/08, Gynaecologist of CH/MLG will not attend NBQ any longer
4. SrDMO/ICOPD CH/MLG for information

N K Hazarika
(Dr. N. K. Hazarika)
Medical Director

Certified to be true copy

N K Hazarika
N K Hazarika
Medical Director

FINDINGS OF MEDICAL BOARD

Date of Medical Board:- 10/02/2009

Authority for holding Medical Board:- MD's letter No. 4/5/80/A/Loose
Names of the Board Members:-

1. Dr N.K.Hazarika	MD/MLG	-	Chairman
2. Dr.D.K.Das	CS/MLG	-	Member
3. Dr.M.K.Sutradhar	Sr.DMO/ICU/MLG	-	Co Opted Member
4. Dr.A.K.Saikia	Sr.DMO/P/MLG	-	Member
5. Dr.B.P.Deka	Sr.DMO/P/MLG	-	Co Opted Member

Name of The Patient Age/Sex: Dr(Ms)Roopali Deka 55 Years Female

Designation : Sr.DMO/O&G/CH/MLG

Date of Appointment : 30/04/1979

Date of Birth : 01/01/1954

Date of Retirement : 31/12/2013

Medical Category : Gazetted Non Technical

Date of Sickness : 18/09/2008

Identification Mark : 1. Scar in Left elbow post. aspect
2. Scar in Rt infraclavicular region

संकाय द्रष्टव्य बोर्ड
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Signature of the Patient : Roopali Deka

ASSEEMENT OF THE PRESENT CONDITION

Chief complaint: i. Effort intolerance six to eight months duration progressive in nature having Pace Maker implant four times in last 27 years.
ii. Palpitation off and on six to eight months
iii. Generalized weakness.

General examination: GC : Fair; Average built

Pulse 72/min regular

BP : 170/100 mm of hg,

Cyanosis, Icterus ,Oedema, : Absent

Systemic Examination :

Chest : B.S Normal Vesicular. No added sounds

CVS : Heart sounds Normal. Occasional variable S1. No added sounds

Adbomen: Abdomen : Soft. No Organomegaly detected

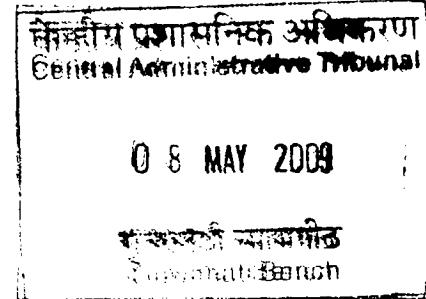
CNS : Higher function : Normal.No Neurodeficit elicited

[Handwritten signatures and initials]

Eye Examination : Normal

ENT Examination : No abnormality detected

Ortho finding : Osteoarthritic tenderness present.



Investigation Report:

Blood : TC : 9700/cu mm of blood

DLC: P63%;L32%;M1%;E4%

Hb: 8.8gm%; ESR : 45 mm in 1st hr.

Blood Sugar(F):127mg%; PP:145mg% ; Hb A1C:6.7

Blood Urea: 21mg%;S/Creatinine: 0.7mg%

S/Cholesterol: 150mg/dl;S/TG:99mg/dl;LDL:79mg/dl

VLDL:20mg/dl.

Hb Type: Hb 'E' disease

ECG : Pace dependent in Atrial pacing with Ventricular Pacing at 76 ppm (in DDDR Mode)

Echocardiography : Normal LV Systolic contractility with enlarge LA.

CXR : Increased CTR.

Detailed History of present illness and treatment received:

On 18th Sept'08 Dr(Mrs)Roopali Deka Sr DMO/MLG presented with increase in chest pain on exertion ,palpitation and generalized weakness .There was no H/O any PND and oedema. She was treated at Central Hospital Maligaon with conservative treatment since 18/09/2008 and was put on sick list.

As there was no improvement she was referred to Southern Rly HQ Hospital Parambur where she was evaluated in the month of October'08 and was advised to have tight Glycaemic and blood pressure control with the avoidance of strenuous and exertional activities. She was also advised to have Coronary Angiography if the symptoms aggravated. In the month of Nov'08 when her symptoms increased she was referred to Dept of Cardiology Guwahati Medical College where she was examined by Dr J.C.Borkotoky Prof Cardiology and was diagnosed as a



10/2/09
01/Jan/10
10/2/09

case of uncontrolled hypertension, T2 DM, CAD and Anaemia on PPI and was advised rest for 30 days w.e.f 25th Nov'08 and further extended for six weeks w.e.f. 24th Dec'08.

She had a SA attack due to Complete Heart block and fallen in the floor of Howrah Railway Station in 1982 and was shifted her to B R Sing Hospital E.Rly Kolkata where a permanent pace maker was implanted to her. Following PPI she was doing well for a period of four to five years except few occasions of pectoral twitching. In 1987 a Rate responsive component was reimplanted to her as she was occasionally intolerant to effort. In the year 1998 she developed end of life(EOL) of the component and another re implantation was done to her at Parambur HQ Hospital. Following the procedure she had frequent effort intolerance and on follow up, her VVIR component was explanted out and a Dual Chamber Rate responsive component (DDDR) was implanted in the year 2003. Following DDDR her effort intolerance reduced but since last one year she is feeling much discomfort ir. little effort and symptomatically her symptoms increased to NYHA class II where ECG revealed ischaemic ST changes. During her last implant at Parambur in 2003 she was detected to have diabetic since then she is on OHA. She is also having Stg II hypertension.

Complete Heart Block with Pace Maker(4th implant) with DM T2 with Stg.II Hypertension and CAD with NYHA(New York Heart Association) class II angina. and Hb E Disease

Final Diagnosis:

Conclusive finding of Medical Board:

The members of Medical Board observes that Dr(Ms) Deka is a case of Complete Heart Block and had four implants in last 27 years and is fully Pace dependent. She is a Type 2 diabetic on OHA, hypertension and CAD with NYHA class II symptoms due to ischaemic myocardium. She have also Hb E disease.

Opinion of Medical Board:

Members of medical board after detailed examination of Dr(Ms) Roopali Deka Sr DMO/O&G/Maligaon found that she is suffering from Coronary Artery Disease with chronic stable angina GrII, Type2 DM on OHA, Hypertension, Anaemia and Complete Heart Block

10/2009

with four implants. She had received treatment at Central Hospital N.F.Railway, S.Railway HQ Hospital, Parambur and Guwahati Medical College. At present she has improved significantly and members opine that she is Fit for duty which is also certified by Prof Cardiology Guwahati Medical College too. However members of the board taking in to consideration of her multiple problems and the pace maker of last implant which ~~which~~ has crossed six years and any moment there may be component battery depletion requiring urgent replacement and opinion of cardiologist of Guwahati Medical College and S.Railway HQ hospital Parambur, advises her to avoid strenuous and exertional activities.

