

18

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

PS  
07/07/2015

on  
07/07/2015

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 85 /2009

2. Miscellaneous Petition No                     

3. Contempt Petition No                     

4. Review Application No                     

Applicant(s) Dr. (Mrs) Roopali Deka

Respondant(s) Union of India & Ors.

Advocate for the Applicant(s): Mr. A. Chameah,  
Mrs. K. Barpujari,  
Mr. R. Duarah or Miss A. Baruah

Advocate for the Respondant(s): 6  
Ry. Standing Counsel.

Notes of the Registrar	Date	Order of the Tribunal
<p>this application is in form, is filed/C. P. for Rs. 50/- deposited vide <u>                    </u> No. <u>395 406725</u> Dated <u>7.5.09</u> <u>                    </u> Dy. Registrar <u>8/5/09</u></p> <p><u>8.5.09</u> Received 4 (Four) copies of Application with envelope for issue notices to the Respondants No. 1 to 4 (with Address). Copy served. Annexure is not clear. <u>8/5/09</u></p>	<p>14.05.2009</p>	<p>The Applicant a Gynaecology &amp; 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.</p> <p>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</p> <p>Contd/-</p>

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.

Contd/-

*Copies of notices*

*along with order*

*dated 14/5/2009*

*sent to D/Sec*

*for issuing*

*respondents by regd*

*A/D post*

*Free copies of*

*this order send to*

*D/Sec for issuing*

*to applicant and*

*learned counsel*

*for both the parties*

*18/5/09*

*D/No-2506-2509*

*2573*

*19-5-2009*

*Notice copies duly*

*served on R-No 1*


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.

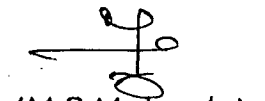
  
(M.R. Mohanty)  
Vice-Chairman

Lm

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.

  
(M.R. Mohanty)  
Vice-Chairman

/bb/


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

N/S not filed.

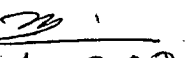
  
29.6.09

2.7.09

Order dt. 30.6.09  
send to D/2 for issue  
to the Respondents vide  
no 3688 to 3691 dt. 2.7.09

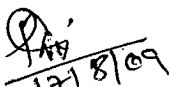
  
27/7/09

No W/S filed.

  
13.8.09.

K.Das

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

  
13/8/09

Copies of order dt. 14/8/09  
sent to D/Sec. for issuing  
to respondents by post.  
D/No-9672 to 9675  
20/8/09. D/ 24/8/09

O.A. 85-09

No. w/s biled.

3  
6.10.09

7.10.09  
W/S filed by the  
Respondents  
K. Das

Send copies of this  
order to the Applicant  
and the Respondents.

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-

26/10/09. DT-

w/s biled.

9.11.09

10.11.09

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

10/11/09

07.10.2009

Ms.A.Barooah, 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.Barooah.

Ms.A.Barooah, 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.R.Mohanty)  
Vice-Chairman

10.11.2009

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  
14<sup>th</sup> December, 2009.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/pb/

O.A.85 of 2009

14.12.2009

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 30<sup>th</sup> March 2009 which vide communication dated 3<sup>rd</sup> April, 2009, had been rejected by the authority without assigning any reason.

List the matter on 18.12.2009 for hearing.

  
Madan Kumar Chaturvedi)  
Member (A)

  
(Mukesh Kumar Gupta)  
Member (J)

Im/

18.12.2009

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

The case is ready for hearing

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

20  
8.1.2010

/PB/

Jugment pronounced in open Court.

Kept in separate sheets. Application is disposed of. No costs.

Madan Kumar Chaturvedi  
Member(A)

Mukesh Kumar Gupta  
Member(J)

Received order at 11/1/10

from Mr. A. Chandra Sekh of the Medical Board, Bangalore, India, to the effect that the respondent is to be removed from the service of the Government of Karnataka.

Received for files containing records

as desired by the Tribunal. The Tribunal has taken into consideration the facts and circumstances of the case and has found that the respondent is to be removed from the service of the Government of Karnataka.

20.1.2010

Judgment / Final order dated

11/1/2010 Prepared and sent to the J. Seldon for issuing the all the 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)

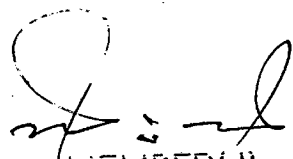
1. Whether reporters of local newspapers may be allowed to see the Judgment ?
2. Whether to be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?

Yes/No

Yes/No

Yes/No

Judgment delivered by

  
MEMBER(J)



A

CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

Original Application No.85 of 2009

Date of order: This the 11<sup>th</sup> Day of January, 2010.

HON'BLE MR.MUKESH KUMAR 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 Hoaspital  
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

8

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 10<sup>th</sup> February, 2009 consisting of five Sr. Medical Officers namely; Dr. N.K. Hazarika, MD/MLG, as a Chairman, Dr. S.D.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 31<sup>st</sup> 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 Gr II, 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

*[Handwritten signature]*

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 Lunding, 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.

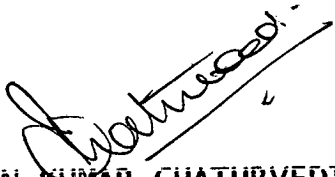
Respondents in their reply file have stated that the Applicant has been working in the same place, namely, Maligaon Central Hospital for the last 30 years, i.e since her appointment in Railway Medical service in 1979. For all these years the Respondents have been considerate and have been taking all 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 Lunding. There was need to appoint the doctors on rotation basis and this precisely has been done vide order dated 18.3.2009.

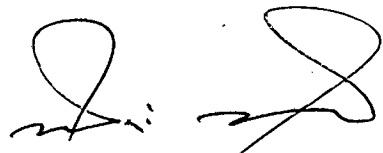
We have heard learned counsel for both sides, perused the pleadings and other materials on record. We have also perused the original records produced by the Respondents to satisfy ourselves as to the existence of fair consideration to the Applicant's plea vis a vis consideration of the Medical Board's 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'être* 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)  
ADMINISTRATIVE MEMBER

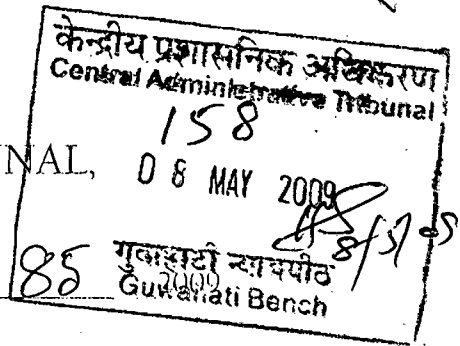


(MUKESH KUMAR GUPTA)  
JUDICIAL MEMBER

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No.



