

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

*Parin 17/7/2015*

*16.7.2015*

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
O R D E R S H E E T

1. ORIGINAL APPLICATION No : 260 / 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) : Shri Subhra Tyoti Hazumdar  
Respondent (S) : Union of India's M/s:  
Advocate for the : Mr. Adil Ahmed.  
{Applicant (S)} Mr. N. Ahmed.

Advocate for the : \_\_\_\_\_  
{Respondent (S)} CGSC.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited v.v.c. P. 22 No. 396438513 Dated 2.11.08</p> <p><i>Sum 0/- Dy. Registrar 2.11.08</i></p>	10.12.2009	<p>Applicant claims medical reimbursement of Rs.18,222/- stating that his wife was admitted in a private Hospital in emergency situation as reflected vide communication dated 15.12.07, Yet the said claim has not been allowed.</p> <p>In view of the above admit. Issue notice to the respondents requiring them to file reply within four weeks, under Rule 11(1)(i) of C.A.T (Procedure) Rules, 1987. List on 21.1.2010.</p> <p><i>M. Das</i></p>
<p>(Four) copies of application with envelope served for issue notice to the Respondent Nos 3... Copy Served</p> <p><i>14/08/2009</i></p>	21.01.2010	<p>On the request of Mrs M. Das, learned counsel for the respondents four weeks time is extended to file written statement.</p> <p>List on 22.2.2010.</p> <p><i>M. Das</i></p>
<p>K. Das Served notice to the respondents under Rule 11(1)(i) C.A.T (Procedure) Rules 1987.</p>		<p>(Madan Kr. Chaturvedi) Member (A)</p> <p><i>M. Das</i></p>
		<p>(Mukesh Kr. Gupta) Member (J)</p>

/pg/

2

O.A.260-09

22.02.2010

Time is extended by two weeks to file reply, as prayed for by Mrs.M.Das, learned counsel for the Respondents.

List on 16.03.2010.

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

/bb/

16.03.2010

Mrs.U.Dutta, proxy counsel for Mr.A.Ahmed, learned counsel for applicant makes a prayer for four weeks time to file rejoinder.

List on 13.04.2010.

(Madan Kr. Chaturvedi)  
Member (A)

/bb/

13.04.2010

Mr M. Chanda, proxy counsel for Mr A. Ahmed, learned counsel for the applicant, prays for three weeks time to file rejoinder.

List on 06.05.2010.

(Madan Kumar Chaturvedi )  
Member (A)

nkm

06.05.2010

Rejoinder has been filed. As the O.A. has been admitted vide order dated 10.12.2009, list the matter for hearing on 01<sup>st</sup> June 2010.

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

/pb/

19.4.2010

Rejoinder has been filed by the Applicant.  
Copy served.

Rejoinder filed.

5/5/2010

01.06.2010 Heard Mr A. Ahmed, learned counsel for applicant and Mrs M. Das, learned Sr. C.G.S.C. for the respondents. Hearing concluded. Orders reserved.



(Madan Kumar Chaturvedi)  
Member (A)



(Mukesh Kumar Gupta)  
Member (J)

nkrm

08.06.2010 Judgment pronounced in open court, kept in separate sheets.

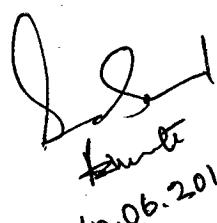
The O.A. is allowed in terms of said order.



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



/PB/

  
10.06.2010  
Received for  
Mrs. M. Das,  
Sr. C.G.S.C.  
C.S. Margarita  
10.6.10

10.6.2010  
Copy Summed up  
applicant, & Respondent  
at order dated 1.6.2010  
by Shivam

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI:

O.A. No.260 of 2009

Date of Decision : 8.06. 2010

Shri Subhra Jyoti Mazumdar  
.....

Applicant/s

Mr. Adil Ahmed  
.....

Advocates for the  
Applicant/s

- Versus -

Union of India & Ors.  
.....

Respondent/s

Mrs. M.Das, Sr.C.G.S.C.  
.....

Advocate for the  
Respondents

CORAM :

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

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

Yes/No

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

Yes/No

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

Yes/No

Judgment delivered by

*Metuvedi*  
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 260/2009.

Date of Order: This the 8th Day of June, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER

THE HON'BLE MR M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Subhra Jyoti Mazumdar  
Son of Late Ratna Mazumdar  
Labour and Enforcement Officer (Central)  
Office of the Labour Enforcement (Central)  
Tezpur, Kumargaon, Dist – Sonitpur, Assam  
Pin – 784001.

...Applicant

By Advocate: Mr A. Ahmed.

·Versus·

1. The Union of India  
represented by the Secretary  
to the Government of India  
Ministry of Labour & Employment  
Shram Shakti Bhawan, Rafi Marg  
New Delhi, Pin – 110001.
2. The Chief Labour Commissioner  
(Central)  
Shram Shakti Bhawan, Rafi Marg  
New Delhi, Pin – 110001.
3. The Regional Labour Commissioner  
(Central), Office of the Regional  
Labour Commissioner (Central)  
Zoo Road Tiniali, Saptrishi Path  
Guwahati, Assam, Pin 781024.

...Respondents

By Advocate: Mrs M. Das, Sr. C.G.S.C.

ORDER

MADAN KUMAR CHATURVEDI, MEMBER (A):

By this O.A applicant prays for a direction to the  
respondents to release the emergency medical bills amounting to Rs.  
18,222/-.

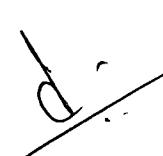
2. On 12.12.2007 at about 4.30 AM the applicant's wife who was in advance stage of pregnancy fell seriously ill. Applicant immediately took her to the nearest private hospital i.e. at Central Nursing Home, Beltola, Guwahati located at a distance of 1 Km away from applicant's residence. On reaching the said hospital he found the main gate was closed and after calling from outside for help nobody came out to open the gate. It is stated that applicant waited in front of the gate for almost half an hour. In the meantime his wife's condition was further deteriorated and he was alone, helpless and mentally very much disturbed. Therefore, without wasting any time there he took his wife to another private nursing home i.e. Midland Hospital & Research Centre (P) Ltd. This is situated about 3 Km away from his residence. At about 6 AM his wife was admitted in Midland Hospital and at 7 AM caesarian operation was done resulting birth of a baby. Thereafter, applicant immediately informed the Regional Labour Commissioner (Central) Guwahati and Assistant Labour Commissioner (Central) Silchar over telephone about the emergency operation of his wife as at the relevant time applicant was on medical leave due to his illness.

3. On 22.1.2008 the applicant submitted bill for reimbursement before the Regional Labour Commissioner, Guwahati. The said medical bill was returned to the applicant on the ground that he did not fulfill the condition for taking medical treatment in emergency as per Chief Labour Commissioner (Civil) instruction dated 9.5.2007.



4. Mr A. Ahmed, learned counsel for the applicant submitted that as per the aforesaid condition applicant is required to produce an emergency medical certificate and admission should be to the nearest private hospital. According to learned counsel applicant submitted the emergency medical certificate for treatment of his wife along with medical bills before the respondent No.3. As regards admission to the nearest private hospital learned counsel explained the circumstances which are narrated in the preceding paragraphs.

5. Mrs M.Das, learned Senior Standing counsel appearing for the respondents vehemently opposed the contentions raised by the applicant. It was submitted that applicant failed to fulfill the condition precedent for availing the emergency medical treatment in a private hospital. It is incumbent on the applicant to prove beyond the shadow of doubt that the private hospital was resorted to because of the real emergency necessitating admission. Applicant was required to approach the nearest hospital. This was not done in the present case. There were other private hospital in the vicinity of the applicant's house but applicant preferred to take his wife to a hospital which was located far away as such he defied the rules. Even assuming that the main gate of the Central Nursing Home was closed applicant ought to have admitted his wife in other nearest private hospital like Down Town, Good Health, Dispur Ployclinic and Dispur Hospital. But the applicant at his own choice admitted his wife at a hospital situated in Zoo Road. Mrs Das relied on the decision of the Hon'ble Delhi High Court in the case of (2003) 1 S.L.J. 304, M.L.Kamra vs. Lt. Governor &



Ors. In this case applicant went to Apollo Hospital for bypass surgery in an emergency because he had no faith in G.B.Pant Hospital. The referral hospital AIIMS did not admit him. It was pleaded before the Hon'ble High Court that right to health is a fundamental right under Article 21 as such reimbursement cannot be denied. On this factual matrix it was held that Government has made reasonable rules to ensure health, there is no violation of Article 21.

6. We have heard rival submissions in the light of the material placed before us and examined the factual details. We have noted that the emergency was caused at an early hour during winter. As stated by the applicant that his wife became seriously ill on 12.12.2007 at about 4:30 AM. She was in the advance stage of pregnancy. At about 6 AM his wife was admitted in Midland Hospital and at 7 AM an emergency caesarian operation was carried out resulting birth of a baby. On this factual matrix it can be said that this was a case of real emergency necessitating immediate medical attention. As per records applicant first took his wife to Central Nursing Home, Beltola which was said to be located nearest to his residence but finding no help despite waiting for half an hour at that place he moved to the Midland Hospital which was not a very far place.

7. In the given circumstances this is not unusual. The facts of the present case cannot be compared with the facts of M.L.Kamra's case referred to above. In that case applicant got admitted in the Apollo Hospital per choice but in the facts of the present case we find that applicant got his wife admitted to Midland Hospital not per choice but



per force of the circumstances. In the given circumstances applicant did not have choice to select the hospital while his wife was undergoing labour pains. In our considered opinion it is not correct to say that applicant did not follow the rules and procedure for taking his wife to the private hospital. We are inclined to agree with the applicant that this case is a case of real emergency and immediate attention was required as such rightly she was admitted into private hospital. There is absolutely no violation of rule and we therefore, direct the respondents to reimburse the medical bills as prayed for in this O.A within a period of 2 months from the date of receipt of this order after due verification.

In the result O.A stands allowed. No costs.