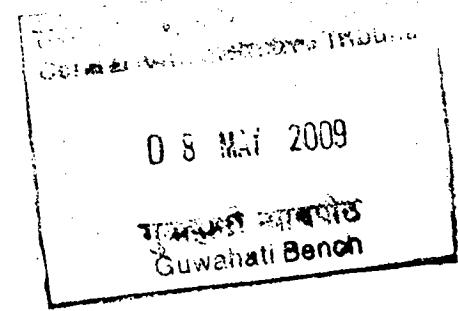
(Dr B.P.Deka Sr DMO)
Co Opted Member

(Dr.M.K.Sutradhar Sr.DMO)
Co Opted Member

(Dr A.K Saikia Sr DMO)
Member

(Dr.D.K.Das CS/MLG))
Member

(Dr.N.K.Hazarika MD/Maligaon)
Chairman



Due: 9/2/2009

Mr. J. C. B. (Ans) Rongali Deba
has been under my treatment since 12/11/2008
for H/N A/CAD. He now feels no more discomfort
except from immediate after

Dr. J. C. B. (Ans)
9/2/2009

Central Medical Library
Guwahati Bench

06 MAY 2009

Guwahati Bench

18

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3. $\mathcal{B}_3 = \{A_1, A_2, \dots, A_n\}$, where $\{A_1, A_2, \dots, A_n\}$

(*Leptodeira*) (*Scut*)

4. Jan. 1911. Kew

Anterior (in left)

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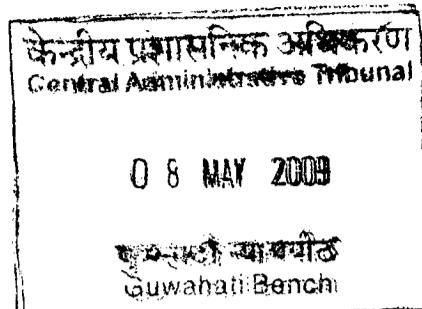
Adv Complete Rev. of manuscript.

(Fin 6 wks)
(25/12/2008 to 4/1/2009)

- if to ^{100 more} extra) $\frac{1}{2}$ pdr

2008

10



41-

ANNEXURE-12

N. F. Railway

Office of the Medical Director
Central Hospital
Maligaon, Guwahati-781011
Dated. 18-03-2009

No.H/207/2

To

✓ Dr.(Mrs.) R. Deka, Sr.DMO/O&G
Dr. Mihir Barua, Sr.DMO/O&G
Dr.(Mrs.) A. Goswami, Sr.DMO/O&G
Dr. Rajib Saikia, Sr.DMO/O&G

Sub:- Line visit to LMG Divisional Hospital

Ref.- CMD/MLG's L.No. H/98/G/Pt.VII dt. 5/11/08

In terms of CMD/MLG's above quoted letter dated 5/11/08, all the 4 Gynaecologists of CH are to attend LMG for two days in between Monday to Saturday on rotation basis.

Order was accordingly issued vide this office even No. letter dated 8/11/08. As per terms of the letter, they will attend LMG on the nominated day by 2067 Jan Shatabdi Exp., stay overnight and come back by 2068 Jan Shatabdi Exp. on the next day.

Now because of resumption of Dr.(Mrs.) R. Deka, Sr.DMO, the following modification of the schedule is being made as under:-

1. Dr. Mihir Barua, Sr.DMO/O&G	- Monday & Tuesday
2. Dr. (Mrs.) R. Deka, Sr.DMO/O&G	- Wednesday & Thursday
3. Dr. (Mrs.) A. Goswami, Sr.DMO/O&G	- Friday & Saturday

All the above named 3 doctors will be off from line duty to LMG on rotation basis for one visit in the above cycle. On the 4th During the off period, Dr. R. Saikia, Sr.DMO/O&G will attend LMG. However, during the 4th cycle, Dr. R. Saikia will be off from visiting LMG.

Moreover, Dr. R. Saikia will do the OT/OPD schedule of the doctor who has gone to attend LMG.

This order will take effect for 23/3/09.

(Dr. N. K. Hazarika)
Medical Director

Copy forwarded to:-

- 1) CMD/MLG for information please. This is in reference to his letter No. H/98/G/Pt.VII dt. 5/11/08.
- 2) CMS/LMG for information please.
- 3) Sr.DMO/IC/OPD/CH/MLG for information please.
- 4) Dr. D. Doley, DMO/S/CH/MLG for information in connection with doctors' duty roster.

(Dr. N. K. Hazarika)
Medical Director

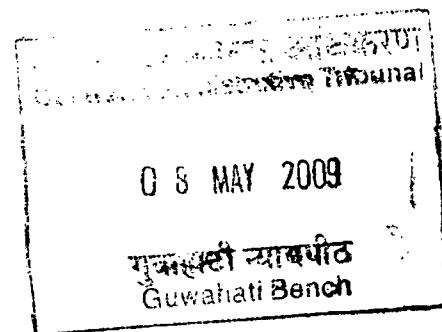
Annexe - 12

- 42 -

To

The Chief Medical Director,
N F Railway,
Maligaon.

Through Proper Channel



Date: 20.03.2009

Subject: Line visit to LMG Divisional Hospital.

Ref. No. H 207.2 Office of the Medical Director, CH MLG Dated 18.03.2009

Sir,

Ref. as above I would like to inform you that I am a patient suffering from CAD with complete heart block and completely pace dependent, Hypertension, Chronic stable angina Gr. II, Type 2 Diabetes mellitus and anaemia due to Haemoglobin E disease. It has also been observed during the Medical Board held for me to consider my fitness for duty after my prolonged sickness. At present I am under treatment and observation of Dr. J C Barkataki, Professor of Cardiology, Gauhati Medical College, Dr. Sriram Rajagopala, Sr. DMO, Cardiology S Rly. HQ Hospital, Parambur, Dr. Neil Bardoloi, Consultant cardiologist Excell Care Hospital Pvt. Ltd., and Dr. B P Deka Sr. DMO, Physician CH. MLG. During that Medical Board it has been suggested by the Board Members that I should avoid strenuous and exertional activities due to my prevailing health condition. But to my utter surprise I have again received an office order from MD's Office to visit Lumding divisional hospital for consecutive two days every week. But this will be very much strenuous for me and will not be possible for me to perform it. Therefore sir in view of the opinion of the Medical Board looking in to my health condition I would like to request you to consider the matter and spare me from the line duty.

Yours sincerely

Dr. Roopali Deka
Sr. DMO/SG/CH/MLG

Enclosed :

1. Copy of Advice Slip of Sr. DMO, Cardiology S Rly HQ Hospital, Parambur
2. Copy of Certificate and advice slip of Dr. J C Barkataki, Professor Cardiology GMC.
3. Copy of Advice slip of Dr. Neil Bardoloi, Consultant Cardiologist of Excell Care Hospital Pvt. Ltd. Guwahati.
4. Photocopy of the report of the Medical Board Held on 10.02.2009 at CH/MLG.
5. Photocopy of the Office Order of MD/CH/MLG Dated 18.03.2009

Dr. Roopali Deka
Sr. DMO/SG/CH/MLG

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

ANNUAL E-15(a)

-43-

To

The Chief Medical Director,
N F Railway,
Maligaon.

Date: 20 03.2009

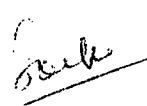
SUBJECT: Line visit to LMG Divisional Hospital.

Ref. No. H 207 2 Office of the Medical Director, CH, MLG Dated 18.03.2009

Sir,

I have the honour to state that my wife Dr. (Mrs.) Roopali Deka is at present working as Sr. DMO/SG/CH/MLG. It is to be mentioned that she is a patient of CAD with complete heart block and complete pace dependent. Hypertension, Chronic Stable angina Gr II, Type2 Diabetes Mellitus and anaemia due to Haemoglobin E disease. She is under treatment of Sr DMO Cardiology Southern Railway HQ Hospital Parambur, Professor of Cardiology, Guwahati Medical College Dr. J C Barkataki, Dr. Neil Bardoloi Consultant Cardiologist Excell Care Hospital Pvt. Ltd group Guwahati and Dr. B P Deka Sr DMO/Physician/CH/MLG. It is very difficult for her to do any strenuous work But an order has been issued to her by MD, Central Hospital Maligaon vide letter no as above that she is to visit LMG Hospital for two consecutive days every week regularly. But I would like to inform you that it is not possible for her to carry out such duty because of her ill health at the risk of her life. It is to be mentioned that she reported sick for a long time due to her ailment and a Medical Board was held to give her fit certificate. It was clearly opined by the Board in the report where MD/CH is the Chairman that, "However members of the board taking in to consideration of her multiple problems and the pace maker of last implant which has crossed six years and any moment there may be component battery depletion requiring urgent replacement and opinion of cardiologist Guwahati Medical College and S Railway HQ hospital Parambur, advices her avoid strenuous and exertional activities." In view of the above opinion given by the Medical Board now I like to request your Good Self to review the order considering the plight of health condition of my wife. I hope you will do the needful for the interest of justice.

