

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 249.2009-3008  
R.A./CP/NO.....2015  
E.P./M.P./NO.....2015

1. Order Sheets..... 01..... pg..... 01..... to..... 02 ✓
2. Judgment/ order dtd. 11.01.2010 pg..... to.....  
(in order sheet)
3. Judgment & Order dtd..... received from H.C. /Supreme Court.
4. O.A. .... 249/09 ..... page..... 01 ..... to..... 22 ✓
5. E.P/M.P. ..... page..... to.....
6. R.A./C.P. ..... page..... to.....
7. W.S. ..... Page..... to.....
8. Rejoinder..... page..... to.....
9. Reply ..... page..... to.....
10. Any other papers ..... page..... to.....

*B.D.J. 21.7.2015*

SECTION OFFICER (JUDL.)

*21.7.2015*

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

1. ORIGINAL APPLICATION No : 249 / 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Dr. (Mrs) Roopali Deka

Respondent (S) : u - o - 1 902

Advocate for the : Ashim Channan, Mrs. K. Bokpuzari  
{Applicant (S)}

N. K. Kohita

Advocate for the : Railway advocate  
{Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in terms of Rule 42 of the O.A. Date 26.11.09 No. 39/01/442325 Dated 26.11.09</p> <p>Dy. Registrar</p> <p>Steps taken alongwith envelops. undertaken given for Service by</p> <p><u>27/11/09</u></p> <p><u>80 (C)</u></p>	30.11.2009	<p>Applicant's grievance is that she was on medical leave from 18<sup>th</sup> September to 22<sup>nd</sup> February 2009, when she applied for leave on Half Average Pay (LHAP) <del>but</del> she forgot to mention the word "commuted". For that reason the Respondents have taken a decision to recover a sum of Rs. 3,00,726/- from her salary. When Applicant filed representation for necessary correction, the Respondents rejected the same vide communication dated 28.08.2009 taking the shelter citing para 505 of IREC Vol-I, stating conversion of one kind of leave into another can not be made beyond 30 days.</p> <p>Learned counsel for the Applicant has submitted that Applicant is having 512 days LHAP to her credit.</p>
		Contd/-

Contd/-

25/9/09

30.11.2009

In view of above, Admit. Issue Notice

Respondent Rule 11(1)(ii) of C.A.T(Procedure)

Rules 1987. It was prayed that the Respondents be restrained from making recovery of Rs 30,073/- per month from her salary. We find that prima facie case has been made out and she would suffer irreparable loss and injury. Accordingly, we restrain the Respondents from making any recovery from her salary of the Month of December 2009.

List on 14.12.2009.

~~(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)~~  
Member (A) Member (J)

R  
Notice and order  
received for Respondent  
No 2.  
S.C. Railways  
for Dr. J.L. Sankar  
14.12.2009

/lm/

14.12.2009

On the request of Dr. M.C. Samanta, learned Counsel for Railways two weeks time is extended to file reply.

List the matter on 11.01.2010.

Interim order shall continue.

~~(Madan Kumar Chaturvedi)~~  
Member (A)

~~(Mukesh Kumar Gupta)~~  
Member (J)

Copy of notice along with 11.01.2010  
order dt. 30/11/09, 14/12/09  
Send to D/Scc. for issuing  
to the resp. no- 1 by speed  
post, A/D at the cost of  
applicant.

Heard Mr. A. Chamaah appearing on behalf of applicant and also Dr. M.C. Samanta, appearing for Respondents. Dr. M.C. Samanta, learned Standing counsel for Respondents states that Respondents have conceded to grant relief as prayed for by applicant in present case.

In the circumstances O.A. is disposed of requiring the Respondents to pass appropriate order granting appropriate relief to applicant within a period of two (2) weeks and consequential action to follow i.e. grant of leave on Half Average Pay (LHAP) as commuted. No costs.

~~(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)~~  
Member (A) Member (J)

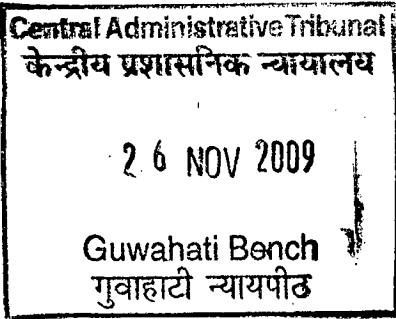
Received order dt. 11/1/10. Wb  
for Mr. A. Chamaah. Adv.  
by me  
Minal Kumar Adv.  
18/1/10. Adv.