*Madan Kumar Chaturvedi*  
(MADAN KUMAR CHATURVEDI)  
ADMINISTRATIVE MEMBER

*Mukesh Kumar Gupta*  
(MUKESH KUMAR GUPTA)  
JUDICIAL MEMBER

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(An Application under Section 19 of the Administrative  
Tribunal Act 1985)

ORIGINAL APPLICATION NO. 260 OF 2009.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

9 - 9 DEC 2009

Guwahati Bench  
गুৱাহাটী ন্যায়পীঠ

Shri Subhra Jyoti Mazumdar

Applicant

- Versus -

The Union of India & Others

Respondents

SYNOPSIS

Presently the Applicant is working as Labour and Enforcement Officer (Central), Tezpur under the Ministry of Labour and Employment, Government of India. On 12.12.2007 at about 4.30 AM the Applicant wife who was in advanced stage of pregnancy fell seriously ill and the Applicant immediately took her to the nearest private hospital which is approximately 1 KM away from his residence. On reaching the said hospital he found the main gate was closed and after waiting for about half an hour without getting any response, he immediately without wasting any further time took his wife to another private hospital i.e. Midland Hospital & Research Centre (P) Ltd. Sreenagar, near Zoo, R.G. Baruah Road, Guwahati-781005 which is situated about 3 KM away from his residence and admitted her at about 6 AM. An emergency operation (caesarian) was done in the said Midland Hospital & Research Centre (P) Ltd. at 7 AM and baby was born. The Applicant immediately informed the concerned office over telephone about the emergency operation of his wife as at the relevant time he was on Medical Leave. On 22.01.2008 the Applicant submitted the reimbursement of his emergency medical bill for operation and treatment of his wife before the Respondent No.3. The office of the Respondent No.3 vide letter dated 26.02.2008 returned the medical bill to the Applicant by giving the reason of non fulfillment of the Chief Labour Commissioner (Central) instruction dated 09.05.2007 which provide the conditions for taking medical treatment in case of emergency. The Applicant

Subhra Jyoti Mazumdar

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঁচ

submitted an appeal before the Chief Labour Commissioner (Central) New Delhi by giving the details of information of his case and fulfillment of the conditions laid down by him. But till today the Respondents have not paid his emergency medical bill amounting of Rs.18,222/-. Hence, this Original Application for seeking justice in to this matter.

Subhrojyoti Mazumdar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(An Application under Section 19 of the Administrative  
Tribunal Act 1985)

ORIGINAL APPLICATION NO.

OF 2009

Central Administrative Tribunal  
কেন্দ্ৰীয় প্ৰশাসনিক চায়ালয়

Shri Subhra Jyoti Mazumdar

Applicant

- 9 DEC 2009

- Versus -

The Union of India & Others

Respondents

Guwahati Bench  
গুৱাহাটী চায়ালয়

LIST OF DATES

09.05.2007 Para 4.6	The Chief Labour Commissioner (Central) granted certain conditions for taking medical treatment in private hospital in case of emergency.
12.12.2007 Para 4.4	The Applicant wife fell seriously ill due to advanced stage of pregnancy and admitted in private Nursing Home, a baby was born after an emergency operation.
22.01.2008 Para 4.5 Annexure-1	The Applicant submitted reimbursement of his emergency medical bill for operation and treatment of his wife before the Respondent No.3.
26.02.2008 Para 4.6 Annexure-2	The office of the Respondent No.3 returns the medical bill to the Applicant by giving reason that he has not fulfill the condition for taking medical treatment in case of emergency.
27.02.2008 Para 4.8 Annexure-3	Applicant submitted an appeal before the Respondent No.2 praying for payment of emergency medical bill amounting of Rs.18,222/-.

Date: 9/12/09

Filed By:

Varuddin Ahmed  
Advocate

Subhra Jyoti Mazumdar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(An Application under Section 19 of the Administrative  
Tribunal Act 1985)

ORIGINAL APPLICATION NO. OF 2009.

Shri Subhra Jyoti Mazumdar

Applicant

- Versus -

The Union of India & Others

Respondents

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

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6. W/S Rejoinder  
7. Date: 9/12/09

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Filed By:

Naruddin Ahmed  
Advocate

Subhra Jyoti Mazumdar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

(An Application under Section 19 of the Administrative  
Tribunal Act 1985)

ORIGINAL APPLICATION NO. OF 2009.

BETWEEN

Shri Subhra Jyoti Mazumdar  
Son of Late Ratna Mazumdar  
Labour and Enforcement Officer  
(Central),  
Office of the Labour Enforcement  
Officer (Central), Tezpur, Kumargaon,  
District:-Sonitpur, Assam  
PIN:-784001.

Applicant

-AND-

1. The Union of India represented by the Secretary to the Government of India, Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi, PIN-110001.
2. The Chief Labour Commissioner (Central), Shram Shakti Bhawan, Rafi Marg, New Delhi, PIN-110001.
3. The Regional Labour Commissioner (Central), Office of the Regional Labour Commissioner (Central), Zoo Road Tiniali, Saptrishi Path, Guwahati, Assam  
PIN-781024.

Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:

This application is not made against any particular order but praying for a direction from this Hon'ble Tribunal to the Respondents particularly Respondent No.3 for payment of Emergency Medical Bill amounting of Rs.18,222/- to the Applicant which is pending before the Respondents.

Subhra Jyoti Mazumdar

FILED BY

S. S. J. Mazumdar  
Applicant  
through  
Advocate

- 9 DEC 2009

Guwahati Bench  
गুৱাহাটী বৰ্ষাধীন

2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

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

4. FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1] That your Applicant is an Indian citizen by birth. As such he is entitled to get all the rights and privileges guaranteed under the Constitution of India and the law framed thereunder from time to time.

4.2] That your Applicant begs to state that presently he is working as Labour and Enforcement Officer (Central), Tezpur under the Ministry of Labour and Employment, Government of India.

4.3] That Appendix-VIII of Medical Attendance Rules provide Reimbursement in Relaxation of Rules in Emergent Cases. The Gist of Rules is quoted below for kind perusal of this Hon'ble Tribunal:-

Treatment in private hospitals in relaxation of Rules in emergent cases-

In emergency cases of serious accidents or severe illness, an employee or a member of his family may be admitted for emergent treatment in the nearest private hospital (including private nursing home/private clinic) in the absence of a Government or recognized hospital nearer

Subhajit Margamalan

than the private hospital. Reimbursement of expenditure may be allowed in such cases by the Heads of Departments, subject to the following guidelines:

- (1) The question whether it was a case of real emergency necessitating admission in a private institution will be decided on merits by the Controlling Authority.
- (2) Medical expenses incurred in a private hospital are reimbursable without any distinction between private hospitals and private clinics/nursing homes; but treatment in private clinics/nursing homes of AMAs is not permissible.
- (3) There is no limit on the amount that can be reimbursed, but individual ceilings prescribed for various items of treatment under different systems of medicine have to be applied.
- (4) In a case where the expenditure likely to be incurred on the treatment of Government employee or member of his family admitted to a private hospital in emergent circumstances (under the relaxation provision) is beyond the paying capacity of the employee, the Department of the Government of India may authorize the controlling authority to meet directly the expenditure incurred on admissible items of treatment subject to the prescribed limits. The Controlling Officer may make advance payments or advance deposits to the hospital, if demanded.

4.4] That on 12.12.2007, at about 4.30 AM the Applicant wife Smti Rangila Mazumdar who was in advanced stage of pregnancy fell seriously ill. The Applicant immediately took her to the nearest private hospital i.e. Central Nursing Home, Survey, Beltola, Guwahati which is approximately 1 KM away

Subhayita Mazumdar

- 9 DEC 2009

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from his residence. On reaching the said hospital he found the main gate was closed and after calling from outside for help nobody came out to open the gate. He was waiting in front of the gate for almost half an hour. In the meantime, his wife condition was further deteriorated and he was alone, helpless and mentally very much disturbed. As he could not get any service from the said nursing home, he immediately without wasting any valuable time, he took his wife to another private hospital i.e. Midland Hospital & Research Centre (P) Ltd. Sreenagar, near Zoo, R.G. Baruah Road, Guwahati-781005 which is situated about 3 KM (approximately) from his residence. At about 6 AM his wife was admitted in Midland Hospital & Research Centre (P) Ltd. and at 7 AM an emergency operation (caesarian) was done resulting birth of a baby. Thereafter, Applicant immediately informed the Regional Labour Commissioner (Central), Guwahati and Assistant Labour Commissioner (Central), Silchar over telephone about the emergency operation of his wife as at the relevant time Applicant was on Medical Leave due to his severe illness.

4.5] That on 22.01.2008 the Applicant submitted reimbursement of his emergency medical bill for operation and treatment of his wife before the Regional Labour Commissioner (Central), Guwahati. In the said medical bill he enclosed the emergency medical certificate, cash memo, hospital bills and prescription.

Copy of the emergency medical bill alongwith forwarding of the Applicant is annexed herewith and marked as ANNEXURE-1.

4.6] That office of the Regional Labour Commissioner (Central), Guwahati vide letter No.80(1)/2000-Adm.II dated 26.02.2008 return the medical bill to the Applicant by giving reason that the Applicant have not fulfill the condition for taking medical treatment in emergency as per Chief Labour Commissioner (Civil) instruction

Subrata Majumdar

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No. Adm.I/12(7)/92 dated 09.05.2007. It is worth to mention here that there are two conditions for taking medical treatment in emergency as per Chief Labour Commissioner (Central) instruction stated above. Those two conditions are:-

- (1) Production of emergency medical certificate,
- (2) Admission to nearest private hospital.

Copy of the letter No.80(1)/2000-Adm.II dated 26.02.2008 is annexed herewith and marked as ANNEXURE-2.

4.7] That your Applicant begs to state that he has submitted the emergency medical certificate for treatment of his wife alongwith the medical bill before the Respondent No.3. Regarding other condition for admission to nearest hospital it is to be stated that on 12.12.2007 at about 4.30 AM in an emergency condition Applicant first went to his nearest private hospital with his wife but after getting no response from nearest private hospital, then only under the compelling circumstances he took his pregnant wife to Midland Hospital & Research Centre (P) Ltd. Sreenagar, near Zoo, R.G. Baruah Road, Guwahati-781005 which is situated about 3 KM (approximately) from his residence and an emergency operation was carried on to save his wife and baby.

4.8] That on 27.02.2008 the Applicant submitted an appeal before the Chief Labour Commissioner (Central) New Delhi i.e. the Respondent No.2 praying for payment of emergency medical bill amounting to Rs.18,222/-. In the said appeal he has stated all the facts and circumstances for admitting his wife at Midland Hospital & Research Centre (P) Ltd. Sreenagar, near Zoo, R.G. Baruah Road, Guwahati-781005 which is situated about 3 KM (approximately) from his residence instead of his nearest private hospital which is approximately 1 KM away from his residence.

*Subhajit Magamda*

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Copy of the Advance Copy dated 27.02.2008 to the Chief Labour Commissioner (Central) New Delhi is annexed herewith and marked as ANNEXURE-3.

4.9] That it is to be stated that till date the Respondents have not paid to the Applicant the medical bill amounting to Rs.18,222/- for his wife treatment. Due to non payment of medical bill amounting of Rs.18,222/- Applicant is suffering from heavy financial loss. Hence, finding no other alternative the Applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.10] That the Applicant submits that he is entitled for the medical bill amounting of Rs.18,222/-. The Respondents cannot deny the same to the Applicant without any justification.