Yours Sincerely


Dr. B R Deka
Sr. DMO/SG/CH/MLG
(Husband).

Enclosed: 1. Photo copy of Advice slip of Sr. DMO/S R HQ Hospital, Parambur.
2. Photocopy of Certificate and advice slip of Dr. J C Borkotoky, Professor Cardiology, Gauhati Medical College.
3. Photocopy of Advice slip of Dr. Neil Bordoloi, Consultant Cardiologist, Excel Care Hospital Pvt. Ltd, Guwahati
4. Photocopy of the report of the Medical Board Held on 10.02.2009 at CH/MLG
5. Photocopy of the Office Order of MD/CH/MLG dt. 18.03.2009.



08 MAY 2009

गुवाहाटी आधारोंक
Guwahati Bench

ANNE & U Rf-14

- 44 -

N. F. Railway

Dr. N. K. Hazarika
Medical Director

D. O. No.H/0-4/MD(CON)

Office of the Medical Director
Central Hospital
Maligaon, Guwahati-781011

Dated. 24th March/2009

My dear Dr. (Mrs.) Deka,

Sub:- Refusal to perform line duty at Lumding.

Ref:- Your appeal dated. 20/03/2009

Please refer to your above quoted appeal. I would like to draw your attention to the fact that as an Incharge of Obst. & Gynae ward, you are assigned to look after the overall management of the ward besides performing routine duties like attending your ward/clinic in the morning from 8.00 to 13.00 hrs. and again to go for evening round in the ward. In addition to that, you are also to attend on duty calls and do casualty duties(continuously for 8 hours) on respective days. Besides your routine duties also include work in the O.T. which include both major and minor surgical operations and also duties in the labour room. In my opinion, the volume of work that included in your routine duties at the Central Hospital, Maligaon can not be less strenuous than that of the weekly two days line duty at Lumding.

It is regretted that that without performing line duty for single occasion since the initial order was out as per directive of the higher authority, you have taken an opinion on your own that the line duty at Lumding will be strenuous.

In view of the above, the authority cannot help but consider your appeal as reluctant to obey orders of higher authority. Besides this authority had to take a serious view on the matter that you have enclosed a copy of the Medical Board Report , which as a confidential document should not be accessible to you. It means that you have wrongfully collected the same from our confidential section.

With best wishes,

Sincerely yours,

24/03/2009
24.03.2009
(Dr. N. K. Hazarika)

To

Dr. R. Deka
Sr. DMO/02G/CH/MLG

As per seal to be taken on page

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Amrit 2009-2010

केन्द्रीय प्रशासनिक अधिकार परां
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी बैठकी
Guwahati Bench

ANNEKURE-15

-45-

To

The Medical Director,
N F Railway Central Hospital,
Maligaon.

Date: 30.03.2009

Subject: Line Duty to LMG Divisional Hospital..
Ref. Your D.O. No. H/0-4/MD(CON) Dated 24th March 2009.

Ref. as above I would like to state that in my letter dated 21.03.2009 I have informed you about my prevailing health condition with inability to perform the line duty but not a refusal as you have mentioned. At present I am having palpitation in slightest exertion and breathlessness at night. I may be permitted some more days to prepare myself.

Yours sincerely

Roopali Deka

Dr. Roopali Deka
Sr. DMO/CH/MLG

Carries a true copy

Dr. Roopali Deka

নথী বিধুতিক বিধুতি
Central Administrative Tribunal

08 MAY 2009

গুৱাহাটী বাবপুৰী
Guwahati Bench

ANNEXURE-16

-46-

N. F. Railway

Office of the Medical Director
Central Hospital, Maligaon
Guwahati - 781011

No.H/207/2

dated 03/4/09

To

Dr. (Mrs.) Roopali Deka
SrDMO/CH/MLG

Sub: Line visit to LMG

Ref: Your letter No. Nil dated 30/3/09

You are hereby advised to proceed to LMG by morning train of 4/4/09 to work at LMG Rly Hospital and come back by evening train.

You are further advised to carry out the previous order of visiting LMG Hospital on every Wednesday & Thursday from next week onwards without fail.

Your appeal for not visiting LMG Hospital as per previous orders is not accepted by the authority.

(Dr. N. K. Hazarika)
Medical Director

Copy to CMD for kind information please.

(Dr. N. K. Hazarika)
Medical Director

D/L

Certified to be true copy.


Advocate, Guwahati
Advocate, Guwahati



THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court Of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No. 1

CASE NO : WP(C) 1586/2009

Category : 10050 (Transfer.)

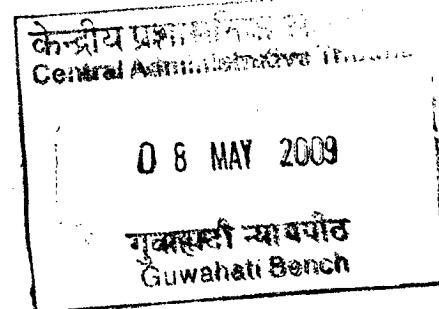
District : Kamrup

1 DR.(MRS.) ROOPALI DEKA
WIFE OF DR. B.R.DEKHA,
RESIDENT OF MALIGAON, RAILWAY QUARTER NO.
417, NUMBARI, MALIGAON, GUWAHATI- 781011,
KAMRUP, ASSAM.

Petitioner/appellant/applicant

Versus

- 1 THE UNION OF INDIA & ORS
REPRESENTED BY THE COMMISSIONER AND
SECRETARY, MINISTRY OF RAILWAY, "RAIL
BHAWAN" NEW DELHI- 1
- 2 THE GENERAL MANAGER,
N.F.RAILWAY HEAD QUARTER MALIGAON,
GUWAHATI- 781001, KAMRUP, ASSAM.
- 3 THE CHIEF MEDICAL DIRECTOR
N.F.RAILWAY HEAD QUARTER MALIGAON,
GUWAHATI- 781001, KAMRUP, ASSAM.
- 4 THE MEDICAL DIRECTOR
CENTRAL HOSPITAL, MALIGAON, GUWAHATI-
781011.



Respondent/Opp. Party

Advocates for Petitioner/appellant

- 1 A CHAMUAH
- 2 R DUARAH
- 3 K BARPUJARI

Advocates for Respondents

- 1 SC, RAILWAY

Summary Of Case And Prayer In Brief

CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION	DATE WHEN COPY WAS READY	DATE OF DELIVERY
09/04/2009	09/04/2009	09/04/2009

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

DATE OF ORDER : 08/04/2009

Heard Mr. A Chamuah, learned counsel appearing for the petitioner. None appears for the respondents, although it is submitted by the learned counsel for the petitioner that the standing counsel has been informed about this case and notice of the writ petition is given.

The petitioner herein is a Doctor who contends that because of her precarious health condition, she is unable to perform line duty at Lumding on rotational basis, as has been ordered by the respondent No. 1, i.e.

Medical Director on 18.3.2009 (Annexure 12). The learned counsel representing the petitioner refers to the various medical reports which indicate the petitioner to be suffering from serious cardiac condition. Mr. Chamuah submitted that at present, the petitioner is admitted in the ICU in the Central Hospital of the N F Railway at Maligaon and therefore, it would be impossible for her to carry out the orders of the Medical Director, to travel to Lumding Railway Hospital by morning train and returning therefrom, by an evening train.