/PBD/

15/01/2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No. 249 2009



Dr. (Mrs.) Roopali Deka

Applicant

Versus

The Union of India & Ors

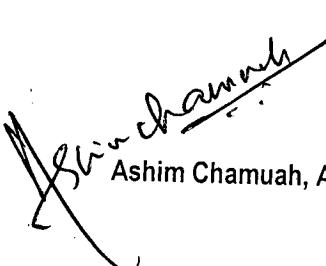
Respondents

SYNOPSIS

The applicant before this Hon'ble Tribunal 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. In the year 2008 on 18/09/08 the applicant fell seriously ill and she was admitted into the ICU immediately. Thereafter, she had been taken to the Cardiac Institute of Perambur, Chennai, Southern Railway for advance treatment and after a rigmarole of 5 months medicinal fight the applicant recovered and resumed her duties on 23/02/09 but she had to go on leave again on 24/02/09 for 10 days and she finally resumed her duties on 06/03/09. On 06/03/09 the applicant applied for her Leave in the prescribed format and she applied for Leave on Half Average Pay (LHAP) but inadvertently she forgot to mention the word "Commuted". And for that reason the Respondent Authority started deducting Rs.30, 073/- per month from the salary of the applicant from the Month of May 2009. The applicant filed representation to this effect but the Respondents declined to consider any representation.

Importantly, the Respondents Authorities have not issued any prior notice deducting such a huge amount from the salary of the applicant. The Respondents neither passed any formal order to this effect nor communicated the applicant informing the details of the purported overdrawn and the total amount to be deducted from the salary of the applicant. Being aggrieved, the applicant filed this Original Application for redressal of her Grievance.

Filed By

  
Ashim Chamuah, Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No. 249 2009

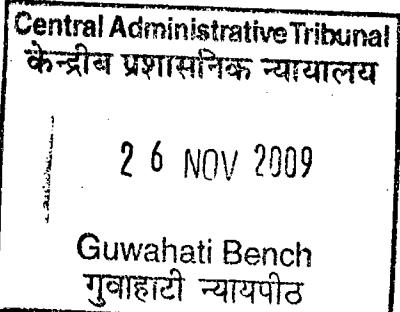
Dr. (Mrs.) Roopali Deka

Applicant

Versus

The Union of India & Ors

Respondents



LIST OF DATES

<u>Sl No.</u>	<u>Date</u>	<u>Particulars</u>
01.	18/09/08 to 22/02/09	Period of Leave (158 Days)
02.	06/03/09	Date of Application for Leave.
02.	15/06/09	Representation of the applicant praying conversion of the LHAP to Commuted LHAP
03.	16/07/09	Reminder to the representation dated 15/06/09.
04.	28/08/09	Impugned Letter rejecting the representations of the applicant.

Filed By

*Ashim Chamuah*  
Ashim Chamuah, Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No. 249 2009

Dr. (Mrs.) Roopali Deka

Applicant

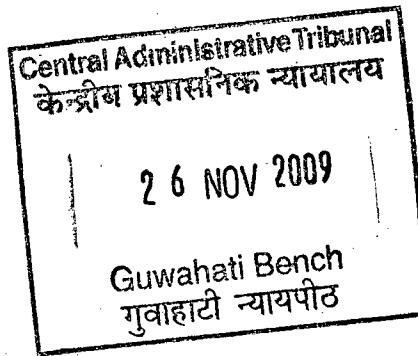
Versus

The Union of India & Ors

Respondents

INDEX

<u>SL NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
1.	Body of the Petition	1 — 9
2.	Verification & Affidavit	10 — 11
3.	Annexure 1	12 — 15
4.	Annexure 2	16 — 19
5.	Annexure 3	20
6.	Annexure 4	21
7	Annexure 5	22