4.11] That the Applicant submits that the non-payment of medical bill by the Respondents is arbitrary, mala-fide, whimsical and also not sustainable in the eye of law as well as on facts.

4.12] That your Applicant demanded justice and the same has been denied.

4.13] That this application is filed bonafide and for the ends of justice.

##### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1] For that, due to the above reasons and facts, which are narrated in details, the non payment of medical bill by the Respondents is prima facie illegal, mala-fide, arbitrary and without justification.

5.2] For that, the Applicant has submitted the emergency medical bill before the Respondents by enclosing the emergency medical certificate alongwith the details of the

Subhrajit Meghwal

- 9 DEC 2009

Guwahati Bench  
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fact about the compelling circumstances he has to admitted his wife in Midland Hospital & Research Centre (P) Ltd. Sreenagar, near Zoo, R.G. Baruah Road, Guwahati-781005 which is situated about 3 KM from his residence instead of admitting her at nearest private hospital which is situated about 1 KM from his residence. But the Respondents without considering the same returned the medical bill to the Applicant. Hence the action of the Respondents is not maintainable in the eye of law.

5.3] For that, the Applicant has fulfilled the two conditions for taking medical treatment in emergency as per the Chief Labour Commissioner (Civil) instruction No. Adm.I/12(7)/92 dated 09.05.2007. Therefore, he is legally entitled for payment of emergency medical bill as per aforesaid instruction 09.05.2007 in this regard. Hence, the non-payment of emergency medical bill to the Applicant by the Respondents is illegal, mala-fide, arbitrary and not sustainable in the eye of law.

5.4] For that, as per column (4) of the Appendix-VIII of Medical Attendance Rules (Reimbursement in Relaxation of Rules in Emergent cases) in a case where the expenditure likely to be incurred on the treatment of Government employee or member of his family admitted to a private hospital in emergent circumstances (under the relaxation provision) is beyond the paying capacity of the employee, the Department of the Government of India may authorize the controlling authority to meet directly the expenditure incurred on admissible items of treatment subject to the prescribed limits. The controlling Officer may make advance payments or advance deposits to the hospital, if demanded.

5.5] For that, the refusal for payment of emergency medical bill to the Applicant has caused deprivation of his legitimate dues and such deprivation to an Government employee is highly arbitrary, illegal and not sustainable in the eye of law.

Subrata Majumdar

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

5.6] For that, the Applicant has not claimed his emergency medical bill by any fraudulent way, his claim is genuine without any bias.

5.7] For that, the Applicant has submitted his medical bill with due procedure of Rules as stated in Appendix-VIII of medical reimbursement in emergency cases.

5.8] For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The Applicant craves leave of this Hon'ble Tribunal to advanced further grounds at the time of hearing of this instant application.

**6. DETAILS OF REMEDIES EXHAUSTED:**

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

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:**

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

**8. RELIEF PRAYED FOR:**

Under the facts and circumstances stated above, the Applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief (s) sought by the Applicant may

*Sukanya Mazumdar*

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী চায়পীঠ

not be granted and after hearing the parties may be pleased to direct the Respondents to grant the following relief (s) :-

8.1] To direct the Respondents to release immediately the emergency medical bill amounting of Rs.18,222/- to the Applicant.

8.2] To Pass any other relief(s) to which the Applicant may be entitled and as may be deem fit and proper by this Hon'ble Tribunal.

8.3] To pay the costs of the application.

9. INTERIM ORDER PRAYED FOR:

At this stage the Applicant have not prayed any interim order before this Hon'ble Tribunal. However, the Hon'ble Tribunal may be pleased to pass any appropriate order or orders as your Lordship deem fit and proper.

10. THIS APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF I.P.O.:

I.P.O. No. :- 396 438513

Date of Issue :- 2 / 11 / 09

Issued from :- Guwahati GPO

Payable at :- Guwahati

12. LIST OF ENCLOSURES:

As stated in Index.

Verification

Subhrochit Mazumdar

- 9 DEC 2009

## Guwahati Bench গুৱাহাটী ন্যায়পীঠ

## VERIFICATION

I, Shri Subhra Jyoti Mazumdar, Son of Late Ratna Mazumdar, aged about 42 years, Labour and Enforcement Officer (Central), Office of the Labour Enforcement Officer (Central), Tezpur, Kumargaon, District-Sonitpur, Pin-7840001 (Assam) do hereby solemnly verify that the statements made in paragraph 4.1 to 4.4, 4.7 to 4.9 are true to my knowledge, those made in paragraph Nos. 4.5, 4.6

are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the

9<sup>th</sup> day of December 2009

Submageti Mazunda.

DECLARANT

-TYPED COPY-

Office of the RLC (C)  
Guwahati

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

- 9 DEC 2009

Guwahati Bench  
गुवाहाटी न्यायालय

No. 70 (1) / 08-LEO (C) S

Date:- 21/1/2008  
SEAL Date:- 22 JAN 2008

To

The RLC (C)  
Guwahati

Sub:- Submission of emerging medical bills for operation  
and treatment of wife.

Sir,

I am submitting in original the medical bills,  
certificate of allocation of treatment & charges paid and  
med 97 duly filled up by me for treatment and emergency  
operation of my wife amounting Rs.18,222/-.

I, therefore request you kindly to arrange for  
payment of the amount at the earliest.

Enclosed:-

- (1) Emergency Medical Certificate.
- (2) Cash Memo No. 833, 832, 831
- (3) Hospital Bills 3 Nos.
- (4) Prescriptions 3 Nos.

Yours faithfully  
Sd/- Illegible  
(S.J. Mazumdar)  
LEO (C), Shillong

ATTESTED  
ADVOCATE

Office of the RLC(A)

Guwahati

21/11/2008

NO. 70(1)108-LLC/115

22 JAN 2009

To

The RLC(A)  
Guwahati

Sub: Submission of emergency medical  
bills for operation and treatment of  
wife.

Sir:

I am submitting in original the  
medical bills, certificate of allocation of  
treatment charges paid and medical only  
billed up by me for treatment and emergency  
operation of my wife amounting to Rs. 18222.

I, therefore, request you kindly to  
charge for payment of the amount  
at the earliest.

Enclosed: (1) Emergency medical certificate  
(2) Cash memo no 0823822 \$31  
(3) Hospital bills 3 nos.  
(4) prescription 3 nos.

Central Administrative Tribunal  
সর্বোচ্চ প্রশাসনিক ন্যায়ালয়

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পৌত

Yours faithfully

6 PM 11/11/08  
(S. T. Mezamdar)  
D.O.L. & M.L.M.

ATTESTED  
ADVOCATE

9 DEC 2009

Med. 97

Guwahati Bench

Form of application for claiming refund of medical expenses incurred in connection with attendance and / or treatment of Central Govt. servants and their families for Medical attendance / treatment taken from a hospital.

1. Name and designation of Govt. Servant (in block letters) : **SUBHRA JYOTI MAZUMDAR**  
**LABOUR ENFORCEMENT OFFICER (G)**

(I) Whether married or unmarried : **Married.**

(II) If married, the place where wife/ husband is employed : **N/A**

2. Office in which employed : **010 Regional Labour Commissioner (G)**  
**Guwahati**

3. Pay of the Govt. servant as defined in the Fundamental Rules, and any other emoluments which should be shown separately : **Rs 8400/-**

4. Place of duty : **Shillong or Guwahati**

5. Actual residential address : **House no-6, Basisthakpur-1, Guwahati**

6. Name of the patient and his/ her relationship to the Govt. servant (in case of children state age also) : **Mrs Rangila Mazumdar**  
**wife.**

7. Place at which the patient fell ill : **Guwahati, residence**

8. Details of the amount claimed : **Rs 1822/-**

## II HOSPITAL TREATMENT

Name of the hospital/treatment indicating separately the charges for

1) Accommodation (State whether it was according to the status or pay of the Govt. servant and in case where the accommodation is higher than the status of the Govt. servant a certificate should be attached to the effect that the accommodation to which he was entitled was not available) : **Rs 1050/-**

150

ATTESTED  
M  
ADVOCATE

Central Administration of Assam  
কেন্দ্ৰীয় প্ৰশাসনিক কাৰ্যালয়

- 9 DEC 2009

Guwahati Bench  
জুড়া বৰ্ষৰ বৰ্ষৰ

(ii) Diet : Rs 60/-  
(iii) Surgical operation of medical treatment or confinement : Rs 10,000/-  
(iv) Pathological, bacteriological, radiological or other similar tests indicating  
(a) The name of the hospital or laboratory at which undertaken and : Midland Hospital.  
(b) Whether undertaken on the advice of the medical officer in charge of the case at the hospital. If so a certificate to that effect should be attached. : Yes  
(v) Medicines : Rs 516.2/-  
(vi) Special Medicines (Cash memos and the essentiality certificates should be attached) : attached.  
(vii) Ordinary Nursing : Rs 150/-  
(viii) Special nursing i.e. nurses, specially engaged for the patient state whether they are employed on the advice of the medical officer in charge of the case at the hospital or at the request of the Govt. servant or patient. In the former case a certificate from the medical officer in charge of the case and countersigned by the medical superintendent of the hospital should be attached : not  
(ix) Ambulance charges (State the journey to and from undertaken) : nil

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ATTESTED  
M  
ADVOCATE

any other charge, eg. charges  
for electric lights, fan heater,  
air conditioning, etc, state  
also whether the facilities normally  
provided to all the patients and no  
choice was left to the patient.

Nil.

(x) Note : 1. If the treatment was received by the Govt. servant at his residence under Rule 7 of CS(MA) Rules, 1944, give particulars of such treatment and attach a certificate from the authorised medical attendant as required by these rules.)

Note : 2 If the treatment was received at a hospital necessary details and the certificate of the authorised medical attendant that the requisite treatment was not available in any nearest govt. hospital should be furnished.

III Consultation with specialist:-

Fees paid to a specialist or a medical officer other than the authorised medical attendant, indicating

(a) the name and designation of the specialist or medical officer consulted and the hospital to which attached.

Dr (Mrs) Tulika Goswami, M.D.

Rs 10.00/-

Dr (Mrs) Tulika Goswami, M.D.

Midland Hospital, Guwahati

(b) number and dates of consultation and the fees charged for each consultation.

Enclosed certificates.

Central Appellate Court  
केन्द्रीय प्रशासनिक अदायक

- 9 DEC 2003

Guwahati Bench  
गुवाहाटी न्यायपीठ

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ADVOCATE

Neither the specialist or medical officer was consulted on the advice of the authorised medical attendant and the prior approval of the Chief Administrative Medical Officer of the State was obtained. If so, a certificate to that effect should be attached.