In view of the above, let a notice returnable in 2 weeks be issued. Petitioner is to ensure service on the respondents.

Notice may be served by Registered Post as well as by 'Dasti' service, by taking appropriate endorsement from the Court's Registry.

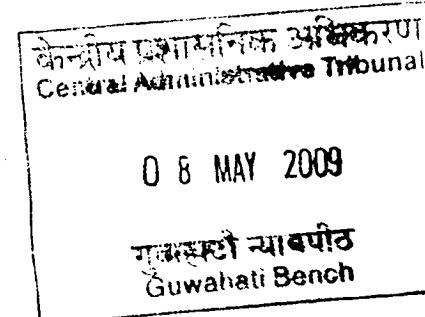
List the matter again on 27.4.2009.

Till the next date, no coercive measure should be taken to compel the petitioner to move to Lumding, in terms of the order dated 18.3.2009.

Salil Hrishikesh Roy
Judge.

CERTIFIED TO BE TRUE COPY

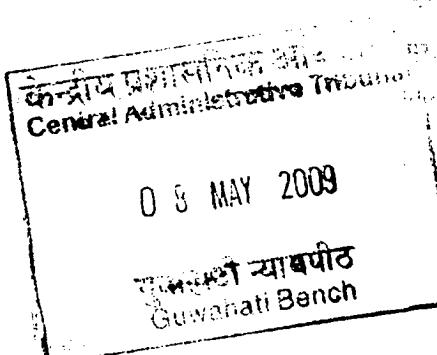
Neipen T. Mukherjee
Date: 9/1/09
Superintendent (Copying Section)
Guwahati High Court
Act 1 of 1876, U/S 76, Act 1, 1872



-49- Dr. R. Dekker, Sr. DMO/64ane
CK/MS

Annexure-18

CONFIDENTIAL



On 20th Dec 1944, when I reached 20th floor of Birla Hospital I found that childrens grief like a patient you
there who were asked to attend at the Hospital. In a M&H letter No. 10936 of 27/12/44 it is
stated that I was sent but instead of attending M&H hospital, I was reported sick for your illness
and I was given leave. I was admitted to the 20th floor of Birla Hospital till a conclusion of
my case at the M&H hospital was issued. I am enclosing copy of my discharge certificate No. 02-09-1945 issued by
Dr. S. S. Datta, Birla Hospital, Birla Hospital, Malabar & issued to

the 1970s, the first Japanese car manufacturers began to compete in the U.S. market, and the Japanese car industry has since become a major force in the world market.

在這裏，我們可以說，這就是我們的「新文化」，就是我們的「新文學」。

¹⁰ See *Wright & Wright, 1976* for a discussion of the relationship between the two.

He was informed by Michael J. G. Smith, a lawyer representing the plaintiff, that he was coming for a TAC meeting. Michael J. G. Smith, a lawyer representing the plaintiff, was present at the TAC meeting on April 10, 2003, and he was present at the TAC meeting on April 11, 2003.

THEORY OF THE CLOUDS OF THE MILKY WAY

1870

142 JOURNAL OF CLIMATE

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is not to be true even

Arthur Schopenhauer
Leveller of the Universe

49 (A)

Annexure-18A
Typed Copy

N.F. Railway

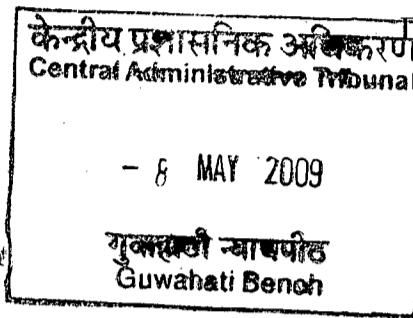
CONFIDENTIAL

Office of the
Chief Medical Director
Maligaon, Guwahati-781011

No. H/SS/1/PTV

To
Dr. (Mrs.) Rupali Deka
Sr. DMO/CH/MLG
Sub: Line Visit to LMG Hospital

Ref: Your letter No. Nil dated 20.03.09



In reference to your appeal dated 20.03.09 the undersigned like to inform you that you were asked to attend LMG Hospital vide CMD/MLG's letter No.H/98/G/Pt.VII dated 05.11.08 but instead of attending LMG Hospital you reported sick for your illness for which you have attended GMCH and Perambur Hospital. The Professor of Cardiologist of GMCH has issued your fit certificate on 09.02.09, to resume duty. Accordingly medical board has been formed at Central Hospital, Maligaon & issued fit certificate for joining duty.

The work of a doctor is sedentary in nature. The order has been given by MD/CH/MLG vide his letter No.H/207/2 dated 18.03.09 to attend LMG Hospital on Wednesday & Thursday of the week to see the O & G patients at LMG Hospital which is also sedentary in nature.

It is also surprising that how you have received the Medical Board's report, which is confidential in nature. The act of leaking out of confidential letter from MD's office is also against service rule.

Hence, there is no reason to consider your appeal for adjourning you to attend LMG hospital.

It is also informed by MD/CH/MLG that you are not carrying out his order till date and it is most unbecoming for a JAG (SG) grade Medical Officer. Why the disciplinary action would not be taken against you for disobeying the order of higher authority and also for leaking of confidential report.

Please acknowledge the receipt.

Sd/-

Chief Medical Director

Date: 03/04/09

Ashim Chamuah
Certified to be true copy
Ashim Chamuah
Advocate, Gauhati High Court

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

-50-

Annexure - 19

N. F. Railway

No.H/184/I/O.Rly.

Office of the Medical Director
Maligaon, Guwahati-781011
Dated. 09-04-2009.

To

The Medical Director
Southern Railway HQ. Hospital
Perambur, Chennai

Sub:-For check up of Dr. (Mrs) Roopal Deka, aged 38 yrs. (F)
Design: Dr. Dme/0881047 Maligaon, N.F.Rly.
B. P. of Rs. 45930/- For. per Rs. 8700/-

The above named patient ~~an old case~~ is sent for checkup and treatment please. Necessary relevant papers in connection with his/her previous treatment are with the patient.

Medical Director/CH
Maligaon, Guwahati-781011

Copy to:

1. CMD/MLG for information and approval please
2. Concerning doctor Dr. M. K. Sircar for information please
3. Party concerned for information
4. APO/Med to issue one 1st A. class medical pass in favour of the above named patient along with one escort in the same class Ex.GHY to Chennai Central/Chennai Egmore & back

Medical Director/CH
Maligaon, Guwahati-781011

Certified to be true copy

Abhijit Chauhan

Medical Director/CH

प्रतिलिपि का दिन आवेदन की तारीख Date of application for the copy	स्टाम्प और फोलियो की अपेक्षित राशि सुनिश्चितने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Data on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
29/4/09	29/4/09	29/4/09	29/4/09	29/4/09

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

लोकन्यूयर अधिकारी बोर्ड
General Administration Tribunal

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati BenchAppeal from
Civil Rule

(WPC)

No. 1586 of 2009

Dr (Mrs) Roopali Deka

Appellant
Petitioner

Versus

The Union of India vs

Respondent
Opposite PartyAppellant
For
PetitionerMs. A. Channah
Ms. R. Snacah
Mrs. K. Borpugari
Mr. A. Barooah } AdvocatesRespondent
For
Opposite Party

Standing Counsel, Railway

Noting by Officer or Advocate	Serial No.	Date	Officer notes, reports orders or proceedings with signature
1	2	3	4

Certified to be true copy

Dr. A. Channah
Standing Counsel
Guwahati High Court

केन्द्रीय प्रशासनिक आदानप्रदान
Central Administrative Tribunal

06 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

IN THE MATTER OF

Dr. (Mrs.) Roopali Deka

Wife of Dr. B.R. Deka

Resident of Maligaon, Railway Quarter No.417,
Numbari, Maligaon, Guwahati-781011, Kamrup,
Assam.