Filed by

Ashim Chamuah  
Advocate

*Ashim Chamuah*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

ORIGINAL APPLICATION No. 249 2009

filed by the Applicant  
through  
S. C. Chatterjee  
Advocate

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 General Manager (Personnel)

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

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

4. The Chief Medical Director

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

5. The Medical Director

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

Respondents

## DETAILS OF APPLICATION

### **1. PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE**

This application has been preferred against illegal recovery from monthly salary, non-adjustment of leave account and illegal and arbitrary denial to grant commuted leave. The crux of the matter is that the applicant was on sick leave from 18<sup>th</sup> September 2008 to 22<sup>nd</sup> February 2009 under medical certificate from appropriate authority. The applicant is a Cardiac patient along with Type 2 Diabetic, Hypertension and HbE diseases due to which 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. While joining her duties after the aforesaid period the applicant applied for leave under appropriate medical certificate. In the said application she prayed for granting leave from "LEAVE ON HALF AVERAGE PAY" (herein after referred to as LHAP) account but inadvertently she forgot to mention the word "COMMUTED LEAVE". Later on, the applicant applied before the authority to grant the said leave as Commuted Leave, which, however, had been rejected by the General Manager (P) citing the Paragraph 505 of IREC Vol-1 vide his Letter No.363E/1/3720(O) dated 28/08/09.

### **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) and Grade-A Gazetted Officer (in short "Sr. DMO"), specialist in Obstetrics and Gynaecology (O&G) in the said Hospital and she is due to retire on 31<sup>st</sup> December 2013 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 (Contd.)

Roopali Deka

Central Administrative  
केन्द्रीय प्रशासनिक

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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 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 she requires 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.

4(D) That the applicant on 18/09/08 suddenly fell ill and admitted into the Hospital immediately and she had to go for a prolong treatment for recovery upto 22/02/09 and after a rigmarole of medicinal fight the applicant became little fit to resume her duties and she resumed her office on 23/02/09. But again on 24/02/09 she had go on leave for 10 days upto 05/03/09 and finally she resumed her duty on 06/03/09.

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4(E) That the applicant applied for leave vide her application dated 06/03/09 and the applicant sought for LHAP but due to slip of pen the applicant had not mentioned the word "Commututed". In fact, that is not a mistake and non-mentioning of the word 'Commututed' makes no difference since a person was on sick leave for a continuous period about 5 months and the leave she/he sought for would definitely be "Commututed" only. The applicant begs to state that there are many instances that the Railway Servants never mentioned the word "Commututed" while applying for LHAP but they have been allowed Commuted Leave. The respondents, in the instant case, also granted the leave as Commuted Leave only but later on that had been manipulated at the behest of some autocratic persons and that is why the respondent authority did not take any action for first 2 months i.e. for the month of March and April 2009 and they allowed the applicant to draw full salary but they started deducting (Contd.)

Roopali Deka

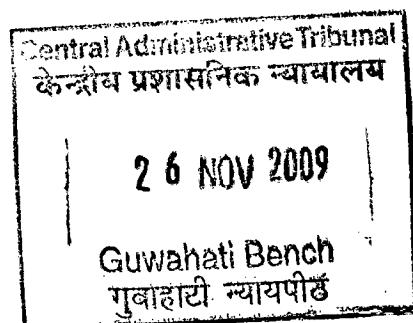
money from the salary of the applicant from the month of May 2009 onwards @ Rs.30,073/- (Rupees Thirty Thousand Seventy Three) only per month.

Rospoli Deka

4(F) That prior to resuming her Office on 06/03/09, the Respondents had issued 2 orders directing the applicant to move to Lumding on line duty twice a week including night stay at Lumding vide orders dated 18/03/09 and 03/04/09 without considering the medical board's advice, which, however, had been challenged in the Hon'ble Gauhati High Court by filing a Writ Petition being W. P.(C) No.1586/09. The Hon'ble High Court, however, while dismissing the Writ Petition for want of jurisdiction given an interim order and advised the applicant to approach this Hon'ble Tribunal for redressal of her grievance. The applicant, as per the advice of the High Court approached this Hon'ble Tribunal by filing an Original Application being O. A. No.85 of 2009 wherein this Hon'ble Tribunal was pleased to grant interim relief to the applicant vide order dated 14/05/09 until the disposal of the said application.