(d) Whether consultation was had : *Hospital*  
at the hospital at the consulting room  
of the specialist or medical officer  
or at the residence of the patient.

9. Total amount claimed : Rs. 18222/-

10. Less advance taken : Rs. Nil

11. Net amount claimed : Rs. 18222/-

12. List of enclosures : Prescriptions (no 831, 832, 833)

medical bills (100)

Hospital bills (100)

Certificates (10)

DECLARATION TO BE SIGNED BY THE GOVERNMENT SERVANT

I hereby declare that the statement in the application are true to the best of my knowledge and belief and that the person for whom medical expenses were incurred is wholly dependent upon me.

Date .

*JM*  
Signature of the Govt.  
servant and office to

Which attached

office of the Regional  
Labour Commissioner (C), H.Y.

ATTESTED  
M  
ADVOCATE

## Midland Hospital &amp; Research Centre (P) Ltd.

Sreenagar, Near Zoo, R. G. Baruah Road, Guwahati-781005

Sl. No. 1307

Patient's Name.....

Mrs. Ranjita Dey Deka.....

Indoor Regd. No.....

648703

Cabin No.....

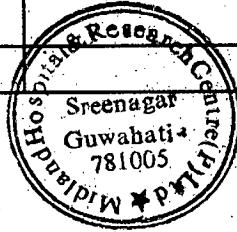
205

Date of Operation. 12-12-03

## Medicine Required for Operation Theatre

Sl. No.	Particulars	Qty.	Rate	Amount Rs. P.	Sl. No.	Particulars	Qty.	Rate	Amount Rs. P.
1.	Inj. Pentothal/Propofol					B/F			1528.00
2.	Inj. Fortwin				34.	Inj. Buprigesic	1		20.00
3.	Inj. Atropin				35.	Inj. Phenergan			
4.	Inj. Neostigmin				36.	Inj. Mephentin	1	50.00	
5.	Inj. Syntocinon	6		138.00	37.	D/Gloves	5	1.50	
6.	Inj. Methergin				38.	Spinele Needle	1	100.00	
7.	Inj. Zofer/Neomit	1		25.00	39.	Surgeon Knife	1	5.00	
8.	Inj. Aetoc <del>Scenaxa</del>	1		58.00	40.	O. T. Dressing	1	180.00	
9.	Inj. Ketanov/Ketrol				41.	Pulse Oxymeter	1	150.00	200.00
10.	S. V. Set				42.	Gas (N <sub>2</sub> + O <sub>2</sub> )			
11.	Inj. Lasix <del>Pentothal</del>	1		60.00	43.	Monitor Use			
12.	Inj. Norcuron				44.	Diathermy Use	1	150.00	200.00
13.	I. V. Set	1		60.00	45.	Inj. Decadron			
14.	I.V. Canula	1		90.00	46.	Inj. Epidosin			
15.	5% Plain Dextrose	1		25.00	47.	" magolam	2	30.00	
16.	Dextrose saline	1		15.00	48.	" Cantharic	1	68.00	
17.	Normal saline	1		10.00	49.	" lisender	1	30.00	
18.	Metrogyl I.V.				50.	" O. O. O. C	1	100.00	
19.	Ringer's Lactated	3		19.50	51.	Baby Domes	1	15.00	300.00
20.	Mucous Extractor	1		30.00					2961.00
21.	Feeding Tube	1		15.00					
22.	Folly's Catheter	1		100.00					
23.	Uro Bag	1		51.00					
24.	Chromic 'A' No 1								
25.	Chromic 'A' 1-0	2		120.00					
26.	Plain Catgut 2-0	1		50.00					
27.	Vicryl No-1	1		350.00					
28.	Ethilon 1-0								
29.	Distilled Water	5		18.00					
30.	D. Syringe 20cc								
31.	D. Syringe 10cc	1		8.00					
32.	D. Syringe 5cc/2cc	5		25.00					
33.	Inj. Anwin Heavy	1		22.00					

TOTAL 1961.00



Authorised Signatory

ATTESTED  
ADVOCATE  
④

(b)

2202338  
2201385

Midland Hospital & Research Centre (P) Ltd.  
Sreenagar, Near Zoo, R. G. Baruah Road, Guwahati-781 005

P/C - 205

Date..... 12/12/07

B

4 INJ MONOBACT 15 gm (5)

1 INJ GENTICYN 80 mg (7) - 6 (3)

INJ FORTWIN (1)

INF METROGYL 100 ml (6)

INJ PHENERGAN (1)

2 INJ VOVERAN (7) - 6

INJ PROSTODIN (1)

INJ TRENEXA 500 (6) - 5

125 mg

X 4 INJ SYNTOCINON (3)

CAP RANTOP D (4)

DIOVOL LIQUID (1)

TAB SERRAD - 6

- 9 DEC 2007

TAB UTERGIN (10)

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

TAB DULCOLAX (3)

NEOSPORIN POWDER (1)

DR (MRS) TULIKA GOSWAMI

ATTESTED  
ADVOCATE

Midland Hospital & Research Centre (P) Ltd.  
Sreenagar, Near Zoo, R. G. Baruah Road, Guwahati-781 005

Rangile Mazumdar

Date 15/12/07

R  
① TAB

MONOCEF - O 200 ②

0 ————— 0 after meal x 10 days  
10 AM 10 PM

PAIN

② TAB

SERRA - N ③

0 ————— 0 ————— 0 after meal x 7 days  
7 AM 2 PM 10 PM

BLEEDING

③ TAB

UTERGIN ④

0 ————— 0 ————— 0 after meal x 7 days  
7 AM 2 PM 10 PM

GASTRIC  
+  
YOMITING

④ TAB

ORNIDA ⑤

0 ————— 0 after meal x 5 d - 9 DEC 2007  
10 AM 10 PM

VITAMIN

⑥ CAP

PANTOP D ⑦

0 6 AM in empty stomach

00 ————— 00 daily after  
meal.

R/O 22/12/07

DR (MRS) TULIKA GOSWAMI

ATTESTED  
A  
ADVOCATE

No. : MH/57

LAND HOSPITAL & RESEARCH CENTRE (P) LTD.

Sreenagar, R.G. Baruah Road

Guwahati- 781005

466

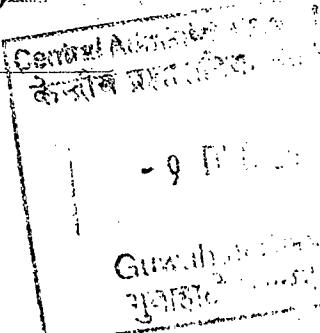
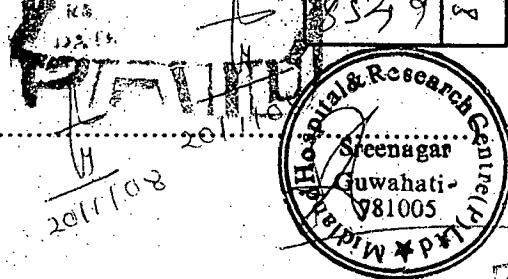
GW / Cabin No 205

Date 12-12-08

Name Mrs. Ranjita Bhuyan

Item	Rs
1 Hospital Bill	3339.00
2 Cost (Surgeon)	10000.00
3 Mess	150.00
4 Canteen	60.00
5	3549.60
6 less Dr.	3000.00
7	8549.60
	8549.60

(Rs.....)



ATTESTED  
ADVOCATE

DLAND HOSPITAL & RESEARCH CENTRE (P) LTD.

SREENAGAR, R. G. BARUAH ROAD, GUWAHATI-781005

No. MH/ 11352

Hospital Regd. No.SHA/67

Date.....(5-12-02).....

To

W/O Mr. S 10 messages.

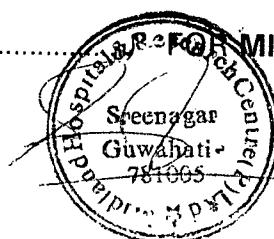
.....

Regd. No. 645 GW/Cabin No. 205 From 12-12-02 To : 15-12-02

PARTICULARS	Rate		Amount	
	Rs.	P.	Rs.	P.
1. Room / Seat Rent- (..... 3 ..... days)	55/-	00	1050/-	00
2. Medicine- (OT/Labour Room/ward)			48/-	00
3. Laboratory-			5/-	00
4. Operation Theatre Charge-			100/-	00
5. Labour Room Charge-				
6. Others- (i) Doctor's Supervision..... 3 ..... days	15/-	00	450/-	00
(ii) Nursing care..... 3 ..... days	5/-	00	15/-	00
(iii) Baby care..... 3 ..... days	5/-	00	15/-	00
(iv) .....				
(v) .....				
Rupees Three Thousand Three hundred and Thirty three only	TOTAL		3339/-	00
	Less Advance		5/-	00
	Grand Total		3339/-	00

(Ref

## AND HOSPITAL & RESEARCH CENTRE (P) LTD



प्राचीन लिपियों की विश्वासनीयता का विवरण

- 9 DEC 2003

Guwahati Bench  
গুৱাহাটী ব্যারাফোর্ট

ATTESTED  
M  
ADVOCATE

-TYPED COPY-

Midland Hospital & Research Centre (P) Ltd.  
Sreenagar, Near Zoo, R.G. Baruah Road, Guwahati-781005

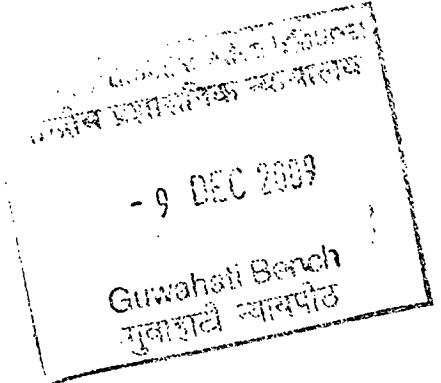
Ref.....

Date...15/12/07.....

To whom it may concern

This is to certify that Mrs. Rangila Mazumdar w/o Subhrajyoti Mazumdar, got admitted at MIDLAND HOSP & RC, ZOO-ROAD at 6 AM on 12/12/07 as an emergency case with T.P., Draining P/V and loss of total movement. Emergency Caesarian section was done. She is discharged from the hosp. on 15/12/07 in a satisfactory condition.