Petitioner

Versus

1. The Union of India

Represented by the Commissioner and
Secretary, Ministry of Railway,
"RAIL BHAWAN"
New Delhi-1

Contd. to page-3

53-

केन्द्रीय प्रशासनिक अदिकारात
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी अदायकी
Guwahati Bench

2. The General Manager

N.F. Railway Head Quarter

Maligaon, Guwahati 781011, Kamrup, Assam

3. The Chief Medical Director

N.F. Railway Head Quarter

Maligaon, Guwahati 781011, Kamrup, Assam

4. The Medical Director

Central Hospital, Maligaon, Guwahati-781011

Respondents

-54-

05 MAY 2009

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

W P (C) No.1586/2009.

**BEFORE
HON'BLE MR. JUSTICE HRISHIKESH ROY**

27-04-2009.

Heard Mr. A. Chamuah, learned counsel appearing for the petitioner. Also heard Mr. S. Sarma, learned standing counsel for the N.F. Railways.

An affidavit on behalf of the respondents have been filed raising objection on the maintainability of the present petition, as the petitioner is a serving doctor with the N.F. Railways and she has an alternate statutory remedy under *Section 14* of the *Administrative Tribunals Act, 1985* (hereinafter referred to as the *Act*) to approach the Central Administrative Tribunal (CAT), in connection with the impugned direction dated 18.3.09 (Annexure - 12) and 3.4.09 (Annexure - 16). By the said order the petitioner has been directed to discharge rotational duty along with other doctors, at the Lumding Railway Hospital.

Mr. Chamuah, learned counsel for the petitioner refers to the serious health condition of the petitioner and submits that the petitioner is not in a position to carry out rotational duties at Lumding by commuting from Guwahati and therefore the impugned orders are liable to interfered with by this Court.

The learned counsel further submits that the preliminary objection raised by the respondents regarding the maintainability of this writ petition should not be considered to be relevant, as the petitioner is seeking protection of her right to life and such a petition can be entertained by this Court in exercise of powers under

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>Article 225, notwithstanding the availability of the alternate Forum of CAT.</p> <p>Mr. S. Sarma, learned counsel appearing for the N.R. Railway has referred to the provisions of Section 2(q) of the <i>Act</i> where "service matter" have been defined. The learned counsel has also drawn attention of the Court to the provisions of Clause 32 of appendix (vi) and Clause (I) of appendix (viii) of the Act to contends that what is impugned by the petitioner is a posting order and such issues can be appropriately be examined by a Single Bench of the CAT and since transfers and postings are definitely service matters, the appropriate forum who can examine the issues raised in the instant petition would definitely be the CAT and in view of this alternate remedy, the present writ petition cannot be maintainable in the High Court.</p> <p>Posting of the petitioner to Lumding is contended to be an issue which may irreparably interfere with the health of the petitioner. I feel that even such an issue can be examined by the learned CAT and serious illness of the petitioner cannot by itself, confer jurisdiction on the Writ Court, when an alternate effective Forum is available for the petitioner.</p> <p>Mr. A. Chamuah, learned counsel for the petitioner submits that at present the writ petitioner is admitted in I.C.U, Perumbadur Hospital at Chennai and therefore, even if the petitioner is to avail the alternate Forum, it may not be possible to do so in near future. Accordingly he submits that there should be suitable protection for the petitioner for a reasonable period, so that the petitioner can take such appropriate steps with regard to her posting, as may be legally permissible.</p>

08 MAY 2009

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>Having regard to the above contentions of the rival counsels, I am of the opinion that the present writ petition ought not to entertained by this Court as the petitioner has an alternate remedy against her impugned posting orders in terms of the provisions of Administrative Tribunal Act, 1985. Accordingly this writ petition is not being entertained and is disposed of accordingly.</p> <p>However in the interest of justice and considering the serious health condition of the writ petitioner and her current treatment as an I.C.U. patient, it is directed that no coercive measure should be taken to compel the petitioner to carry out the impugned posting orders to Lumding, for a period of 4 weeks from today, to enable the petitioner to take such appropriate steps, as may be considered justified under the circumstances, in view of this rejection of this writ petition.</p>

sd/ Hrishikesh Roy

Judge

CERTIFICATE TO BE TRUE COPY

Date: 08.05.2009

Superior Court (Copying Section)

Gauhati High Court

Authorised: 1076, Adt. 1076

STAMP NO. 116186
EX-1076

RECORDED
RECORDED

Annexure- 21 - 57 -

(PC)

SOUTHERN RAILWAY HEADQUARTERS HOSPITAL, CHENNAI 600 023
DEPARTMENT OF CARDIOLOGY
DISCHARGE SUMMARY

Patient Name: DEKA, R. Sex: F Age: 56 Years
Card No. : RF 135687 [1] IP No.: 2009/5030
Ward No. : 17 CARDIAC SPECIAL WARD
Admitted on : 20/04/2009 0:30 Discharged on: 27/04/2009 00:00

RESULT: DISCHARGED

REVIEW AFTER:

विदेशी प्राप्ति संस्करण अंक
General Administrative Trust

08 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

DIAGNOSIS:

CORONARY ARTERY DISEASE
AOE. DOE CLASS II
S/P PPI(1982 FOR CHE - VVI PACING)
(PG REPLACEMENT-1998
UPGRADED TO DDD IN 2003)
RISK FACTOR: TYPE II DIABETES MELLITUS, HYPERTENSION
ANAEMIA UNDER EVALUATION
EARLY OSTEOARTHRITIS LEFT KNEE

HISTORY:

Known c/o. Type II DM / HTN. C/o. Exertional breathlessness associated with central chest discomfort, Class II symptoms x 6 months. No h/o. rest angina. No orthoanoea / PND.

CLINICAL FINDINGS:

Pulse-80/min, regular; BP-120/80mmHg; RS, CVS-Normal; PG site healthy;

INVESTIGATIONS:

Blood investigations: Hb-9.7g%; TC-9300/cumm; Platelets-238000/cumm; BU-25mg%; Creat-0.9mg%; AC-94mg% PC-163mg%; BG-0(positive);

Serology-NR;

TFT:WNL;

Lipids(mg%): TC-127; TGL-84; LDL-63;

ECG: ASVP at 75/min Magnet APVP at 100/min

Peripheral Smear (slide reviewed by Hematologist): Microcytic hypochromic anaemia ? Iron deficiency S.Ferritin 91mcg/ml (Normal range 10-291 mcg/ml)

Stool occult blood x 3 samples : Negative

Echo: Dyssynchronous movement of septum Normal LV function 1/4 Tr PAP 27mmHg IVS/PW 11/11

COURSE DURING STAY:

Patient was admitted for further evaluation. Hemogram showed anaemia. Physician opinion was taken. Peripheral smear slide reviewed by Hematologist, opines as Microcytic hypochromic anaemia, advised UGIE in view of dyspeptic symptoms. Seen by Orthopaedician for pain and swelling left knee - early OA, advised Q exercises. Patient needs coronary angiogram in view of symptoms of Class II Angina and dyspnoea. However, procedure deferred in view of anaemia. To review once Haemoglobin is more than 12g%.