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

Contd. to next page

Roopali Deka

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*  
Ashim Chamuah  
Advocate

*Roopali Debra*

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	<b>Report of Medical Board.</b>
09	18/03/09	<b>Final Order issued on the Petitioner to move to Lumding on Line Duty on rotation basis.</b>
10.	03/04/09	<b>Last order to move to Lumding on Line Duty</b>
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. W/S 58 → 64  
14. Rejoinder 65 → 70

Filed By

*Ashim Chamuah*  
Ashim Chamuah  
Advocate

*Roopali Deka*



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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Filed by  
Ashim Chamuah  
Advocate

Roopali Deka

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
08 MAY 2009  
गुवाहाटी बेंच  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No. 85 2009

Filed By the Applicant  
through

Assin Channul  
#1800005

Roopali Deka

**Dr. (Mrs.) Roopali Deka**

Wife of Dr. B.R. Deka

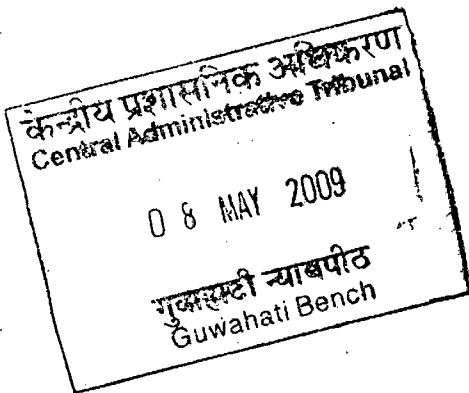
Resident of Railway Quarter No.417,

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, Guwahati-781011,

Kamrup, Assam.

**4. The Medical Director**

NF Railway Central Hospital,

Maligaon, Guwahati-781011

Kamrup, Assam.

\_\_\_\_\_ Respondents

DETAILS OF APPLICATION

Contd. to page-2

General Administrative Tribunal  
03 MAY 2009  
Rajni Bench

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.

*Roopali Deka*

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

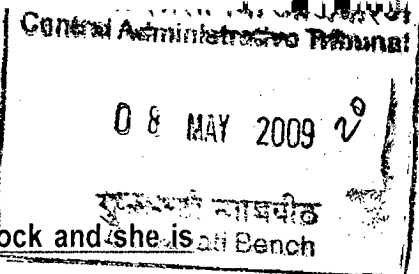
The Applicant declares that the application is within the limitation prescribed under section of the Administrative Tribunal Act 1985.

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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depletion. As per medical opinion the Applicant has a complete heart block and she is  
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 Annexuer-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 some how 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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*Roopali Deka*

08 MAY 2009

A copy of the representation dated 15/09/2008 and order letter dated 16/09/08 are annexed hereto and marked as 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 inabilities 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 Manger, 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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*Roopali Deka*

08 MAY 2009

राजस्थानी न्यायपीठ  
Guwahati Bench

Sr. DMO (O&G), was posted at Lumding Divisional Hospital, who was unilaterally transferred to 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).

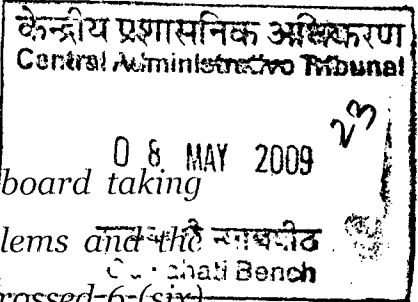
After examination of the Applicant by the said medical board, the Board had framed the final diagnosis and framed their opinion too, which reads as follows:

**"Final Diagnosis:** Complete heart block with Pace-Maker (4<sup>th</sup> 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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Roopali Deka



*College too. However, members of the board taking into consideration of her multiple problems and the 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 24<sup>th</sup> 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 of the weekly 2 days Line Duty in Lumding.

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*Roopali Deka*

06 MAY 2009

From the bare perusal of the aforesaid letter dated 24<sup>th</sup> 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 24<sup>th</sup> 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.

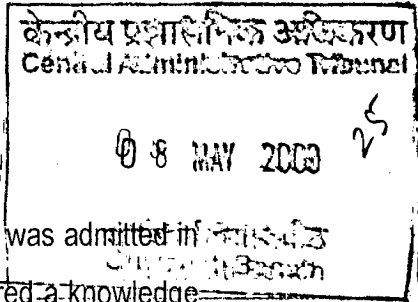
A copy of the said interim order dated 08/09/2009 passed in W.P.(C). 1586/2009 is annexed hereto and marked as Annexure-17.

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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*Roopali Deka*





while the said show cause notice was served upon the applicant the applicant was admitted in the ICU of the Central Hospital Maligaon. That apart, the applicant has gathered a knowledge that though the letter is dated as 3<sup>rd</sup> April 2009 but indeed the letter has been issued in the evening on 8<sup>th</sup> 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 3<sup>rd</sup> 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 9<sup>th</sup> 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 27<sup>th</sup> 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.

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*Roopali Deora*

08 MAY 2009

मुख्य न्यायाधीश  
Chief Bench

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 Annexure-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.

Contd. to page-10

*Roopali Debnath*

05 MAY 2009

पञ्जीत  
C.A.T. 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'S 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

Rasputi

08 MAY 2009

गुवाहाटी न्यायाधीश  
Gauhati Bench

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**.

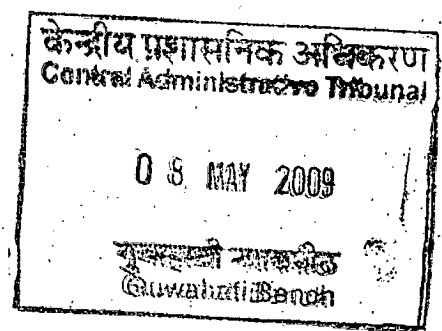
5(g) That the Railway is a welfare State and the respondent authorities can not, in any circumstances, say a total go-bye to the welfare nature of the organisation and can not put its worker/employee in an adverse condition to work for it. It is the duty rather it is the aims and objectives of the Railway 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.

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*Roopali Debn*



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 <sup>not</sup> 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 Pace-maker of the applicant.