Sd/- Illegible  
Dr. (Mrs.) Tulika Goswami  
MD (O & G)



ATTESTED  
A  
ADVOCATE

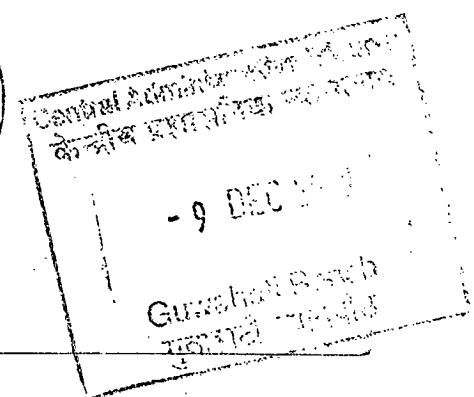
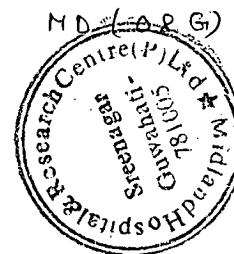
Midland Hospital & Research Centre (P) Ltd.  
Sreenagar, Near Zoo, R. G. Baruah Road, Guwahati-781 005

Date. 15/12/07

To whom it may concern

This is to certify that Mrs. Rangila Hazarika / 374  
W/o. Subratajyoti Hazarika, got admitted at MIDLAND  
HOSP & RC ZOO-ROAD at 6 AM on 12/12/07 at  
an emergency case with T.P., decoloring p/r and  
loss of foetal movement. Emergency ~~lives~~ <sup>lives</sup> ~~was~~ <sup>was</sup>  
done. She ~~was~~ <sup>is</sup> discharged from the hospital  
on 15/12/07 in a satisfactory condition.

4  
Dr (H.M) Rangila Hazarika



ATTESTED  
N  
ADVOCATE

GOVERNMENT OF INDIA  
MINISTRY OF LABOUR & EMPLOYMENT  
OFFICE OF THE REGIONAL LABOUR COMMISSIONER (CENTRAL)  
SAPTARISHI PAT, ZOO ROAD TINIALI, GUWAHATI-781024 (ASSAM)

No. 80(1)/2000-Adm.II

Dated: 26 FEB 2008

To,  
Shri S. J. Majumder,  
LEO© Shillong at Guwahati.

Subject: - Return of RMC bill- regarding.

Dear Sir,

The RMC Bill submitted vide letter No.70(1)/08-LEO©s dated 21/22-01-08 is returned herewith with following remarks:-

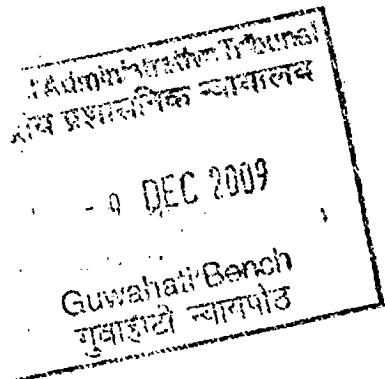
As per CLC©'s instruction No. Adm.I/12(7)/92 dt.09-5-2007 you have not fulfilled the condition for taking medical treatment in emergency.

This letter is issued as per approval of RLC(C).

Yours faithfully

(H. Dimngel)

LABOUR ENFORCEMENT OFFICER (CENTRAL)  
& DRAWING AND DISBURSING OFFICER  
GUWAHATI.



ATTESTED  
M  
ADVOCATE

**OFFICE OF THE RLC(C),GUWAHATI I**

No:70(1)/08-LEO(C)

TO

**The Chief Labour Commissioner(c)**  
New Delhi.

**(Through the RLC(C),Guwahati)**

Sub;Submission of Emergency Medical Bill.

Ref:RLC(C) Guwahati,s letter no 80(1)/2000-ADM.III,dt.26.02.2008.

Respected Sir,

I have the honour to inform you that I had submitted Emergency Medical Bill amounting to Rs 18222/ for treatment of my wife to the R.L.C.(c) Guwahati on 21.01.2008. Emergency medical certificate was submitted along with other necessary documents with a request for early payment

However, the same has been returned to me on 26.02.2008 with the remark that CLC(C)'s instruction No.Adm.i.12(7)/92 dt.9.5.2007 is not complied with, especially on the reason that treatment was not done in the nearest private hospital. But I was not even given a chance to clarify under what compelling circumstances I had to take my wife to another hospital which is not nearest.

I, therefore, lay before your good office the following facts for your kind and sympathetic consideration please.

On.12.12.2007 at about 4.30a.m.in the morning my wife who was in her advance of pregnancy fell seriously ill. I immediately took her to the nearest private hospital which is approximately 1.km. away from my residence. On reaching the hospital I found the main gate closed. I was calling from outside for help, but nobody was responding. I was waiting there for almost half an hour and the condition of the patient was deteriorating. I was helpless, alone, and mentally very much disturbed. So, I could not get any

Regd.A/D.

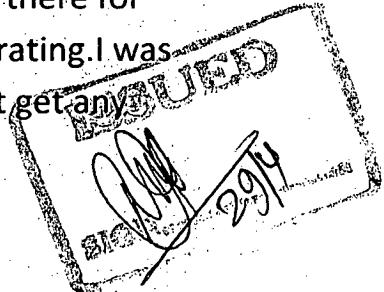
Advance copy  
27.02.2008

12.11.2008

DEC 2008

Guwahati Bench  
গুৱাহাটী বৰ্ষাণী

A. TESTED  
ADVOCATE



service in that nursing home without waiting there, I then took my wife to another hospital which is only 3 km. (app). from my residence. At 6 a.m. my wife was admitted in that hospital and at 7 in the morning emergency operation (caesarian) was done resulting the birth of a baby. I had immediately spoken to the RLC(C) over phone. At that time I was suffering from severe illness. I was on medical leave. Also I had communicated to the ALC(C) Guwahati and ALC(C) Silchar, regarding the emergency operation of my wife. Had I waited in the nearest Hospital then the lives of both my wife and the baby would have been in danger. The condition of nearest hospital would have been fulfilled at the cost of my family.

I, therefore, fervently request your honour to consider the above facts which are genuine and arrange for payment of the amount of Rs. 18222/- for which I will be very grateful to you.

Yours faithfully,

SM 27-2-09  
(S.J. MAZUMDAR)

- 9 DEC 2009

Guwahati Bench  
গুৱাহাটী স্বাক্ষৰ

Labour Enforcement Officer (Central)

Shillong.

ATTESTED  
ADVOCATE

Office of the RLC(C),Guwahati

27.02.2008

70(1)/08-2008-LEO-S

To The RLC(C), Guwahati

Sub: Application to the CLC(C) for review of the RMC bill.

29 FEB 2008

Ref:Letter no 80(1)/2002-adm-II dt.26.02.2008.

Sir,

I have the honour to submit to you as enclosed the application for review of my RMC bill addressed to the CLC(C) New Delhi .

I request you kindly to arrange for forwarding the same to the CLC(C) New Delhi as early as possible.

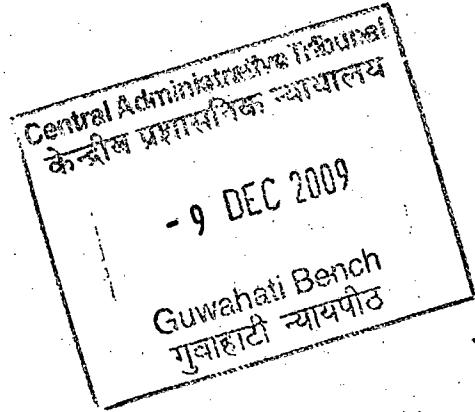
Yours faithfully

Enclosed:as above. (in duplicate)

(S.J.Mazumdar)

LEO(C).Shillong

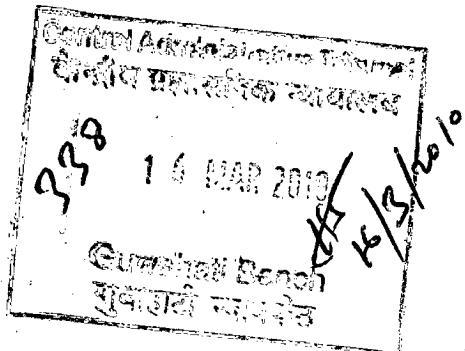
SLC  
S.J. Mazumdar  
9/12/08



ATTESTED  
N  
ADVOCATE

Findings: —  
The Respondents  
thought that  
Mongolian Dads  
are courageous  
and intelligent.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GUWAHATI BENCH**



**IN THE MATTER OF:**

In O.A. No. 260/09

Sri Subhra Jyoti Mazumdar

.....Applicant

-Vs.-

Union of India and others

## .....Respondents

**-AND-**

**IN THE MATTER OF:**

Written statement on behalf of the respondents.

**(WRITTEN STATEMENT ON BEHALF OF RESPONDENTS)**

I, Sri Amirkhan Narendra Singh, S/o (Date) Sci. ID: Bhutan Singh.

aged about 55 years, presently working as the Regional Labour Commissioner (Central), Office of the Regional Labour Commissioner (Central), Zoo Road Tiniali, Saptrishi Path, Guwahati, Assam, Pin 781024, do hereby solemnly affirm and state as follows:-

1. That I am the Regional Labour Commissioner (Central), Office of the Regional Labour Commissioner (Central), Guwahati, Assam. I have been impleaded as party respondent no. 3 in the instant Original Application. I have gone through the Original Application and have understood the contents thereof. I am conversant with the facts and circumstances of the case. I have been authorized to file this written statement on behalf of all respondents.
2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That before traversing various paragraphs of the present Original Application, the answering respondent would like to place the brief facts of the case.

**BRIEF FACTS OF THE CASE:**

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**3.1** That the applicant is working as the Labour Enforcement Officer (Central), Tejpur, which is a Group B Gazetted post.

**3.2** That the Appendix-VIII of the Medical Attendance Rules and Directions of the Chief Labour Commissioner (Central), New Delhi, dated 09.05.07 under no. Adm. 1/12/(7)/92 provides certain instructions under which re-imbursement of Medical expenses in emergency cases is allowed. As such amongst the other instructions as laid down in the said Appendix, para 1 (1) of the Appendix titled "**Procedure for obtaining treatment from private medical institutions in emergent cases**" says that:

"**(1)** Circumstances to justify treatment in private medical institution-In emergent cases involving accidents, serious nature of disease, etc, the person/persons on the spot may use their discretions for taking the patient for treatment in a private hospital in case no Govt. or recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authority/Department have any doubt, they may make a reference to the Director General of Health Services for opinion.

**2).....**

**3) Payment Procedure-**

**(i)** In cases where the expenditure likely to be incurred, on the treatment of Govt. servant or member of his family who has been admitted to a private hospital in emergent circumstances, is beyond the paying capacity of the Govt. servant, the Departments of the Govt. of India may authorize the Controlling Authority concerned to meet directly the expenditure incurred on admissible items of treatment, subject to the limits mentioned in the Annexure to this letter and the payment in respect of the admissible items of expenditure may be made by the Dept Office/Department concerned to the hospital direct. To enable the Dept concerned to consider such requests, a certificate regarding the expenditure likely to be incurred shall be obtained by the Govt. servant or a member of his family from the hospital authorities concerned and furnished to the Controlling Authority.