ADVICE ON DISCHARGE:

T. CLOPIDOGREL 75MG 0-1-0
T. IMDUR 30MG 1-0-0
T. TELMISARTAN 40MG 1-0-0
T. ATORVASTATIN 10MG 0-0-1
T. METFORMIN 500MG 1-0-1
T. DIAMICRON MR 30MG 1-0-0
T. PANTOCID 1-0-0 X 30 DAYS

Patient is advised rest for the month
and to avoid strenuous physical
exercises in view of underlying CVD
& anaemia

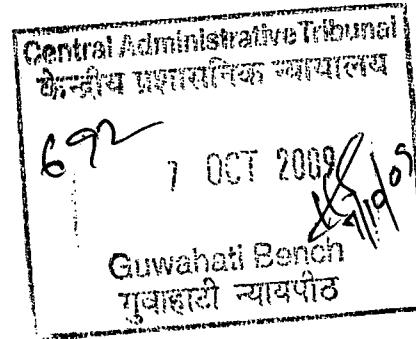
Dr. (Mrs) LAKSHMI GOPALAKRISHNAN
S. D.M.O / CARDIOLOGY

SOUTHERN RAILWAY CHENNAI-600 023
Ayanavaram, Chennai - 600 023.

0984714
DR. MASHIDA
DR. HOUSE SURGEON

Original to be true copy

Subrahmanyam
High Court



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

0.A.85/2009

Dr.(Mrs.) Foopali Deka ... Applicant
Versus
Union of India & Others ... Respondents
AND

IN THE MATTER OF

Written Statement on behalf of respondents.

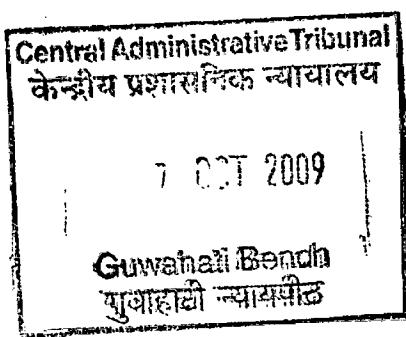
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2.	Verification	... 6

Submitted

M. C. Sarma
Dr. M.C. Sarma, 07/10/2009
Railway Advocate.

Dr. M. C. Sarma
M.Com, Ph.D., LL.B.
Advocate, Gauhati High Court.
Railway Advocate, Central Administrative Tribunal,
Guwahati



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.85/2009

Dr.(Mrs.) Roopali Deka ... Applicant
Versus
Union of India & Others ... Respondents
AND

IN THE MATTER OF

Written Statement on behalf of respondents.

The answering respondents respectfully SHEWETH :

1. That they have gone through the copy of the application filed and have understood the contents thereof. Save and except the staterents which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations made in the application are hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a just and fair decision.

3. Facts of the case:

On behalf of the respondents it is respectfully submitted that the applicant Medical Officer has been working in the same place, namely, in the Maligaon Central Hospital for the last 30 years, that is, since her appointment in Railway Medical service in 1979. For all these years the respondents have been considerate and have been taking all required care of her medical needs as a cardiac patient since 1982. However, in the recent past a need has arisen for specialised service in a-djacent Divisional Hospitals and therefore a rotational roster of specialists was ordered in the latter part of 1988. The roster was designed keeping in view the state of health of the applicant. The oustation duty was initially given for three days a week but was subsequently reduced to two days and finally to one day a week when the applicant represented the matter. The respondents beg to state that the medical condition of the applicant and the opinions of experts have been taken into consideration on the question of rotational line duty given to the applicant.

Received copy
Shriitam Barooah (Advocate)
7/10/9 for Mr. A. Channan

Filed by
Kewu
07/10/09
Dr. M. C. Sarma

M.Com, Ph.D., LL.B.
Advocate, Gauhati High Court
Railway Advocate, Central Administrative Tribunal,
Guwahati

मुख्य स्वास्थ निदेशक मञ्च गुवाहाटी
Chief Health Director, Gauhati

पू. सी. रेड, मालिगाँव, ग. बाबुला-८८१०११
N. F. Riy., Mallnaon, Gauhati-781011

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7 OCT 2009

(2)

4. Parawise comments:

4.1 That as regards paragraphs 4(a) and Guna Bai,
respondents submit that the applicant has worked through-
out her service career of 30 years at Maligaon Central
Hospital. No doubt she is a cardiac patient with pace
maker and the respondents have rendered all necessary
medical care for her to be able to perform normal duty as
a Gynaecologist. As recently as 14.10.2008 the applicant
was examined by the Cardiologist at Perambur Railway Hos-
pital, Chennai. Further examination of the applicant on
20.04.2009 and on 29.04.2009 by specialists did not reveal
any abnormal functioning of the Pace Maker and the applicant
was issued fit certificate for performing normal duty.

4.2. That in regard to paragraph 4(c), respondents beg
to state that by considering the representations of the
applicant the rotational duty was reduced from three days
a week to two days a week and finally to one day a week.
The apprehension of the applicant about facility for her
own treatment is misplaced as she would be at Maligaon
Hospital on duty for six days a week and adequate emergency
medical facilities are available at Lumding Divisional
Hospital if the need arises.

In this connection the respondents beg to state
that considering her medical condition they have not perma-
nently transferred the applicant to Lumding although there
is urgent need for a Gynaecologist there.

4.3. That as regards paragraphs 4(d), 4(e) and 4(f),
the respondents beg to state that the order for rotational
duty was carried out by all the rostered Doctors except the
applicant. Moreover, the order was subsequently altered
for duty at Lumding and for two days instead of three and
subsequently to one day, in consideration to the applicant.
As regards omission of the name of Dr. M. Baruah, it is submi-
tted that Dr. Baruah is the only Senior Consultant of DNB
at the Central Hospital and his presence is required there
to guide the DNB students in their clinical and academic
pursuits.

4.4. That in regard to paragraphs 4(g), 4(h) and 4(i),
respondents submit that required facility was provided to
the applicant for her treatment/check up at Chennai and

...P.3....

मुख्य स्वास्थ्य निदेशक मण्डलालय
Chief Health Director, n.2.

7.9
पू. सी. रेळ, मालिगाँव, गुरुगढ़ा-781
N. F. Rly., Maligaon, Gurnahati-781

7 OCT 2009

(3)

Guwahati. It was intended that after ~~her satisfactory~~ treatment and medical care and after the applicant was declared ~~as~~ medically fit to resume normal duty the modified order for rotational duty at Lumding should be carried out by the applicant. The orders were issued purely in the interest of administrative work.

4.5. That as regards paragraph 4(j), the respondents beg to state that the order dated 08.11.2008 on rotational duty was applicable to all Gynaecological specialists of Maligaon Central Hospital and the name of the applicant was to be included when she resumed duty after she was declared medically fit to join duty. As regards the report of the Medical Board, the recommendation that the applicant avoid strenuous duty and exertion did not mean that she could not commute to Lumding by airconditioned train service and work there for a day and return to headquarters in the interest of administration's work. It is submitted here that in the opinion of competent medical authorities working under the respondents the normal work of specialists in the Maligaon Central Hospital is same as in the Divisional hospital (at Lumding in this case) in regard to the intensity of attention and strain of work. It is therefore respectfully submitted that there was nothing technically wrong in the order issued and that the applicant appears to have treated the matter as a prestige issue based on pure sentiment.

4.6. That as regards paragraph 4(k), respondents submit that since the Cardiac Centre at Chennai and the Medical Board at Maligaon did not find any abnormal functioning of the Pace Maker normal duties were assigned to the applicant, including two days' rotational duty (since reduced to one day) at Lumding by taking a train journey of about three hours in airconditioned comfort.

4.7. That as regards paragraphs 4(l) and 4(m), the respondents beg to state that the applicant's duties at Maligaon Central Hospital include Casualty duties, Operation Theatre duties, taking rounds of wards and post-operative care etc. Under normal circumstances therefore line duty of one or two days in a Divisional Hospital is not more strenuous than working in the Central Hospital where the applicant would be involved in doing major surgical operations also in addition to duties mentioned above.