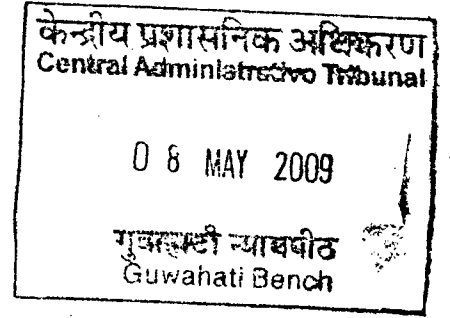
9. INTERIM RELIEF

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

Raspali Debn



11. PARTICULARS OF POSTAL ORDER

IPO No. 396 - 406775

Date of Issue: 7.5.09

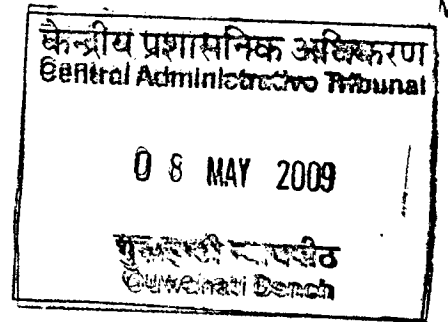
Issuing Post office: GPO Guwahati

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

Value: Rs.50/- (Fifty) only

12. List of Enclosures as per index

Raspali



VERIFICATION

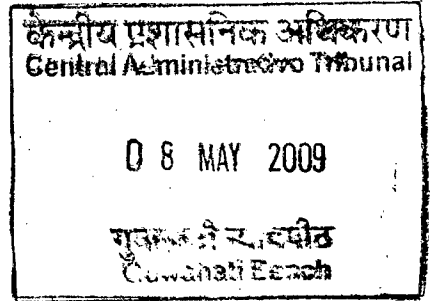
I, **Dr. (Mrs.) Roopali Deka**, Wife of Dr. B.R. Deka, Resident of Railway Quarter No.417, Numbari, Maligaon, Guwahati-781011, Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in the aforesaid paragraphs are true to the best of my knowledge, belief and information and I have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

And I put my hand unto this verification on this 21<sup>st</sup> day of May 2009 in Guwahati, Assam.

Identified by

*Mannil Das*  
815109  
Advocate/ Advocate's Clerk

*Roopali Deka*  
Signature/Deponent



AFFIDAVIT

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(j)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

Mamuel 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, Pubsarauiia,  
P. O. Silpukuri, Model 5989 Rate

Phone India. Serial Number FE1010110R

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

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी बेंच  
Guwahati Bench



Physician Dr. S. C. Kundu

2691

Address B. R. Singh Hospital,  
Sealdah, Calcutta, W.B.,  
India.

Phone Number

**Medtronic**

Certified to be true copy

*[Signature]*  
Asst. Commr.

Address: [illegible]



IMPLANTED DEVICE  
IDENTIFICATION CARD

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

Model: 8403 Rate: 70

Phone:

Serial Number:

1Y 2300693H

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 अधिकरण  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी बेंच  
Guwahati Bench



Physician:

Dr. T.D. Bhattacharjee,  
Dr. Basu Mallick

Address:

B.R. Singh Hospital,  
Sealdah,  
Calcutta.

1E 703

Phone Number:

35 4075

Medtronic



CARDIAC PACEMAKER  
IDENTIFICATION CARD  
Intermedics Inc.  
P.O. Box 617 • Freeport, Texas 77541

Name DR. RUPALI DEKA Rate 70PPM  
Address 276, Nambary, Maligaon,  
GUWAHATI-781011  
Phone 571574.  
Model 292-05  
Serial Number 102356  
Type of Leads 6961  
Date of Implant 28.5.98

IN CASE OF EMERGENCY CONTACT PHYSICIAN  
IDENTIFIED ON REVERSE OF CARD

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी बेंच  
Guwahati Bench

Physician's Name DR. K. A. ABRAHAM.  
Address Chief Cardiologist  
Railway Hospital,  
Perambur, CHENNAI-600023.  
Phone 6443051  
Sl. no - 689

5

-19-

**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 :

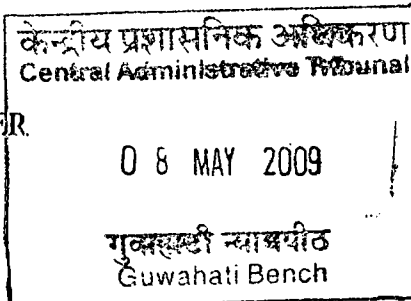
Sl.No.1037

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



**LEAD**

**ATRIAL**

**VENTRICULAR**

a) Manufacturer	: MEDTRONIC	MEDTRONIC
b) Model	: Capsure SP Novus	Capsure SP
c) Serial	: LER081062V	LAJ420333V
ENDO/EPI	: Endocardial	

CARDIOLOGIST : Dr. SRIRAM RAJAGOPAL

Comments/Complications - *See overleaf*

Next follow up on : Review after three months.

Doctor's signature

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

- 20 -

ANNEXURE - 2

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Officer

08 MAY 2009

गुवाहाटी बेंच  
Guwahati Bench

N. F. Railway

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

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 roster of duty at NBQ will be as follows-

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

For the copy

Signature

For the copy

- 21 -

ANNEXURE-3

N. F. Railway

Office of the Medical Director

Central Hospital

Maligaon, Guwahati-781011

OFFICE ORDER

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

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/Pl. 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

Asst. Commr.

Revenue, Guwahati

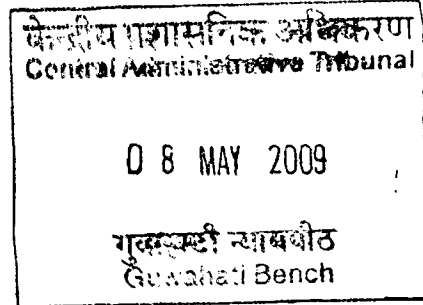
To

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

Date: 15.09.2008

*Subject: Duty at NBQ Hospital.*

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



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.

13/09/08

Roopali Deka

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

13/09/08

- 23 -

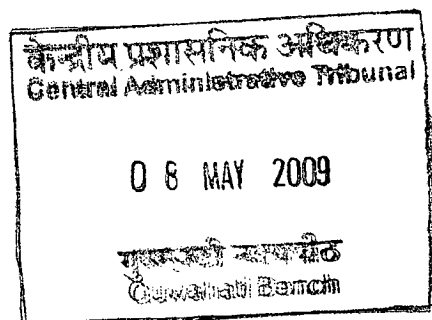
ANNEXURE - 5

N. F. Railway

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

No.IV/207/2

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.


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 <sup>as</sup> and well as modification order of even No. dated. 15-9-2008 stands

This is for your information and necessary action please.

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

Copy to CMD/MLG for kind information please.