4(G) That the Respondents getting annoyed with the order of the Hon'ble High Court and Hon'ble Tribunal started finding any flaw of the applicant and they have left no stone unturned to punish the applicant. There are many instances by which it can be showed that how cruel some Government Officers may be. The then General Manger (Mr. A. Swami) compelled his subordinates to serve a show cause notice, vide Notice Dated 03/04/09, upon the applicant when she was admitted into the Intensive Care Unit of the Maligaon Central Hospital and this is probably the last instance of arbitrariness and autocratic behaviour of any Government Servant.

Be that as it may, the respondent authority could do nothing against the applicant since she was under the protection of this Hon'ble Tribunal and the concerned Doctor of Maligaon Central Hospital had referred to Cardiac Institute of Perambur, Chennai, Southern Railway for advance treatment. When she became fit to join her duty and applied for granting leave vide application dated 06/03/09 and the applicant due to slip of pen did not mention the word "Commututed leave" which were to be deducted from the LHAP Account. Then the respondents arbitrarily and with all *malafide* intention magnified a small thing and the Respondents started deducting Rs.30,073/- (Rupees Thirty Thousand Seventy Three) only per month from the salary of the applicant from the month of May 2009 without assigning any reason and without any prior notice and on being asked by the applicant as regard the deduction of the said sum the Respondent No.4 & 5 replied that this deduction is made because of non-mentioning of the word "Commututed" in the Leave Application. (Contd.)



Photostat copy of the Salary Slip from the Month of May 2009 to November 2009 are annexed hereto and marked as Annexure-2 (Series).

Ropali Deka

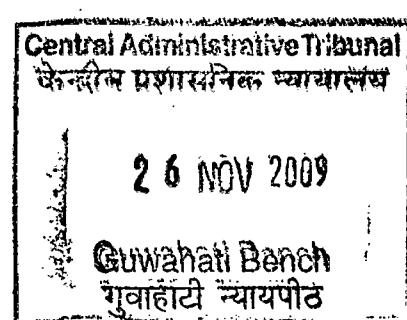
4(H) That the applicant having received the salary slip for the month of May 2009 had came to know that a sum of Rs.30,073/- (Rupees Thirty Thousand Seventy Three) only has been deducted from the monthly salary of the applicant since it was purported to be overdrawn as per the calculation of the respondent authority. The contention of the Respondents is that since the applicant applied for Leave on Half Average Pay (LHAP) for sick leave period i.e. from 18/09/09 to 22/02/09 (158 days) and she was getting full salary for that period for which she is not entitled to as such the Respondents ordered for recovery of the excess payment made to her and since May 2009 the Respondents are deducting Rs.30,073/- (Rupees Thirty Thousand Seventy Three) only per month from the monthly salary of the applicant.

4(I) That it is most pivotal to mention herein that the respondent authority till to date neither issued any notice to the applicant informing the decision of the Respondents to recover a certain amount as purported to be overdrawn nor informed the applicant in writing about the total amount to be recovered from the applicant. This has created an anomalous situation in the life of the applicant. The applicant after much persuasion could come to know that the Respondents will recover a total sum of Rs.3, 00,726/- in 10 months. It has already passed 7 months that the Respondents are deducting money from the salary of the applicant illegally and without any authority.

4(J) That after having the information through the salary slip for the month of May 2009 the applicant immediately made an application to the Chief Medical Director i.e. The Respondent No.4 for conversion of her LHAP into the Commuted LHAP vide Application dated 15/06/09 which had duly been received by the said Respondent's office on the said date itself. But the Respondents did nothing on the application of the applicant.

A copy of the said applications dated 15/06/09 is annexed hereto and marked as Annexure-3.

4(K) That when the Respondents are doing nothing with the aforesaid application filed by the applicant, the applicant again filed a representation vide letter dated 16/07/09 referring to her earlier letter then the Respondents issued the impugned reply vide letter No.363E/1/372(O) dated 28/08/09 stating *inter alia* that conversion of leave from one into another may be (Contd.)



granted if it is applied within 30 days of granting the main leave application. The Respondents referred to the IREC Paragraph 505 (Vol.1) while rejecting the representation of the applicant.