Thus, as per instruction no.1, the Controlling Authority is the appropriate authority to decide whether it is a fit case of real emergency necessity admission in a private hospital.

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Moreover, as per instruction no.4, the Controlling Authority is authorized to re-imburse the medical expenditure incurred on the treatment of a Govt. employee or his family member admitted to a private hospital in emergency cases if the medical expenses is beyond the paying capacity of the employee.

In the instant case, the applicant is Group 'B' Gazetted Officer drawing a salary of Rs 35,018 (Rupees Thirty Five Thousand and Eighteen) per month and has a sufficient capacity of paying the medical bills of private hospitals as chosen by him.

**3.3** That as per applicant's statement his wife was in advance stage of pregnancy and fell seriously ill on 12.12.07 at about 4:30 am. Thereafter, he immediately took his wife to the nearest private hospital i.e. Central Nursing Home, Survey, Beltola, Guwahati. After that, according to him, when he went to the Central Nursing Home, the main gate was found to be closed despite his calls from outside.

But such a statement of the applicant in the present circumstances is not found satisfactory as because any Govt./recognized/private hospitals/clinics where emergency facilities are extended does not close their main gate at night. Even assuming that the main gate of the Central Nursing Home was closed, the applicant ought to have admitted his wife next to the nearest/recognized/re-known hospitals like Down Town, Good Health, Dispur Polyclinic and Dispur Hospital. But in the instant case the applicant at his own choice admitted his wife in a hospital situated at Zoo Road far away from his residence.

That as per the instruction of the CLC (c), New Delhi dated 09.05.07 under no. Admn. 1/12/((7)/92 regarding admission in Private recognized Hospitals/ Diagnostic Centres for taking medical treatment in emergency, there are conditions which are as follows-

**1)** Production of an emergency certificate from the concerned - Private recognized hospital specifying the emergency category.

**2)** Certificate to the effect that the Private Hospital was the only hospital available nearer to the patient's residence.

But in the instant case the applicant did not provide such emergency medical treatment to his wife in the nearest/nearer hospital from his residence despite having so many nearer hospitals of all kinds, eg: Govt./recognized and private, thus, violating the requisite conditions of withdrawing such re-imbursement of medical bills. Hence the applicant is not entitled to get the medical re-imbursement.

**3.4** That the present application is barred by Limitation in as much as the applicant made the appeal/representation dated 27.02.08 before the

*Wazirkhan Narzana Digh*

Authority and after expiry of the prescribed Limitation the present application is filed before this Hon'ble Tribunal.

**4. REPLY TO THE FACTS:**

**4.1** That with regards to the statements made in paragraphs 4.1 and 4.2 of the Original Application; the humble answering respondent has no comments to offer. However, it is stated that the applicant who is working as the Labour Enforcement Officer (Central), Tejpur, which is a Group B Gazetted post, has already completed almost 14 and half years of service under Ministry of Labour & Employment, Govt. of India and drawing a salary of Rs 35,018.

**4.2** That with regards to the statements made in paragraph 4.3 of the Original Application, the humble answering respondent begs to state that the Appendix-VIII of the Medical Attendance Rules and Directions of the Chief Labour Commissioner (Central), New Delhi, dated 09.05.07 under no. Adm. 1/12/(7)/92 provides certain instructions under which re-imbursement of Medical expenses in emergency cases is allowed. As such amongst the other instructions as laid down in the said Appendix, para 1 (1) of the Appendix titled "**Procedure for obtaining treatment from private medical institutions in emergent cases**" says that:

**"(1) Circumstances to justify treatment in private medical institution-In emergent cases involving accidents, serious nature of disease, etc, the person/persons on the spot may use their discretions for taking the patient for treatment in a private hospital in case no Govt. or recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authority/Department have any doubt, they may make a reference to the Director General of Health Services for opinion."**

**2).....**

**3) Payment Procedure-**

**(i)** In cases where the expenditure likely to be incurred, on the treatment of Govt. servant or member of his family who has been admitted to a private hospital in emergent circumstances, is beyond the paying capacity of the Govt. servant, the Departments of the Govt. of India may authorize the Controlling Authority concerned to meet directly the expenditure incurred on admissible items of treatment, subject to the limits mentioned in the Annexure to this letter and the payment in

*Wazirkhan Narendran Singh*

respect of the admissible items of expenditure may be made by the Office/Department concerned to the hospital direct. To enable the Dept concerned to consider such requests, a certificate regarding the expenditure likely to be incurred shall be obtained by the Govt. servant or a member of his family from the hospital authorities concerned and furnished to the Controlling Authority.

Thus, as per instruction no.1, the Controlling Authority is the appropriate authority to decide whether it is a fit case of real emergency necessity admission in a private hospital.

Moreover, as per instruction no.4, the Controlling Authority is authorized to re-imburse the medical expenditure incurred on the treatment of a Govt. employee or his family member admitted to a private hospital in emergency cases if the medical expenses is beyond the paying capacity of the employee.

In the instant case, the applicant is a Group 'B' Gazetted Officer drawing a salary of Rs 35,018 (Rupees Thirty Five Thousand and Eighteen) per month and has a sufficient capacity of paying the medical bills of private hospitals as chosen by him.

A copy of the Appendix-VIII of the Medical Attendance Rules is annexed herewith and marked as Annexure-1.

**4.3** That with regards to the statements made in paragraph 4.4 of the Original Application, the humble answering respondent begs to state that as per applicant's statement applicant's wife who was in advance stage of pregnancy fell seriously ill on 12.12.07 at about 4:30 am. Thereafter, he immediately took his wife to the nearest private hospital i.e. Central Nursing Home, Survey, Beltola, Guwahati. After that, according to him, when he went to the Central Nursing Home, the main gate was found to be closed despite his calls from outside.

But such a statement of the applicant in the present circumstances is found unsatisfactory as because any Govt./recognized/private hospitals/clinics where emergency facilities are extended does not close their main gate at night. In such a case there will be no meaning of extending emergency services by such hospitals. Hence, such a statement of closure of Govt./recognized/private hospitals where emergency services are extended is not acceptable at all.

Further as claimed by the applicant, he admitted his wife to the Midland Hospital and Research Centre (P) Ltd., which is situated near Zoo, R.G.Baruah Road, Ghy by leaving a number of nearer Govt./recognized/private hospitals/nursing homes/clinics on the way through which he brought his wife from Central Nursing Home, Beltola to Midland Hospital, Zoo Road. Among

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them, Polyclinic, Guwahati (Govt. Hospital), GNRC, Down Town Hospitals (both recognized), Good Health Hospital (Private) etc. may be mentioned. All these hospitals are located along the way from Central Nursing Home to Midland Hospital while there are many other hospitals/ nursing homes/ clinics within the periphery of his house and are much closer.

Therefore, such a statement of the applicant is not acceptable in as much as the same was a fake statement and by giving such fake statement the applicant had committed an attempt to misappropriate Govts. money for his individual wrongful gain.

Moreover, the applicant also failed to comply with the instructions stipulated in Appendix-VIII of Medical Attendance Rules as he took his wife to a private hospital situated at a distance further than Govt. Hospital/Registered Hospital.

**4.4** That with regards to the statements made in paragraphs 4.5 of the Original Application; the humble answering respondent begs to offer no comment as being matters of record.

**4.5** That with regards to the statements made in paragraphs 4.6 to 4.7 of the Original Application; the humble answering respondent begs to state that as per instruction of the CLC (c), New Delhi dated 09.05.07 under no. Admn. 1/12/((7)/92 regarding admission in Private recognized Hospitals/ Diagnostic Centres for taking medical treatment in emergency, there are conditions which are as follows-

1) Production of an emergency certificate from the concerned - Private recognized hospital specifying the emergency category.

2) Certificate to the effect that the Private Hospital was the only hospital available nearer to the patient's residence.

But in the instant case the applicant did not provide such emergency medical treatment to his wife in the nearest/nearer hospital from his residence despite having so many nearer hospitals of all kinds, eg: Govt./recognized and private, thus, violating the requisite conditions of withdrawing such re-imbursement of medical bills.

A copy of the instruction dated 09.05.07 is annexed herewith and marked as  
**Annexure-2.**

**4.6** That with regards to the statements made in paragraphs 4.8 to 4.11 of the Original Application, the humble answering respondent begs to state that the applicant has committed attempt to misappropriate the Govt's money for individual gain by flouting administrative directives. The applicant being a Govt. servant has to follow the instruction as provided in the instruction dated 09.05.07. But in the instant case the applicant did not follow

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the rules laid down in the instruction dated 09.05.07. It is further stated that it is absurd that the gate of the busy Central Nursing Home, Beltola was closed and nobody was coming out whereas the well known Down Town Hospital, Good Health Hospital, Dispur Polyclinic and Dispur Hospital are nearer than the Midland Hospital which is quite far away about 4 km from applicants residence or from Central Nursing Home but the applicant at his choice treated his wife at Midland Hospital at Zoo Road instead of the nearer hospitals. Thus, thereby, the applicant did not fulfill the instruction containing in the Office Memorandum dated 09.05.07. Consequently the applicant is not entitled to get the medical re-imbursement.

**4.7** That with regards to the statements made in paragraphs 4.12 and 4.13 of the Original Application; the humble answering respondent begs to offer no comment.

**4.8** That the humble answering respondent begs to submit that the present application is barred by Limitation in as much as the applicant made appeal/representation before the Respondent Authority on 27.02.08 and after expiry of the prescribed Limitation period the present application is filed before this Hon'ble Tribunal.

**4.9** That this instant original application has no merit at all and is liable to be dismissed.

*Dasokram Narendran Gough*

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Guwahati Bench
गुवाहाटी न्यायपीठ

VERIFICATION

I, Sri. Waikokpara Narendra Singh, S/o (Ran) Chhabra Singh aged about 55 years, presently working as the Regional Labour Commissioner (Central), Office of the Regional Labour Commissioner (Central), Zoo Road Tiniali, Saptrishi Path, Guwahati- 781024, Assam, do hereby solemnly verify and state that the statements made in paragraphs 1, 2, 4, 3 and 4, 6 to 4, 9 are true to my knowledge and belief, those made in paragraphs 3, 1, 3, 2, 3, 3, 3, 4, 4, 1, 4, 2, 4, 4 and 4, 5 — being matters of records of the case, are true to my information derived therefrom which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal.

And I sign this verification on the 15th day of March , 2010 at Guwahati.