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

  
Advocate, Gauhati High Court



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ANNEXURE-6

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,

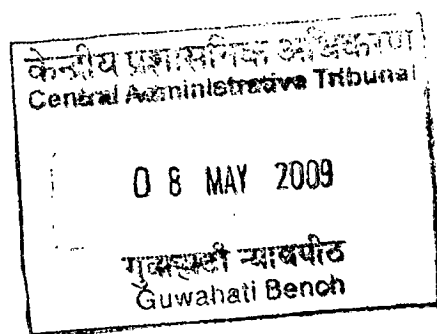
Most respectfully I would like to state that I have been issued an office order vide MD/CH MLG's letter No H/207/2 dated 13.09.2008 to visit NBQ Hospital every week continuously. But Sir, I would like to mention that I am a cardiac patient of Complete Heart Block and is completely under support of Pace 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

*Roopali Deka*

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



*Certified to be True  
Copy.*  
*[Signature]*  
*Associate*

- 25 -

ANNEXURE-1

32

To

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

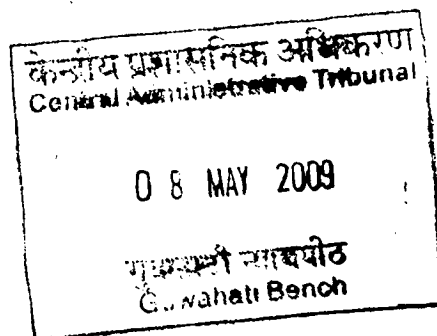
Date: 18.09.2008

**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 18<sup>th</sup> September 2008.

Roopali Deka

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



Certified to be true copy  
[Signature]  
[Signature]  
[Signature]

- 26 -

14-09-08

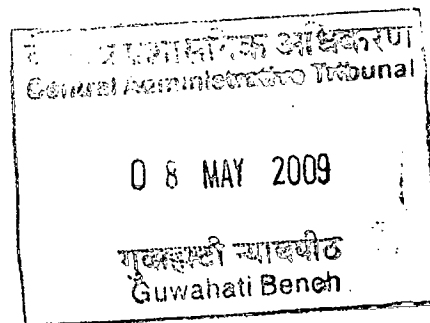
43

N. F. Railway

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

No.IV/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.

Encl:- As above.

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

Forwarded to the CMD

14.09.08

14.09.08

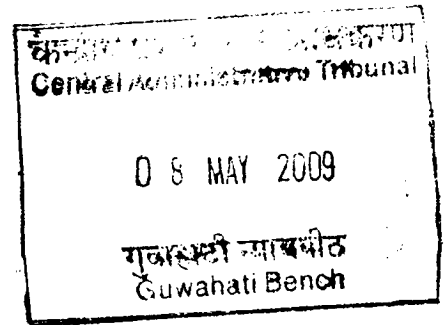
-27-

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/184/1/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

*Dr. 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 54 YEARS F ReIn: 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

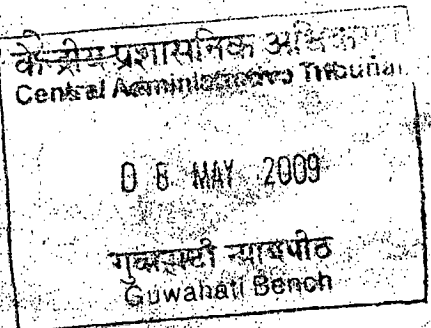
14/10/2008 10:20

Details in previous slip.

ECHO: LV systolic fu. - N

LA : 40x40 x 4

LV: 33/57



Impressions:

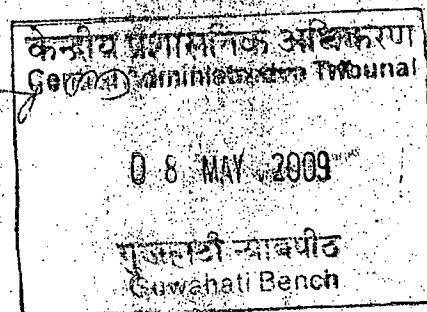
- ① Complete heart block - on permanent pacemaker
- ② Hypertension - control not optimal
- ③ Diabetes Mellitus type II
- ④ CAD - Aortic cl II
- ⑤ Anemia.  
(Hb: 9.4 g/dl)

PTO

SOUTHERN RAILWAY CHENNAI - 600 0

-29-

- T. Telmisartan 80mg OD
- T. Diamicroz MR 30mg OD
- ~~T. Losartan~~
- T. Losartan 50mg OD



Adv:

Continue  
T. Telmisartan 80mg OD  
T. Diamicroz MR 30mg OD

Adv: STOP LOSARTAN  
T. Telmisartan 80mg OD  
T. Atorvastatin 10mg OD  
T. Clopidogrel 75mg OD  
T. Montrate 30mg OD

In view of HT & CAD & AGE  
advised to avoid exertion  
or strenuous work.  
H. sugar & BP to be kept  
well controlled! BP, H. sugar  
& HbA1c to be monitored  
If symptoms persist or increase  
may require coronary angiography  
or revascularization

08 MAY 2009

गुवाहाटी ब्याच  
Guwahati Bench

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

हृदय रोग विभाग  
DEPARTMENT OF CARDIOLOGY



दक्षिण रेलवे मुख्यालय अस्पताल,  
पेरंबुर, चेन्नै - 600 023, भारत,  
Southern Railway Headquarters Hospital,  
Perambur, Chennai - 600 023, India

बिएसएनएल/BSNL : 2644 3051  
रेलवे/Railway : 29000

स/No.

दिनांक/Date 13.10.2008

12/10/08

- Known to have Complete Heart Block. Our permanent pacemaker since 1982 (1st implant). PG replaced in 1987 and 1998. 3rd PG replacement in 2003 with upgradation to dual chamber pacemaker.
- Known hypertension (poorly controlled - persistently elevated systolic BP).
- Known diabetic - not well controlled
- 40 Breathlessness on exertion class II.
- Occ chest pain @ pericardial region.
- Swelling of feet on & off, (relieved with diuretics).
- Persistent giddiness

7/6 11/11 -31-1 112d pedal -  
edem

Pulse: 80/min. Reg.

BP: 160/84 mm Hg

C.R.: J.P. N.R.

14 sec. bradycardia

S<sub>1</sub> S<sub>2</sub> with paradoxical splitting

no (m)

Ad: Clean

✓ ECG: Atrial overdrive & ventric. pacing. 103-110 100% repolarization

Heart Bx for 1 Yr.