It is also submitted here that the respondents had considered the appeal of the applicant sympathetically

मुख्य स्वास्थ्य निदेशक, मुख्यालय
Chief Health Director, 11.11.11
मृ. सी. रेण, मालिगाँव, गুৱাহাটী
N. F. Ry., Maligaon, Guwahati
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and issued a modified order allowing the applicant to return to Maligaon after performing ~~Gauhati Bench duty~~ instead of staying at Lumding overnight. The applicant was expected to appreciate the fact that rotational duty of specialists from Maligaon was introduced to temporarily solve the problem of want of specialists at Lumding where their need was felt by the staff and the administration quite intensely. In view of this the contention of the applicant about bias is not acceptable.

4.8. That as regards paragraphs 4(n), 4(o) and 4(p), respondents beg to state that as the medical check up at Cardiac Centre at Perambur, Chennai and the Medical Board at Guwahati did not find any abnormal functioning of the Pace Maker of the applicant, the order for line duty at Lumding was issued in the interest of administrative work. As regards her medical condition as referred to in paragraph 4(o) the authorities in the Central Hospital, Maligaon rendered the applicant all assistance in the I.C.U. and took good care of the applicant as a patient.

4.9. That in regard to paragraphs 4(q) and 4(r), the respondents beg to state that the letter dated 03.04.2009 issued to the applicant on the Friday could be delivered to the applicant late due to intervening holidays. The office staff of the respondent No. 3, from where the letter dated 03.04.2009 was issued, were not aware of the fact that the applicant was admitted in the I.C.U. of the Central Hospital as the applicant got admitted there after 10.30 P.M. of that date and the next few days were office holidays.

4.10. That as regards paragraphs 4(s) and 4(t), the respondents beg to respectfully submit that the directives of the Hon'ble Gauhati High Court issued vide the last paragraph of the order dated 27.04.2009 in W.P.(C) No.1586/2009 have been followed by them in both letter and spirit. The applicant has also been provided with the required medical facilities both at Guwahati and Chennai Cardiac Centre for her treatment as and when required.

4.11. That as regards paragraph 4(u), the respondents beg to respectfully deny the allegations of the applicant made therein and state that the report of the Cardiology Centre, Perambur, Chennai and that of the Medical Board at Guwahati were taken into account while deciding on the issue of rotational roster of the applicant. In this connection, it is submitted that work of the applicant as a specialist

7 OCT 2009

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on a rotational roster of one or two days in a week in Lumding Divisional Hospital would not involve more strain or exertion than work at the Maligaon Central Hospital. Therefore, if the applicant could work in the Central Hospital Maligaon without any difficulty, she could as well work in the Divisional Hospital at Lumding once or twice a week without complaint. All that is required is the attitude to work and co-operation for the work of the administration in their hour of need. If the matter is viewed in this background the allegations of arbitrariness, malafide etc. would be found misleading and out of place.

4.12. That with regard to paragraph 4(v), the respondents beg to reiterate the observations made in paragraph 4.11 above and respectfully submit that the order for limited line duty on a rotational basis issued to the applicant is in order as the same has been issued after carefully taking into consideration the expert medical opinion of the disposal of the respondent authorities. In this connection, it is submitted that if the applicant faces any medical problem while performing duty the respondents would take care of the same as they have been doing for the applicant for the last 30 years or so.

4.13. That as regards paragraphs 4(w) and 4(x), the respondents beg to reiterate what has been stated in paragraph 4.11 of this W.S. above and state that the orders for rotational duty limited to one or two days in Lumding is quite consistent with the available medical evidence of the highest level (such as the report of the Cardiology Centre and the Medical Board, Guwahati) and that these were not at all violative of the rights of the applicant as an employee citizen of the country. On the contrary, respondents beg to respectfully submit that they have been protective of these rights of the applicant and all other employees as behoves a model employer as the respondents.

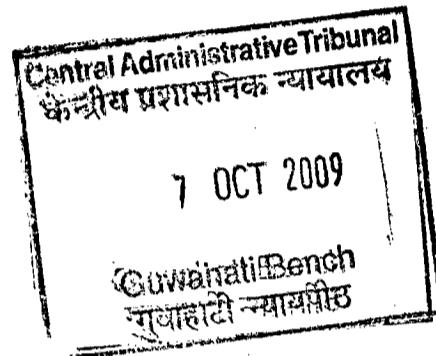
मुख्य स्वास्थ्य निदेशक, मुख्यालय
Chief Health Director, M.A.

पृ. सो. रेज, मालिगाँव, गुवाहाटी-781011
N. F. Rly., Maligaon, Guwahati-781011

(6)

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In view of the submissions made in the above-mentioned paragraphs the respondents beg to submit that the contention of the applicant has no substance and that therefore the Hon'ble Tribunal be pleased to allow the order for rotational duty issued to the applicant to stand in view of the present circumstances of the case. And the respondents shall as in duty bound ever pray.



VERIFICATION

I, Shri SANTOSH KR BRAHMA, son of late Gorinda Ch. Brahma, aged about 56 years, at present working as CHD/HQ, N.F.Railway, Maligaon, do hereby solemnly affirm that the statements made in paragraphs 1 to 4 are true to the best of my knowledge and based on records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the _____ day of October, 2009.

✓ *Ranjan*

Signature

CHD/HQ

Designation.

মুখ্য স্বাস্থ্য নিদেশক/মুখ্যালয়
Chief Health Director/HQ.
ঃ সো. রেজ, মালিগাঁও, গুৱাহাটী-৭৮১০১।
N. F. Rly., Maligaon, Guwahati-781011

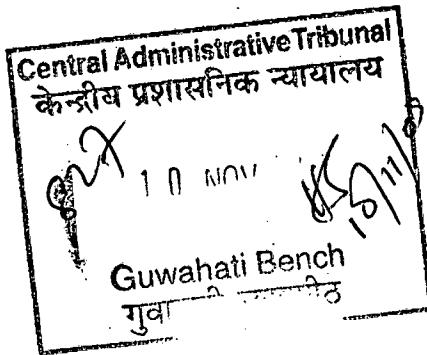
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

ORIGINAL APPLICATION No.85 of 2009

File in Court on... 10/11/09

Court Officer.



Dr. (Mrs.) Roopali Deka

Applicant

Vs.

The Union of India & Ors

Respondents

IN THE MATTER OF:

A rejoinder filed by the Applicant in reply to the Written Statement submitted on behalf of all the respondents.

The Applicant most respectfully begs to state and submit as under:

Mem
10/11/09
M.C. Sarmah
Rly. Advocate

1. That the copy of the Written Statement submitted on behalf of all the respondents has been served on me and I have gone through the Written Statement filed by them and having understood the contents thereof I have filed this rejoinder in reply to the said Written Statement.
2. That, save and except, the statements in the paragraphs of the Written Statement filed on behalf of all the Respondents, which are specifically admitted by this applicant herein, rest are deemed to be denied and are hereby denied.
3. That as regard the statements made in the Paragraphs 1 to 3 the applicant does not wish to offer any comment.
4. That a close perusal of the Written Statement filed by the respondents in the instant case reveals that the contents in all the Paragraphs are more or less same. They say that all medical facilities are provided to the applicant as and when required and she has attended her normal duty after the concerned doctor or the medical board issued her certificate of fitness as such there is no point why the applicant will refrain herself from attending the line duty in Lumding once or twice a week. In almost all the Paragraphs of the Written Statement the

File by the Applicant
The Applicant
through
Miss. Sarmah
Borpujary
10/11/09
Roopali Deka

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10/11/09

respondents have tried to establish the unwillingness of the applicant to attend the line duty in Lumding on some false pretext.