Photocopies of the application dated 16/07/09 and reply letter dated 28/08/09 are annexed hereto and marked as Annexure 4 & 5 respectively.

Rasopali Dekha

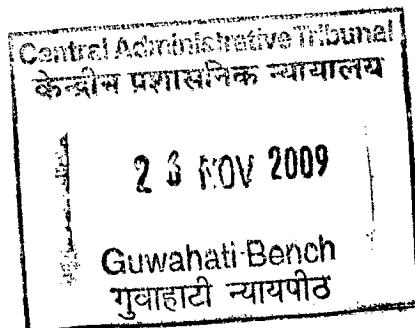
4(L) That it is true that the applicant in his application applied for the conversion of the leave from LHAP into Commuted LHAP on 15/06/09 that means she applied for conversion of leave after almost 90 days. So the Respondents Authority in the guise of Rule 505 of the Indian Railway Establishment Code replied that conversion can not be granted after 30 days as such the respondent authority started deducting money from the salary of the applicant, however, without serving any notice and even without showing to the applicant, the calculation of the total amount purported to be overdrawn and the said act of the respondents is *prima facie* a violation of the Principles of Natural Justice.

That apart, it is most pertinent to mention herein that by the application dated 15/06/09 and 16/07/09 the applicant never applied for conversion of her Leave from LHAP to any kind of OTHER LEAVE but requested to grant the said leave as Commuted and no way that is a conversion of its kind so the Rule 505 has no implication in the instant case.

4(M) That the applicant respectfully states and submits that the applicant is having 512 days LHAP to her credit. The Salary Slip for the month of May 2009 to November 2009 is showing the said data. If the applicant is having 512 days LHAP to her credit that means it is equal to 256 days Full Day but the applicant was on leave for 158 days only. So without exhausting the leave existed into the credit of the applicant the respondent can not say that the applicant has overdrawn any money since she was paid in full for her leave period. It is pertinent to mention herein that the applicant is having 512 days LHAP and 315 days LAP to her credit as on 30<sup>th</sup> May 2009.

4(N) That the respondents have verbally stated that they will recover a total sum of Rs.3,00,726/- (Rupees Three Lakhs Seven Hundred Twenty Six) from the salary of the applicant since, as per their view, the said amount is overdrawn by the Applicant.

(Contd.)



Roshali Deka.

## 5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

5(a) That the order of recovery of Rs.3,00,726/- (Rupees Three Lakhs Seven Hundred Twenty Six) from the salary of the applicant is out and out illegal so far as the relevant leave Rules of the Indian Railway Establishment Code is concerned.

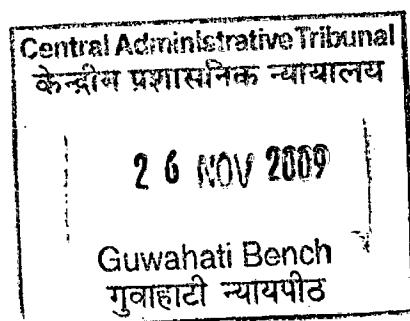
5(b) That the order for recovery from the salary of the applicant without serving any prior notice is ***prima facie*** violation of the Principles of Natural Justice hence liable to be interfered with.

5(c) That without exhausting the leave existed into the credit of the applicant the Respondents can not pass an order holding the salary drawn during the leave period as overdrawn. Hence the impugned actions of the Respondents are not sustainable in law and as such liable to be set aside and/or quashed.

5(d) That by the applications dated 15/06/09 and 16/07/09 the applicant never applied for conversion of her Leave from LHAP to any kind of OTHER LEAVE but requested to grant the said leave as Commuted one and no way that is a conversion of its kind so the Rule 505 has no implication in the instant case as such the decision of the Respondents are bad in law and liable to be quashed and/or set aside.