Re: imm

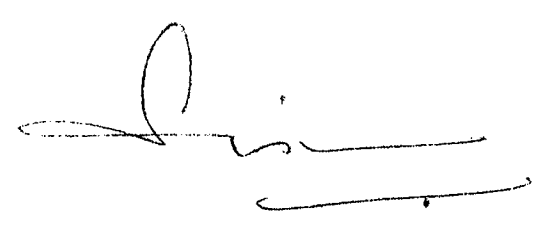
A - complete heart block on permanent pacemaker

- HT

- DM type II

- ? Coronary artery disease & AOE cl II

Admit Special Cardiol  
unit - R. No. 7



केन्द्रीय प्रशासनिक अखण्ड  
Central Administrative Trib  
05 MAY 2009  
गुवाहाटी न्यायपीठ  
Guwahati Bench



-32-

Relevant Portion OnlyAnnexure- 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

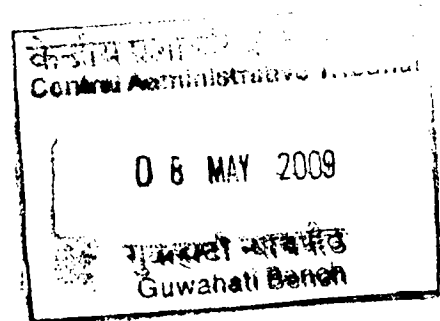
T. TELMISARTAN 80 mg OD

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.



Certified to be true copy

*(Signature)*  
**Chamuah**  
 Assistant Surgeon, Perambur

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 Ely. 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 Diamicon 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

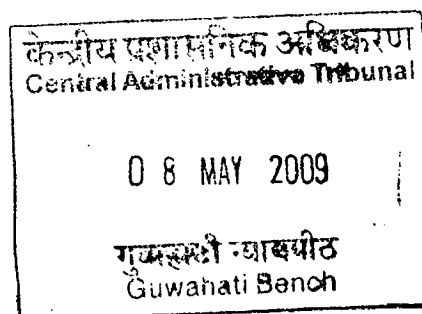
T. TELMISARTAN 80 mg OD

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 Rajagopala  
Sr. DMO(Cardiology)Perambur  
Southern Railway, Chennai

Annexure - 10

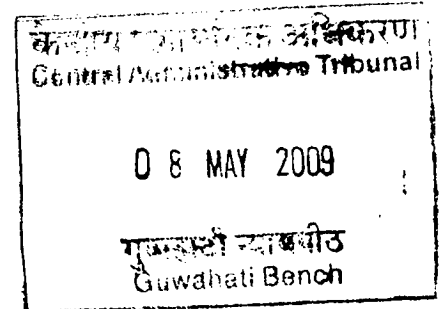
N.T. Railway

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

No H/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 H/98 G Pt 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 2048 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 join duty.

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.

(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/LMG, RNY
3. MB/NBQ for information please. In terms of CMD/MLG's letter No.H/98 G Pt VII dated 5/11/08, Gynaecologist of CH/MLG will not attend NBQ any longer.
4. SrDMO/IC/OPD CH/MLG for information.

(Dr. N. K. Hazarika)  
Medical Director

Certified to be true copy

  
Medical Director

# FINDINGS OF MEDICAL BOARD

Date of Medical Board:- 10/02/2009

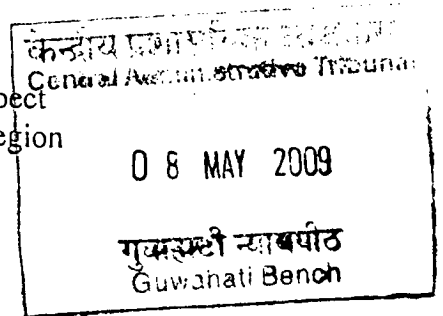
Authority for holding Medical Board:- MD's letter No. 4/5/80/A/Loose

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 Appontment: 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

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, Oedima, : 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

*(Signatures and Date)*  
 10/2/09

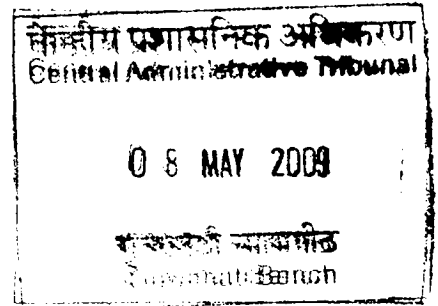
36

- 36 -

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 1<sup>st</sup> 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 18<sup>th</sup> 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 oedima.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



10/12/09  
18/12/08

08 MAY 2009

गुवाहाटी बेंच  
Guwahati Bench

- 37 -

case of uncontrolled hypertension, T2 DM, CAD and Anaemia on PPI and was advised rest for 30 days w.e.f 25<sup>th</sup> Nov '08 and further extended for six weeks w.e.f. 24<sup>th</sup> 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 in 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 in on OHA. She is also having Stg II hypertension. Complete Heart Block with Pace Maker (4<sup>th</sup> 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 Gr II, Type 2 DM on OHA, Hypertension, Anaemia and Complete Heart Block

Ch [Signature] 10/2/09

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, advices her avoid strenuous and exert ional activities.

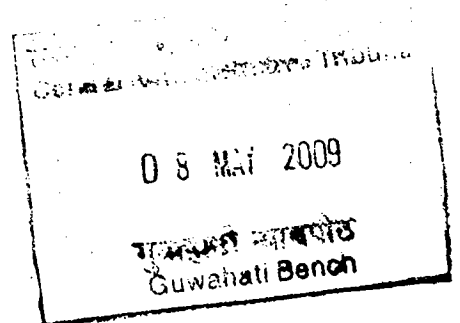
(Dr B.P.Deka Sr DMO)  
Co Opted Member

(Dr A.K Saikia Sr DMO)  
Member

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

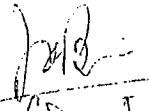
(Dr.D.K.Das CS/MLG))  
Member

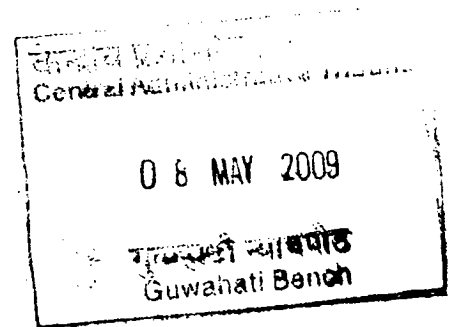
(Dr.N.K.Hazarika MD/Maligaon)  
Chairman



Date: 9/2/2009

The undersigned that Dr (Mrs) Roopali De Ka  
Jha was under my treatment since 12/11/2008  
for HIN & CAD. is now fit to resume light  
work after immediate effort.

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





GAUHATI MEDICAL COLLEGE & HOSPITAL

Discharge Date: Gauhati - 781 032

001 - PATIENT DEPARTMENT (M. R. D.)