Waikokpara Narendra Singh

**SIGNATURE**

(Ran Singh)  
Regional Labour Commissioner (Central)  
Government of India, Ministry of Labour & Employment  
Guwahati

Central Advisory Committee  
केन्द्रीय प्रशासनिक व्यायालय

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APPENDIX - VIII  
REIMBURSEMENT IN RELAXATION OF RULES  
IN EMERGENT CASES

(1) **Procedure for obtaining treatment from private medical institutions in emergent cases.**— The question of streamlining the procedure involved in obtaining treatment in emergent cases has been engrossing the attention of the Government of India and as a result of the decision taken in this regard, the Ministry of Finance in their O.M. No. E. 26 (10)-E. V (B)/74, dated the 16th July, 1974\* have delegated more financial powers to the Heads of Departments/Ministries to meet the situation. In consultation with the Finance Ministry, the following further decisions have been taken in this regard:—

(1) **Circumstances to justify treatment in private medical institution.**— In emergent cases involving accidents, serious nature of disease, etc., the person/persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authorities/Departments have any doubt, they may make a reference to the Director-General of Health Services for opinion.

**NOTE 1.**— In order to eliminate the confusion regarding distinction between a private hospital and a private nursing home/clinic, the delegated powers are applicable to all medical institutions without making any distinction between a private hospital and a private nursing home/clinic.

**NOTE 2.**— It may be reiterated that reimbursement of expenses incurred on treatment obtained in the private clinics/nursing homes of the Authorized Medical Attendants would not be admissible under the above provision and also in relaxation of the CS (MA) Rules, 1944, even in emergent cases.

(2) **Subsequent transfer to Government/recognized hospital.**— A point has been raised whether a patient can be transferred from the private hospital to a Government/recognized hospital after the emergency is over for obtaining further treatment. It is clarified that the patient while he is in a private hospital should act according to the advice of the hospital authorities. He should get his discharge

\* The orders (OM, dated the 23rd February, 1977), are in modification of the earlier orders contained in M.F., O.M. No. 26 (10)-E. V (B)/74, dated the 16th July, 1974, which itself is in modification of the O.M. No. 21-(2)-E. V (B)/62, dated the 17th April, 1963. As such the orders of 23rd February, 1977, have to be treated as in modification of the earlier orders and the financial limits mentioned in the earlier M.F., OM cited above, are no more operative.

from the hospital only when the hospital authorities discharge him.

(3) *Payment procedure.*—

- (i) In cases where the expenditure likely to be incurred, on the treatment of Government servant or member of his family who has been admitted to a private hospital in emergent circumstances, is beyond the paying capacity of the Government servant, the Departments of the Government of India may authorize the Controlling Authority concerned to meet directly the expenditure incurred on admissible items of treatment, subject to the limits mentioned in the Annexure to this letter and the payment in respect of the admissible items of expenditure may be made by the Office/Department concerned to the hospital direct. To enable the Departments concerned to consider such requests, a certificate regarding the expenditure likely to be incurred shall be obtained by the Government servant or a member of his family from the hospital authorities concerned and furnished to Controlling Authority.
- (ii) The Controlling Officer may make advance payments or advance deposits to hospitals, if demanded. Payment to hospitals at periodic intervals, say, once in a week, on the basis of bills submitted by them may also be made by the Departments, if necessary.
- (iii) Payments to the hospitals including advance payments and advance deposits whenever made, may be treated as final charges in accounts. If the final bills submitted by hospitals subsequently reveal that the advance payment/deposit has been more than the final claim, the balance should be got refunded to Government and credited to account as provided for in the rules.
- (iv) The charges on account of inadmissible medicines, etc., will be paid by the Government servant himself to the hospital.
- (v) In cases where a Government servant himself makes payment to a hospital and claims reimbursement from Government, it should be ensured that payment is also not made by the Department to the hospital direct and for this purpose, claims should be linked properly.

The Departments of the Government of India have been authorized to meet directly the expenditure incurred on admissible items of treatment taken in Ayurvedic or Unani, etc., hospitals in similar circumstances subject to the limits mentioned in the Annexure and on the terms and conditions stipulated above.

**Important.**— 1. The orders do not envisage any overall total ceiling but envisage only individual itemwise ceiling as prescribed in the Annexure.

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Hence, medical claims to the extent admissible and subject to the limits and ceilings prescribed could be authorized by those to whom powers have been delegated in respect of treatment obtained in private hospitals not recognized under the CS (MA) Rules in emergencies.

2. The powers exercisable under the above orders would not be exercisable in respect of Dental treatment. In respect of Dental treatment, reimbursement is admissible only if treatment is obtained in Government/recognized hospitals.

#### ANNEXURE

#### STATEMENT SHOWING THE CEILINGS ON THE VARIOUS ITEMS OF TREATMENT WHERE ADMISSION IS OBTAINED IN CASE OF EMERGENCY IN ANY PRIVATE MEDICAL INSTITUTION

##### A. ALLOPATHIC

###### Items

###### (a) Room Rent

... Rs. 50 per day in Class 'A' cities, Rs. 30 per day in Class 'B' cities. No separate reimbursement is admissible for any other charges, e.g., charges for electric light, fan, heater, air-conditioning, etc., as the same are covered by the ceiling for room rent.

*Clarification.*— The rates as specified for 'A' Class cities will be applicable in respect of those cities which are classified as 'A' or higher for purpose of grant of House Rent Allowance of Government employees. In respect of cities classified otherwise (other than those classified as 'A' or above), the ceilings as prescribed for 'B' Class cities would be applicable. In other words, for purposes of hospital accommodation rates, there will be only two rates — one applicable to cities classified as 'A' or above for House Rent Allowance and those which are otherwise.

###### (b) Special Nursing Charges

At rates prescribed by the local Nursing Association. At places where no such rates have been prescribed, the Director of State Medical Services should indicate the prevalent reasonable rates of nursing services for a particular city.

The claim for nursing charges is further subject to restrictions laid down in the CS (MA) Rules, 1944 and orders.

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## NOTES

- Application for appearance in-person and requested the notice of hearing to be given on his specified address. Held, applicant should have been informed accordingly. Ex-parte order set aside. [Pran Singh Sethi v. Union of India, 1999 SCC (L&S) 655.]
- Tribunal has no jurisdiction to adjudicate upon the findings of the Industrial Tribunal. [Director, Govt. of India v. General Secretary, Central Government Small-Scale Industries Organisation, (1998) 5 SCC 630 = JT 1998 (6) SC 632.]
- CAT could not entertain an application, particularly after the Industrial Tribunal had ruled that the respondent was a workman within the meaning of the Industrial Disputes Act and was entitled to retrenchment compensation. The decision of Industrial Tribunal could be upset only by the Court within the hierarchy. [Ajay D. Paualkar v. Management of Pune Telecom Deptt., (1997) 11 SCC 469.]
- Entertainment of public interest petition at the instance of total stranger is not permissible under the scheme of the Act. [Duryodhan Sahu v. Jitender Kumar Mishra, (1998) 7 SCC 273 = JT 1998 (5) SC 645.]
- Tribunal has to consider the service record to come to right conclusion. [Ram Ujarey v. Union of India JT 1998 (7) SC 603.]
- Petitioner, who was working as Helper, was promoted to the post of Junior Clerk. One 'A' filed application under section 19 of the Act seeking directions for consideration of his case in Category 'C'. The Tribunal directed the Union of India to consider the case of 'A' and give him consequential benefits if he was entitled to them. Pursuant this direction, the petitioner was reverted from the post of Junior Clerk to the post of Helper. The petitioner challenged the order passed by the Tribunal. Held, order of reversion gave rise to an independent cause of action to the petitioner which order may be challenged under section 19 of the Act. Petitioner was not a party to the earlier proceedings before Tribunal. [Shaikh Jabbar Abbas v. Union of India and others, 2003 (1) Mh. L. J. 543 (Bom.) (DB).]

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**20. Applications not to be admitted unless other remedies exhausted -**

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(c) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorandum to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the

16 MAR 2010

The Administrative Tribunals Act, 1985

27 Guwahati Bench

modifications which are available unless the applicant had elected to submit सुनिश्चित न्यायपत्र

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21. **Limitation.** - (1) A Tribunal shall not admit an application,-

- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;
- (b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where,-

- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and
- (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

**NOTES**

- (i) **Limitation** - Where the dispute a regarding fixation of pension aroused in 1993 and Tribunal approached in 1995 then dismissal of claim application on the ground of limitation not justified. *S. M. Mundawalli v. State of Karnataka*, AIR 2002 SC 398.
- (ii) The appellant instituted a civil suit against his reversion within the limitation period. Plaintiff returned after 8 years as the court had no jurisdiction. Fresh application filed before Tribunal. Tribunal dismissed the application on the ground of limitation. Held, it was too much to dismiss the application after 8 years on the ground of limitation. Delay condoned, though the contingencies contemplated by section 21 of the Administrative Tribunal Act, 1985 are not applicable. [Ram Ujarey v. Union of India, (1999) 1 SCC 685 = AIR 1999 SC 309 = 1999 (L & S) 374.]
- (iii) Condonation of delay for time-barred application not sought under section 21 (3). Held, application could not be considered on merits. [Ramesh Chandra Sharma v. Udhamp Singh Kamal, (1999) SCC 304.]
- (iv) Administrative tribunal not finding any valid reason for delay. Yet the case considered on merits and relief granted. Held, Tribunal was wrong. [Commandant TSP v. Easwaramoorthy, 1999 SCC (L & S) 643.]
- (v) Respondent was appointed on probation on 1-2-1972 after training from 1-10-71 to 1-1-72. He was promoted to "two" higher grades. He moved application for counting his training period for seniority in 1996. Tribunal came to the conclusion that it should start counting the period from the date on which the respondent was put on training, i.e. 1-10-71. Held,

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Tribunal should have rejected his claim on the ground of limitation as provided under section 21 of the Act. [The Director of Settlement & Ors. v. D. Ram prakash JT 2001 (10) SC 69.]

Compassionate appointment rejected. Application filed after 5 years from refusal. In view of the delay, not entertainable. [Dhalia Ram v. Union of India (1997) 11 SCC 201.]

Held, Tribunal erred in entertaining claim after limitation period. [State of Orissa v. Chandra Sekhar Mishra, (2002) 10 SCC 583.]

Claim for fixation of pension on the basis of seniority taking into consideration the claimant's past service. Dispute arose on 28-2-1993 and application filed before tribunal in 1995. Held, application not time-barred. [S. M. Munawalli v. State of Karnataka, (2002) 10 SCC 264 = AIR 2002 SC 398.]