5(e) That the leave granted to the applicant were under the appropriate medical certificate hence there is no perversity in law to grant Commuted Leave to the applicant for which she is entitled to. Even then the applicant due to slip of her pen failed to mention the word "Commuted" but her intention was crystal clear that she had applied for Commuted Leave from her LHAP Account, which is still standing as 512 days to her credit. The applicant respectfully submits that it is an established practice in the Respondents' organisation that while a person applied Leave from his/her LHAP account it is treated as Commuted Leave if it is not a single day leave. And in the instant case the applicant was continuously on leave for 158 days so there is no reason why the applicant will apply for non commuted leave. From the said fact it could be reasonably perceived that the intention of the applicant was quite clear that she had applied for Commuted Leave only. Hence the impugned actions of the Respondents are liable to be interfered with.

(Contd.)



5(f) That the impugned action of the Respondents Authority is without authority and without appropriate written order so *prima facie* bad in law as such liable to be interfered with.

5(g) That the impugned action of the respondents are the outburst of their anger since they failed to exercise their autocratic official supremacy hence they are out and out bias, *malafide* and arbitrary as such liable to be interfered with.

5(h) That the applicant begs to submit that such autocracy of the respondent authority is a glaring example of violation of the established Principles of service jurisprudence and Principles of Natural Justice. The applicant further begs to state and submit that this is oppression upon the applicant. The respondents, for any reason whatsoever, can not put the applicant into a troublesome service condition which is an absolute departure from the welfare nature of the organisation. The Indian Railway being a model employer of the Country shall not act so arbitrarily.

#### 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

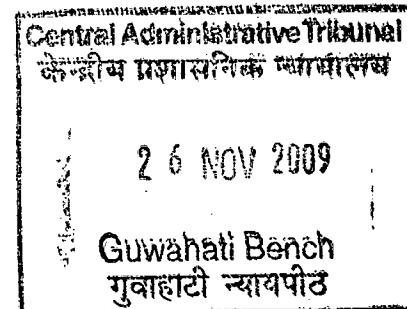
The applicant declares that there is no case pending before any other court of law or Tribunal pertaining to the same subject matter between the same parties.

#### 8. RELIEF SOUGHT FOR

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

8(i) The order of recovery from the salary of the applicant to the tune of Rs.3,00,726/- (Rupees Three Lakhs Seven Hundred Twenty Six) which is being deducted @ Rs.30,073/- per month shall be quashed and/or set aside.

8(ii) The order dated 28/08/09 passed in reply to the application (16/07/09) of the applicant, being illegal, unreasonable and perverse in Law; shall be set aside and/or quashed. (Contd.)



Roopali Deka.

8(iii) The respondent authority be directed to refund the amount already recovered from the Salary of the applicant since May 2009 upto date.

8(iv) The respondent authority be directed to adjust the leave of the applicant (158 days) from the LHAP account as commuted leave and all other consequential relief as admissible in law.

#### 9. INTERIM RELIEF

In the above facts and circumstances, pending disposal of this Original Application, the applicant prays for an interim order staying the recovery of Rs.30,073/- per month from the salary of the applicant.

10. That this application is filed through Lawyer.

#### 11. PARTICULARS OF POSTAL ORDER

IPO No. 39G 442325

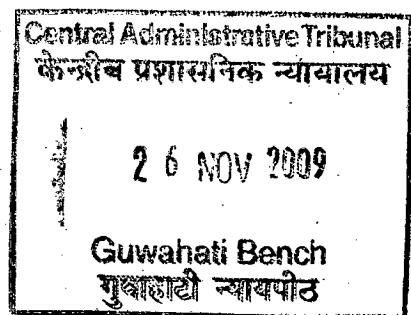
Date of Issue: 26/11/09

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



(Contd.)

## VERIFICATION

aged about 52 years

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 26<sup>th</sup> day of Nov. 2009 in Guwahati, Assam.

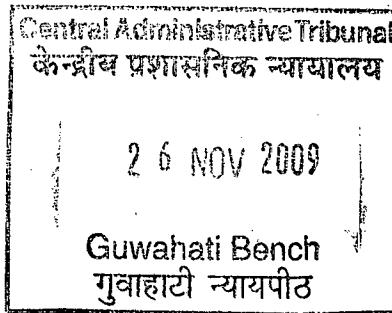
Identified by

*Shrimanta Talukdar*  
26.11.09

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:

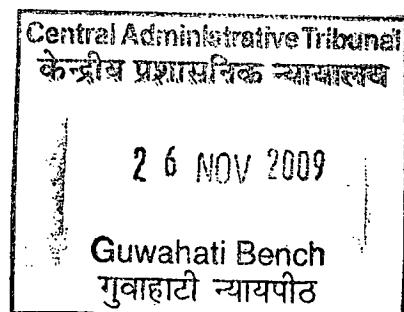
1. That I am the applicant in the instant case as such I am well acquainted with the facts and circumstances of the case and I am authorised to swear this affidavit.
2. That the statements made in this affidavit and its accompanying petition's statements made in the paragraph 1, 2, 3, 4(A) to 4(D), 4(E)part,  
4(F) to 4(N), 6 & 7 are true to the best of my knowledge and belief and the statement made in the paragraphs 4(E)part, 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 26<sup>th</sup> day of Nov 2009 at Guwahati.

Identified by

*Ahruba Tahidar*  
26.11.09

Advocate's Clerk



*Roopali Deka*  
Deponent

IMPLANTED DEVICE  
IDENTIFICATION CARD

Dr. Miss Ruplai Niog,  
c/o Late B. R. Neog, Pubsarauia,  
P. O. Silpukuri, Model 5989 Rate  
India.

Phone Serial Number EE1010110R

Device: Cardiac Pacemaker Type of Leads 6961

Type: Demand Date of Implant Jan. 9, 1982

IN CASE OF EMERGENCY CONTACT PHYSICIAN  
IDENTIFIED ON REVERSE OF CARD



Physician DR. S. C. Kundu

2691

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

Phone Number

Medtronic

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

Certified to be true copy  
A. Chamanah  
A. Chamanah

**IMPLANTED DEVICE  
IDENTIFICATION CARD**



Medtronic, Inc. Minneapolis, Minnesota, U.S.A.

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



Physician:

Dr. T.D.Bhattacharjee,  
Dr. Basu Mallik  
Address: B.R.Singh Hospital,  
Sealdah,  
Calcutta.

1E-703

Phone Number:

35 4075

**Medtronic**

Central Administrative Tribunal  
केन्द्रीय ग्रामसंनिक न्यायालय

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

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

Name **DR. RUPALI DEKA** Rate **70PPM**  
Address **276, Nambowari, Maligaon,**  
**GUWAHATI-781011**  
Phone **571574.** **STAMPORARY** 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

Physician's Name **DR. K. A. ABRAHAM.**  
Address **Chief Cardiologist**  
**Railway Hospital,**  
**Perambur, CHENNAI-600023.**  
Phone **6443051**  
**SI-NW-681**

FORM 80-1511-0400/1

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 NOV 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

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

Sl.No.1037

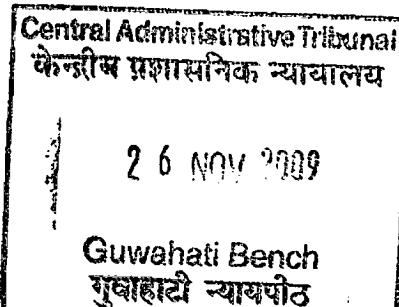
Referred by :

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 overlay

Next follow up on : Review after three months.

Doctor's signature

Dr. SRIRAM RAJAGOPAL M.D., D.M (Card)  
SENIOR CARDIOLIST  
SOUTHERN RAILWAY HOSPITAL  
AYANAVARAM, CHENNAI-600 023.



Guwahati Bench  
26 NOV 2009

600Z AON 9 7

- 81 -

Guwahati Bench  
Date of hearing: 26 NOV 2009  
File No. 10010/2009  
Subject: Application for stay of execution of order of  
trial Administration Tribunal

The Chief Medical Director,  
N F Railway,  
Maliogaon.

Date: 15.06.2009

Through proper channel.

**SUBJECT: Conversion of sick period to commutate leave from 18<sup>th</sup> September 2008  
To 22<sup>nd</sup> February 2009.**

Sir,

I have the honour to inform you that I have noticed in my pay slip of May 2009 about some recovery of over payment during my sick period from 18<sup>th</sup> September 2008 to 22<sup>nd</sup> February 2009. On further enquiry I have come to know that it happened due to my application about the sick period where I wrote "Half LAP from 18<sup>th</sup> September 2008 to 22<sup>nd</sup> February 2009". Actually it was a slip of pen and my intention was to apply for conversion of the sick period to Commutate leave where my sick period will be deducted from my LAP account. I am extremely sorry for the mistake and I request you to kindly look in to the matter and take necessary action to convert the sick period from 18<sup>th</sup> September 2008 to 22nd February 2009 to commutate leave.