ADVICE SLIP

Registration Fee: Rs. 5.00  
 Hospital No: 239947/08 & U  
 Name: Dr Roopali Deka  
 Age: 54y Sex: F  
 Guardian's Name: Dr B R Deka  
 Village/Town: SR DMO N F Rly Maligaon  
 Local Address: Religion: H  
 Dept: CARDIO  
 Date: 12/11/2008  
 Caste: General  
 P.O./T.O.:  
 P.S.:  
 District: Jalukbari  
 State: Kamrup  
 Occupation: ASSAM

HTN, CAD, DM  
 Hb typing - HbE  
 17 FBS, 11.2, creatinine 1.2, albumin 3.5  
 152 hr PPBC & 70pm SR  
 Fasting Lipid Profile (150, 99, 79, 51) a B  
 X-Ray chest (PA)  
 ECG - normal  
 Echo - normal  
 24 hr ECG

Normal LV systolic  
 & diastolic

केन्द्रीय प्रशासनिक अधिकरण  
 Central Administrative Tribunal  
 08 MAY 2009  
 गुवाहाटी बेंच  
 Guwahati Bench

24/11/2008

160 mmHg  
 100 mmHg

HTN

typical DM

cardiac disease - Hb

CAD - Effort angina

HbE - 11.2

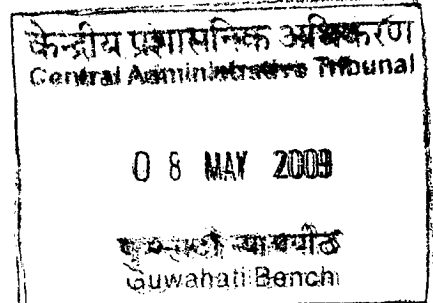
- 1) Diltiazem 40 mg 30  
 3 1st daily x 6wks
- 2) Metformin (500 mg)  
 3 1st daily x 6wks
- 3) Telmisartan 80mg  
 1st daily x 6wks
- 4) Folic acid (5mg)  
 1st daily x 6wks

certified to be true copy

Asstt. Commr.

Advocate, Gauhati High Court





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N. F. Railway

ANNEXURE-12

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 4<sup>th</sup> During the off period, Dr. R. Saikia, Sr.DMO/O&G will attend LMG. However, during the 4<sup>th</sup> 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

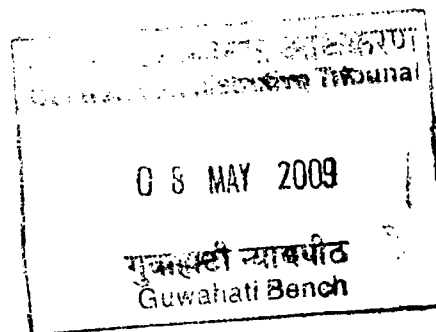
ANNEXURE-12

-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

*Roopali Deka*

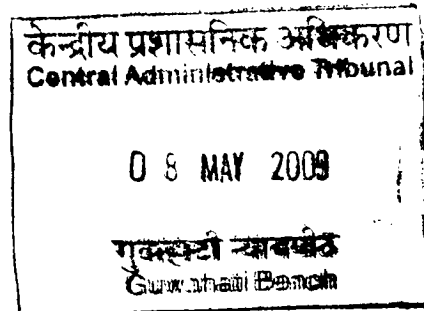
Dr. Roopali Deka  
Sr. DMO/SG/CH/MLG

**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

*Roopali Deka.*

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



ANNEXURE-13(A)

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To

The Chief Medical Director,  
N F Railway,  
Maligaon.

Date: 20.03.2009

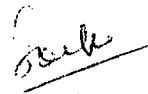
**SUBJECT: Line visit to LMG Divisional Hospital.**

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

Sir,

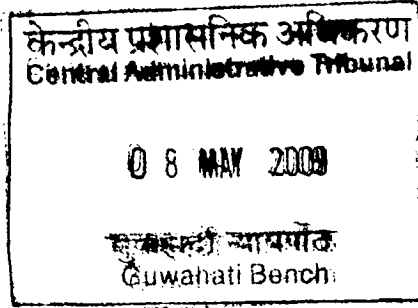
I have the honour to state that my wife Dr. (Mrs.) Roopali Deka is at present working as Sr. DMO/SG/CH/MLG. It is to be mentioned that she is a patient of CAD with complete heart block and complete pace dependent. Hypertension, Chronic Stable angina Gr II, Type2 Diabetes Mellitus and anaemia due to Haemoglobin 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, advises 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.

Dr. B R Deka



ANNEXURE-14

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N. F. Railway

Dr. N. K. Hazarika  
Medical Director

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

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

Dated. 24<sup>th</sup> 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,

(Dr. N. K. Hazarika)

To

Dr. R. Deka

Sr. DMO/02G/CH/MLG

Approved to be sent over

Guwahati

Central Hospital

केन्द्रीय प्रशासनिक अपीकरण Central Administrative Tribunal  08 MAY 2009  गुवाहाटी बेंच Guwahati Bench
---

ANNEXURE-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/O-4/MD(CON) Dated 24<sup>th</sup> 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 my self.

Yours sincerely

*Roopali Deka*

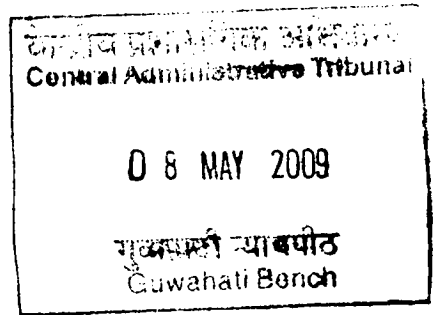
Dr. Roopali Deka  
Sr. DMO/CH/MLG

Copy to be sent to the following:

*[Signature]*

Dr. Roopali Deka

Copy to be sent to the following:



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.) Rocpali Deka  
SrDMO/CH/MLG

Sub: Line visit to LMG  
Ref: Your letter No. Nil dated 30/3/09

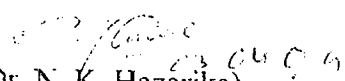
You are hereby advised to proceed to LMG by morning train of 4/4/09 to work at LMG Rly Hospital and come back by evening train.

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.

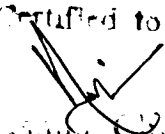
(Dr. N. K. Hazarika)  
Medical Director

Copy to CMD for kind information please.

  
(Dr. N. K. Hazarika)  
Medical Director

D/L

Certified to be true copy:

  
Advocate, Guwahati High Court





Annexure - 17

-47-

# 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.DEKA,  
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.

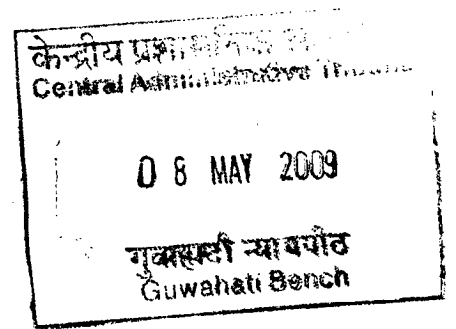
Respondent/Opp. Party

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 notational basis, as has been ordered by the Respondent No.1, the

-48-

Page No. 2

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.