The applicant, for the purpose of brevity, would like to state and submit her reply together through the following Paragraphs since in all the Paragraphs of the Written Statement the respondents have reiterated almost the same thing.

A) It is true that since the year 1982 the applicant is availing medical treatment for her illness as and when required. Since the applicant is a Cardiac patient along with Type 2 Diabetic, Hypertension and HbE diseases, very often she needs medical care. Apart from that the applicant is a patient of **Coronary Artery Disease (CAD)** as such she is totally Pace Maker Dependent and the medical care provided to the applicant is due to her as per Government Scheme and policy. So there is nothing to show that the respondents are doing any favour to the applicant. All other employees of the respondent no.1 are availing the same facilities as applicable to them. But from the bare perusal of the Written Statement filed by the respondents it could reasonably be perceived that the respondents are trying to show that as if they are doing so many favours to the applicant and in return the applicant is giving nothing to her employer. The respondents are misconceived.

B) It is very unfortunate for the applicant that the respondent no. 3 and 4 being duly qualified medical personalities have failed to understand the *pros and cons* of a patient suffering from CAD, Diabetes, Hypertension and HbE diseases. The respondents deliberately reiterating the same thing in the entire Written Statement that since the Applicant is performing her regular medical duties in Maligaon which includes Surgery, OPD and Round duty of wards so she is able to attend line duty in Lumding also. It is very strange to see that the respondents are taking a very self-contradictory stand on the issue. On one hand they are saying that the applicant is doing so many works in the Central hospital Maligaon and on the other hand they are saying that if she could do all these works in Maligaon so there is no reason to believe why she can not go to Lumding for a day in a week to discharge the same duty. The respondents have forgotten the troubles of Journey that will suffer by the applicant. The distance from Guwahati Railway Station to Lumding Station is 181 km and it takes 4 hours time complete the journey. The applicant begs to submit that she is already taking sufficient work load on her while she is in duty and in addition to

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that by imposing the line duty the respondents are trying to put some more load on her including a strenuous journey (362 km up & down) once a week and they say that they are sympathetically considering the medical report (Annexure-11 Series page-35 in the O.A.) of their own medical board and the advice given by the Doctor of Perambur, Chennai (Annexure 21, Page 57 in the O.A.) whereby it has been advised to the applicant to avoid strenuous and exertional activities. The applicant also vehemently protested the word used by the respondents that the work of a doctor is sedentary in nature. The duty of surgeon can not in any manner be construed as sedentary in nature.

The Farlex's medical dictionary says "Sedentary" means (1) sitting habitually; of inactive habits (2) pertaining to a sitting posture. The applicant feels regret to say that this is really very unfortunate and unwarranted if any reasonable person from medical profession says that the job of a doctor, more particularly who is a surgeon, is sedentary in nature.

C) The applicant can not understand the reasons why the respondents are mounting pressure on the applicant to attend line duty in Lumding ignoring the deplorable health condition of the applicant while there is as many as 3 more Gynaecology specialist in the organisation except the applicant. The applicant respectfully submits that she is supposed to be retired on January 2014 and she has already discharged her duty for about 30 years without any blemish and dereliction so she may kindly be spared from the line duty just looking into her health condition.

D) The applicant would like to reiterate that she used to have palpitation in slightest exertion and suffers breathlessness but despite this the applicant is discharging her duties well in the Central Hospital, Maligaon. The respondents have said that there is every facilities available in the Lumding hospital to take care of the health of the applicant. The applicant begs to state that this is a false statement deposed by the respondents. There is no Cardiologist appointed in the Lumding hospital and there is no amenities and infrastructure to treat a pace maker implanted patient to remove its battery or to dig out any mechanical defect in the pace maker. If the statement of the respondents are true then the applicant is seeking an unconditional undertaking from the respondents declaring guarantee that nothing

Roopali Sekar

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will happen to the life of the applicant so far as her pace maker is concerned and if anything happens then the respondents shall shoulder responsibilities and her life will be saved at any cost. The applicant further begs to submit that the applicant is suffering from CAD along with Diabetes, Hypertension and HaemoglobinE diseases. So it is well understood that sudden rise in the Blood Sugar and Blood Pressure may cause irreparable damage to the Heart at any moment so in such moment the patient needs intensive medical care to save his/her life.

E) The respondents, more particularly the respondent no.3 & 4, should understand their limitations and should always remember that "the preservation of human life is of paramount importance, because if one's life is lost, the Status-Quo-Ante can not be resorted as resurrection is beyond the capacity of man"

The applicant respectfully states and submits that the present Pace-Maker through which the applicant is living is a six year old pace maker which battery is depleting day by day. In this regard the medical board, where the respondent no.4 was the Chairman, opined that the applicant should avoid strenuous and exertional activities. The said report thus read as follows: (relevant portion) ".

. However, members of the board taking into consideration of her multiple problems and the pace maker of last implant which has crossed six years and at any moment there may be component battery depletion requiring urgent replacement and opinion of cardiologist of Guwahati Medical College and S. Railway Headquarter hospital Parambur, advices her avoid strenuous and exertional activities." To the understanding of the applicant the said medical report has eloquently saying that the applicant should avoid strenuous and exertional activities and the battery of the pace maker may require an urgent replacement at any moment. Despite this, the order of the respondent authority for a regular line duty to Lumding is not only bias, arbitrary and inhuman but also probably the last instance of exhibition of the administrative supremacy.

G) The applicant respectfully states and submits that the applicant has no sentimental issue as such in this regard but she is trying to protect her fundamental right guaranteed by the Constitution of

Roopali Deyan

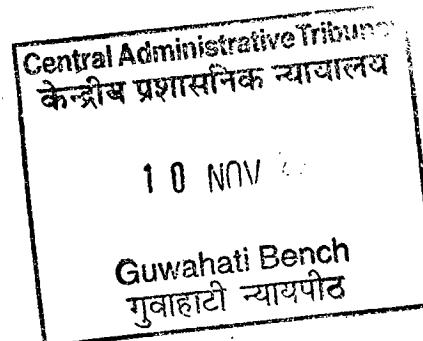
(69)

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India. On the contrary, the respondents are issuing their prestige and to show their administrative supremacy the respondents are even ready to see the death of the applicant, which makes no sense for them. The respondent authority can't depart from the welfare state of the organisation at the behest of any autocratic Ruler.

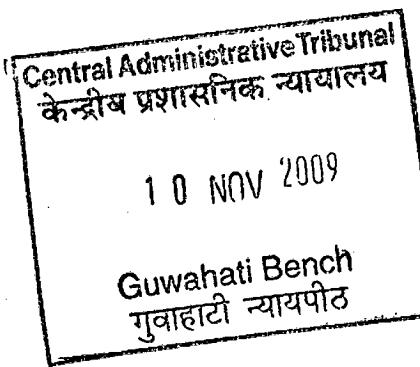
5. That the applicant begs to state and submit that such autocracy of the respondent authority is out and out violation of the established Principles of service jurisprudence and Principles of natural justice. The applicant further begs to state that this is oppression upon the applicant. The respondents, for any reason whatsoever, can not put the applicant into a troublesome service condition which may bring threat to her life as such the impugned action of the respondent are liable to be set aside and/or quashed.

Verification contd.



Roopali Sekar

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VERIFICATION

I, Dr. (Mrs.) Roopali Deka, Wife of Dr. B.R. Deka, Resident of Railway Quarter No.417, Numbari, Maligaon, Guwahati-781011, Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in the aforesaid paragraphs are true to the best of my knowledge, belief and information and I have not concealed anything material there from.

And I put my hand unto this verification on this 9th day of November 2009 in Guwahati, Assam.

Identified by

Mrs. Kanta Barpujary
Advocate/ Advocate's Clerk

Roopali Deka.

Signature/Deponent