Enclosed herewith the copies of fresh applications for commutate leave.

Yours sincerely

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

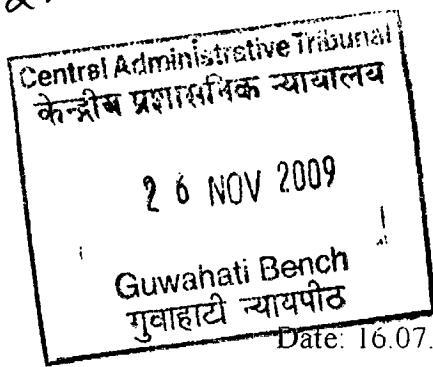
Roopali Deka

Dr. Roopali Deka  
Sr. DMO/CH/MLG

Certified to be true copy  
Ahammad  
Ahr

To

The Chief Medical Director,  
N F Railway  
Maligaon.



Through proper channel

*Subject: Conversion of sick period to commuted leave from 18<sup>th</sup> September 2008 to 22<sup>nd</sup> February 2009.*

*Ref. My previous letter to you dated 15.06.2009*

Sir,

Ref. as above I would like to inform you that I have applied for commuted leave for my sick period from 18<sup>th</sup> September 2008 to 22<sup>nd</sup> February 2009 in place of Half LAP that has been sanctioned by you. I failed to mention about the word commuted leave due to some misunderstanding in my said application. I came to know about the mistake after I received the pay slip of month of May 2009 only and I appealed for correction in my previous letter dated 15.06.2009. But I found that no action has been taken so far. Therefore sir I request you again to kindly look in to the matter and take necessary action.

I would like to mention again that I applied for half LAP for the said period where I failed to mention about the word commuted leave due to slip of pen and actually I wanted to mean LHAP as commuted leave to be deducted from my LHAP account, which I have already mentioned in my previous application.

Yours Sincerely

Dr. Roopali Deka  
Sr DMO/CH/MLG

*\*Attached a copy of my letter dated 15.06.2009*

Copy to :

1. GM(P), N F Rly. /MLG

*Roopali Deka*

Dr. Roopali Deka  
Sr. DMO/CH/MLG

*Certified to be true copy  
J. Chennu  
J. Ch.*

N.F.RAILWAY

Office of the  
General Manager(P),  
Maligaon, Guwahati-11.

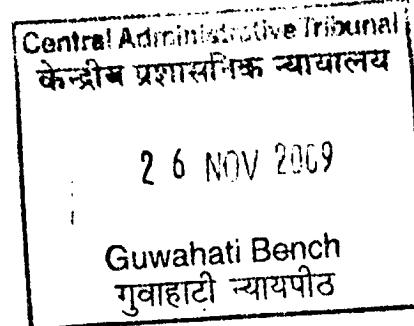
No 363E/1/372(O)

Dated: 28.08.2009

To,  
✓ Dr. (Smt) Roopali Deka,  
Sr.DMO/CH/MLG.

Sub. Regularisation of sick period.

Ref. Your letter dated 16.07.2009.



In reference to your letter quoted above, it is to intimate that you ~~were~~ applied for LHAP on 06.03.2009 and accordingly sanction memorandum was issued on 09.04.2009. On 16.07.2009 you again applied for conversion of LHAP into commuted leave i.e. after a period of 4 months.

In terms of Para 505 of IREC Vol-I, conversion of one kind of leave into another to be submitted within 30 days.

In view of above, your request for conversion of LHAP into commuted leave is not permissible.

This issues with the approval of competent authority.

*Vijay*  
28/08/09  
(Dy.CPO/Gaz)  
for GENERAL MANAGER(P)

Copy to:-

MD/CH/MLG for information.

*Vijay*  
(Dy.CPO/Gaz)  
for GENERAL MANAGER(P)

*Certified to be true copy*  
J. Charnath  
ASW.