Sd/- Hrishikesh Roy  
Judge.

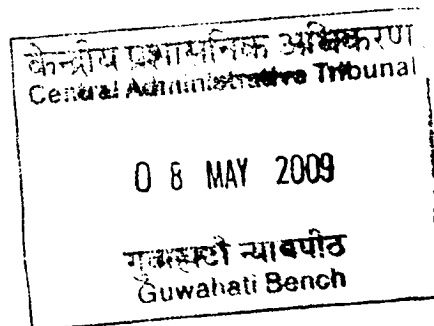
CERTIFIED TO BE TRUE COPY

Date: 9/4/09

Superintendent (Copying Section)

Gauhati High Court

Authenticated U/S 76, Act 1, 1872





49 (A)

**Annexure-18A**  
**Typed Copy**

N.F. Railway

CONFIDENTIAL

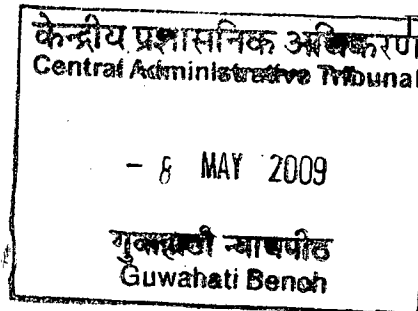
Office of the  
Chief Medical Director  
Maligaon, Guwahati-781011

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



Date 3<sup>rd</sup> April 2009

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

**Certified to be true copy**

*Ashim Chamuah*  
**Ashim Chamuah**  
Advocate, Gauhati High Court

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायालय  
Guwahati Bench

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Annexure - 19

N. F. Railway

Office of the Medical Director  
Maligaon, Guwahati-781011

Dated. 09-04-2009.

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

To  
The Medical Director  
Southern Railway HQ. Hospital  
Perambur, Chennai

Subject for check up of *Dr. (Mrs.) Roopali Deka, aged 35 yrs. (F)*  
*Design: Sr. Dme/088 (CH) Maligaon, N.F.Rly.*  
Ref: *B. Pay Rs. 45930/- Gr. Pay Rs. 8700/-*

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

*(Signature)*  
09-04-09  
- Medical Director/CH  
Maligaon, Guwahati-781011

Copy to:

1. CMD/MLG for information and approval please.
2. Concerning doctor *Dr. M. K. Sufi* 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.

Certified to be true copy

*(Signature)*  
Asst. Commr.

Medical Director/CH  
Maligaon, Guwahati-781011

**IN THE GAUHATI HIGH COURT**  
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)  
**CIVIL APPELLATE SIDE**

গুৱাহাটী আৰু  
Guwahati Bench

No. 1586 of 2009

Appellant  
Petitioner

The Union of India

Respondent	Opposite Party
------------	----------------

Mrs. A. Channah  
 Mrs. R. Duvach  
 Mrs. V. Borpuzari  
 Mr. A. Barsoob

} Advocate

Standing Counsel, Railway

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

*[Signature]*  
Carmichael  
U.S. District Court

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केन्द्रीय प्रशासनिक न्यायाधीश  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायापीठ  
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

Commissioner of Affidavit  
Guwahati High Court  
Guwahati

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-3-

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायाधीश  
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



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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 226, 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 Act 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>

General Administrative Tribunal  
05 MAY 2009  
গুৱাহাটী বেঞ্চ  
Guwahati Bench

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केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

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 be 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 <u>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.</u></p>

Sd/ Horishikesh Roy  
Judge

CERTIFIED TO BE TRUE COPY

By: \_\_\_\_\_

Date: \_\_\_\_\_

Superintendent (Copying Section)

Court

Author: 1076, Adm. Secy.

Sl no - 116180  
dtd 29/4/09

CL used  
29/4/09

# Annexure- 21-57-

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

(PC)

Patient Name: DEKA, R Sex: F Age: 56 Years  
Card No.: RF 135587 [1] IP No.: 2009/5033  
Ward No.: 17 CARDIAC SPECIAL WARD  
Admitted on: 20/04/2009 00:30 Discharged on: 29/04/2009 00:00

RESULT: DISCHARGED REVIEW AFTER:

General Administrative Tribunal

08 MAY 2009

गुवाहाटी न्यायापीठ  
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 orthopnoea / 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-O(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 91mg/ml (Normal range 10-291 mg/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, opined 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 0-0-0  
T. IMDUR 30MG 1-0-0  
T. TELMISARTAN 40MG 1-0-0  
T. ATORVASTATIN 10MG 0-0-0  
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 two months and to avoid strenuous physical exertion in view of underlying CAD & Anaemia*

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

SOUTHERN RAILWAY CHENNAI-600 003  
Ayazavaram, Chennai - 600 023.

0084714

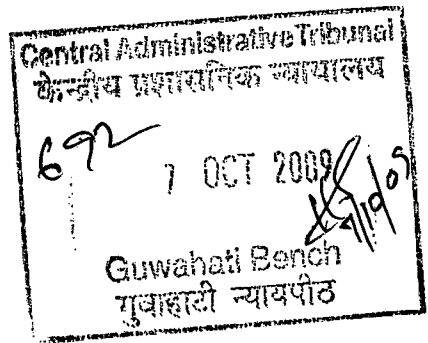
Dr. FASHIDA  
CO. JUNIOR SURGEON

to be true copy

*[Signature]*

Chamuah

High Court



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.

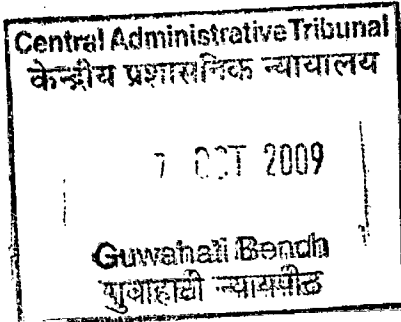
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2.	Verification ...	6

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



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Filed by

07/10/09

Dr. M. C. Sarma

M.Com, Ph.D., LL.B.

Advocate, Gauhati High Court.

Railway Advocate, Central Administrative Tribunal,  
Guwahati

मुख्य स्वास्थ्य निदेशक, गुवाहाटी  
Chief Health Director/12.

पु. सी. रेल, मालीगाँव, गुवाहाटी-781011  
N. F. Rly., Maligaon, Guwahati-781011

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 statements 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 adjacent 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 outstation 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,  
Hon'ble Bench (Advocate)  
7/10/09 for Mr. A. Chandra

(2)

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

7 OCT 2009

4. Parawise comments:

4.1 That as regards paragraphs 4(a) and 4(b), 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 Hospital, 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 permanently 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 submitted 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, गुवाहाटी  
Chief Health Director, N. F. Ry., Maligaon, Guwahati-781 119  
डॉ. सी. रेड्डी, मालीगाँव, गुवाहाटी-781 119

(3)

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

7 OCT 2009

Guwahati Bench  
গুৱাহাটী বেঞ্চ

Guwahati. It was intended that after her satisfactory treatment and medical care and after the applicant was declared a 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

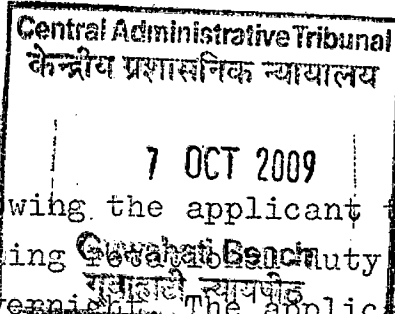
...P.4....

मुख्य स्वास्थ्य निदेशक, गुवाहाटी  
Chief Health Director/MD

पू. सी. रेड्, मालीगाँव, गुवाहाटी  
N. F. Rly., Maligaon, Guwahati



(4)



and issued a modified order allowing the applicant to return to Maligaon after performing rotational 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

(5)

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

7 OCT 2009

Guwahati Bench  
গুৱাহাটী ন্যায়ালয়

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 at 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.

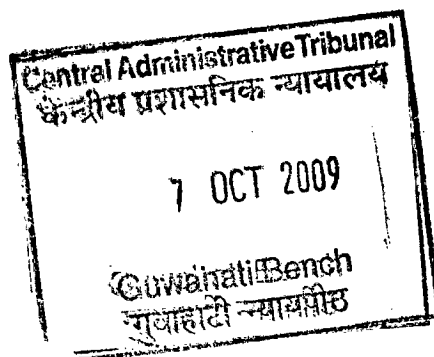
..... P..6.....

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मुख्य स्वास्थ्य निदेशक, गुवाहाटी  
Chief Health Director/In-2.  
पु. सी. रेल, मालीगाँव, गुवाहाटी-781001  
N.F. Ry., Maligaon, Guwahati-781

(6)

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 RA 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.

✓

Signature

CHD/HQ

Designation.

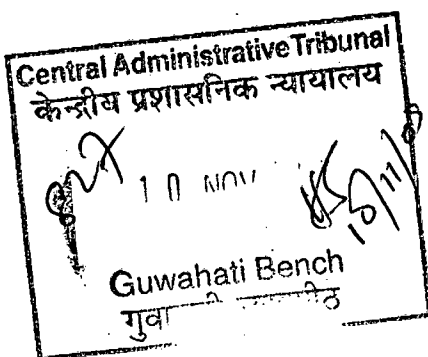
मुख्य स्वास्थ्य निदेशक/मुख्यालय  
Chief Health Director/HQ  
पू. सी. रेल, मालीगाँव, गुवाहाटी-781011  
N. E. Rly., Maligaon, Guwahati-781011

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:

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

10/11/09

M.C. Sanyal  
Ry. Advocate

Filed by  
The Applicant  
Through:  
Mrs. Santa Barpujari  
10/11/09  
Roopali Deka

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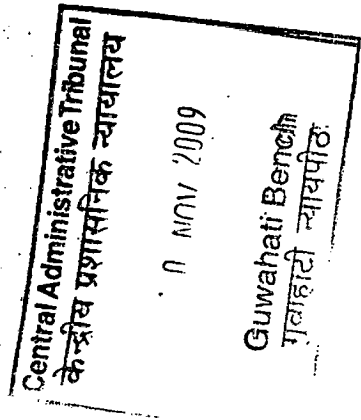
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respondents have tried to establish the unwillingness of the applicant to attend the line duty in Lumding on some false pretext.

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.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
10 NOV 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

- 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

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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.

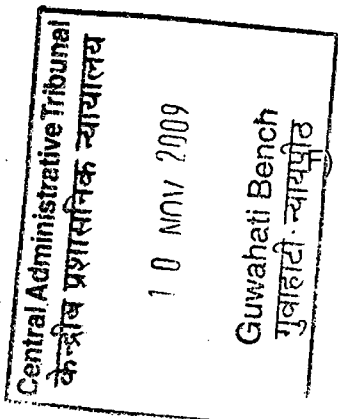
- E) The respondents, more particularly the respondent no.3 & 4, should understand their limitations and should always remember that "the preservation of human life is of paramount importance, because if one's life is lost, the Status-Quo-Ante can not be resorted as resurrection is beyond the capacity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

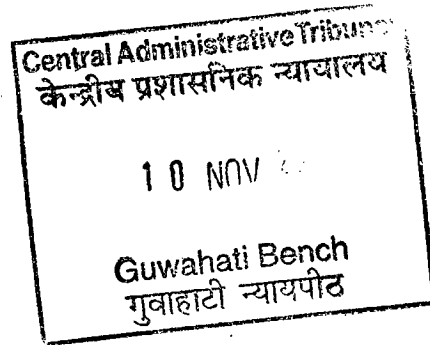
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India. On the contrary, the respondents are issuing their prestige and to show their administrative supremacy the respondents are even ready to see the death of the applicant, which makes no sense for them. The respondent authority can't depart from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

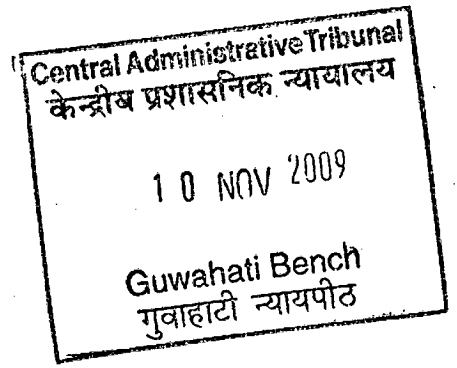
5. That the applicant begs to state and submit that such autocracy of the respondent authority is out and out violation of the established Principles of service jurisprudence and Principles of natural justice. The applicant further begs to state that this is oppression upon the applicant. The respondents, 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 Dekar





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 9<sup>th</sup> day of November 2009 in Guwahati, Assam.

Identified by

Mrs. Santa Barpujari.  
Advocate/ Advocate's Clerk

Roopali Deka.  
Signature/Deponent