**Fixation of Pension - Calculation of limitation - Dispute arises in 1993**  
- After passage of two years the tribunal is approached - Tribunal of approach is erroneous - court should have condoned delay - Calculation of limitation is found erroneous because the appellant has claimed that his pension should have been decided a basis of his service calculating his services of Agricultural produce market committee, therefore the delay should have been condoned and case decided as per rules. [S. M. Munawalli v. State of Karnataka AIR 2002 SC 398]

Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Central Administrative Tribunal had clearly erred in not exercising its jurisdiction to condone the delay and clearly this is not a case of inaction, negligence or mala fides on the part of the petitioner. [Gulab Rao Dharam Pol v. Union of India, 2004 (4) Mh. L.J. 701.]

\*\*\*\*\*

**22. Procedure and powers of Tribunals** - (1) A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, (5 of 1908) but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

(2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representations and <sup>1</sup>[after hearing such oral arguments as may be advanced].

(3) A Tribunal shall have, for the purposes of <sup>2</sup>[discharging its functions under this Act], the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;

<sup>1</sup> Substituted by Act 19 of 1986, sec.15, (w.e.f. 22nd January, 1986).

<sup>2</sup> Substituted by Act 19 of 1986, sec.15, (w.e.f. 22nd January, 1986).

No. Adm.I/12(7)/92  
Government of India  
Ministry of Labour & Employment  
Office of the Chief Labour Commissioner ( Central )  
New Delhi

Dated 09. 05. 2007

10.

All Dy. CLC@.

Subject:- Instructions regarding admission in Private Recognised Hospitals / Diagnostic Centers for taking medical treatment in emergency.

511

Sir,  
I am directed to say that of late it has been observed that proper procedure is not being followed while referring the case to this office for reimbursement of Medical bills of emergent nature for soliciting ex-post facto approval of CLCC Being H.O.D. It is therefore again reiterated that an emergency certificate from the concerned - Private - recognized hospital in support of the case to fall under "emergency category" and a certificate to the effect that the Private hospital was the only hospital available nearer to the patient's residence / place of happening may invariably be sent to this office alongwith other relevant documents of the case after proper scrutiny and with specific recommendations so that delay in processing such cases may be minimized.

You're requested to bring the contents of this letter to the notice of all concerned for strict adherence.

Yours Faithfully,

### Administrative Officer

REGIONAL LABOR BOARD  
NEW YORK

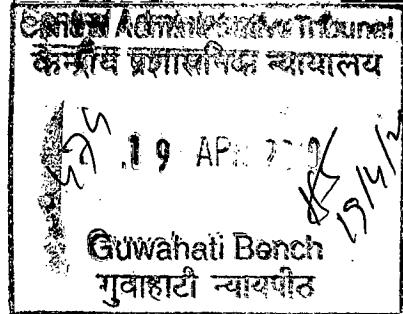
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Filed on 9.12.09

Affid. Voucher  
also done on 9.12.09

Issued on 9.12.09 by  
General Secretary

Central Administration Rules  
केन्द्रीय प्रशासनिक न्यायपालस



FILED BY

Shri Subhra Jyoti Mazumdar ... Applicant  
through Jilly Dutt ... Advocate  
19.04.2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

IN THE MATTER OF:

O.A. NO.260 OF 2009

Shri Subhra Jyoti Mazumdar

Applicant

- Versus -

The Union of India and Others

Respondents

-AND-

IN THE MATTER OF:

Rejoinder filed by the Applicant to the Written Statement submitted by the Respondents.

The humble Applicant submits this Rejoinder as follows:

1. That with regard to the statement made in paragraphs 1, 2, 3 and 3.1 of the Written Statement, the Applicant has no comment to offer and beyond record nothing is admitted.

2. That with regard to the statement made in paragraph No.3.2 of the Written Statement, the Applicant begs to state that he was drawing the Salary of Rs.18,528/- (Eighteen Thousand Five Hundred Twenty Eight) only in the Month of December 2007 when his wife was admitted at the private Hospital i.e. Midland Hospital and Research Centre (P) Ltd. The statement of the Respondents that the Applicant was drawing the salary of Rs.35,018/- (Rupees Thirty Five Thousand and Eighteen) only at that relevant time is totally false and misleading to this Hon'ble Tribunal.

Copy of the Pay Slip of the Applicant for the Month of September, October and November 2007 is annexed herewith and marked as Annexure-4.

Subhra Jyoti Mazumdar

Received Copy  
for Hm. M. Dan,  
Sr. CGSC  
Aleka  
19.4.10

19 APR 2010

Guwahati Bench  
गुवाहाटी न्यायपीठ

3. That with regard to the statements made in paragraph 3.3 of the Written Statement, the Applicant begs to state that he took his wife in an emergency situation to the Midland Hospital and Research Centre (P) Ltd at Zoo Road as the other Private Hospitals like Down Town Hospital, Good Health Hospital, Dispur Poly Clinic and Dispur Hospital do not fall on the said route and also are very much expensive. As per the knowledge of the Applicant those Hospitals Charges about Rs.25,000/- (Twenty Five Thousand) only per delivery case if operation is involved, so it was not possible for the Applicant to admit his wife in those Hospitals. The Midland Hospital and Research Centre (P) Ltd is less expensive and it is only 3 km. far away from his residence.

4. That with regard to the statement made in paragraph 3.4 of the Written Statement, the Applicant begs to state that it is not barred by Limitation, the non payment of Medical Bill to the Applicant is a continuous wrong and the Hon'ble Apex Court in various cases held that non payment of dues is a continuous wrong it cannot be barred by Limitation.

5. That with regard to the statement made in paragraph 4.1 of the Written Statement, the same are matters of record and beyond records nothing is admitted by the Applicant. At present the Applicant is drawing a salary of Rs.35,018/- (Rupees Thirty Five Thousand and Eighteen) only but in the year 2007 he was drawing salary of Rs.18,528/- (Eighteen Thousand Five Hundred Twenty Eight) only.

6. That with regard to the statement made in paragraph 4.2 of the Written Statement, the Applicant reiterated that his wife treatment was an emergency in nature and in this regard the attending Doctor of his wife has certified that "Mrs. Rangila Mazumdar, wife of Subrajyoti Mazumdar, got admitted at Midland Hospital and Research Centre (P) Ltd, Zoo-Road at 6 am on 12/12/07 as an emergency case with

Subrajyoti Mazumdar

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T.P., Draining P/V and loss of total movement. Emergency Caesarian section was done. She is discharged from hospital on 15/12/07 in a satisfactory condition".

The Applicant was drawing the Salary of Rs.18,528/- (Eighteen Thousand Five Hundred Twenty Eight) only in the Month of December 2007 not the amount of Rs.35,018/- (Rupees Thirty Five Thousand and Eighteen) only when his wife was admitted at the private Hospital i.e. Midland Hospital and Research Centre (P) Ltd. At the relevant time the medical expenses incurred in Private Hospitals is beyond the paying capacity of the Applicant.

7. That with regard to the statement made in paragraph 4.3 of the Written Statement, the Applicant begs to state that he took his wife in an emergency situation to the Central Nursing Home at Survey but he found the main Gate was closed and nobody was responding his call. At that relevant time the situation did not permit him to wait till the Hospital Gate is opened. For the sake of two lives he did not take any risk and under compelling circumstances he admitted his wife in an emergency situation at Midland Hospital and Research Centre (P) Ltd at Zoo Road which is 3 km far away from his residence as the other Private Hospitals like Down Town Hospital, Good Health Hospital, Dispur Poly Clinic and Dispur Hospital do not fall on the said route. The situations do not permit the Applicant to search Private Hospitals one by one at the critical moment. Apart from above those Private Hospitals are very much expensive and beyond the paying capacity of the Applicant.

8. That with regard to the statements made in paragraph 4.4 of the Written Statement, the Applicant has no comments to offer and beyond record nothing is admitted by the Applicant.

Subhrajit Meghwal

19 APR 2010

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গুৱাহাটী ন্যায়পীঠ

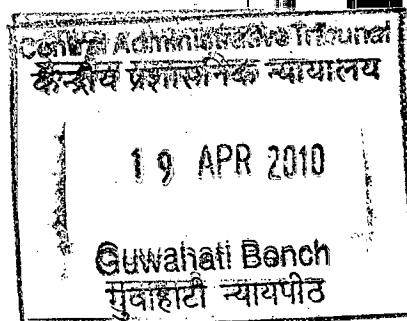
9. That with regard to the statement made in paragraph 4.5 of the Written Statement, the Applicant has stated in earlier paragraph of this Rejoinder that he took his wife in an emergency situation to the Midland Hospital and Research Centre (P) Ltd at Zoo Road as the other Private Hospitals like Down Town Hospital, Good Health Hospital, Dispur Poly Clinic and Dispur Hospital do not fall on the said route and also are very much expensive. As per the knowledge of the Applicant those Hospitals Charges about Rs.25,000/- (Twenty Five Thousand) only per delivery case if operation is involved, so it was not possible for the Applicant to admit his wife in those Hospitals. The Midland Hospital and Research Centre (P) Ltd is less expensive and it is only 3 km. far away from his residence. The Applicant has also submitted emergency certificate from the concerned private Hospital.

10. That with regard to the statements made in paragraph 4.5 (Repeated again) of the Written Statement, the Applicant state that the same are not true and misleading to this Hon'ble Tribunal. The Applicant never hidden any facts or suppress any material before the Respondents. The Applicant voluntarily submitted before the Respondents that the Midland Hospital is not nearer to his home but the central Nursing Home is nearest to his home. So the question of attempt to misappropriate the Government money does not arise.

11. That with regard to the statement made in paragraph 4.6 of the Written Statement, the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.

12. That with regard to the statement made in paragraph 4.6 of the Written Statement, it is not barred by Limitation, the non payment of Medical Bill to the Applicant is a continuous wrong and the Hon'ble Apex Court in various

Subregd'g' memo



cases held that non payment of dues is a continuous wrong it cannot be barred by Limitation.

From the above it is clear that the Respondents have totally failed to give reply to the grounds taken by the Applicant in Original Application No.260 of 2009. Therefore, the written statement filed by the Respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Original Application filed by the Applicant deserved to be allowed by this Hon'ble Tribunal.

*Subrata Muzumdar*

19 April 2010

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

VERIFICATION

I, Shri Subhra Jyoti Mazumdar, aged about 42 years, Son of late Ratna Mazumdar, Labour and Enforcement Officer (Central), Office of the Labour Enforcement Officer (Central), Tezpur, Kumargaon, District-Sonitpur, PIN-784001 (Assam) do hereby solemnly verify that the statements made in paragraph Nos. 1, 3, 4, 7, 8, 11, 12 are true to my knowledge and those made in paragraph Nos. 2, 5, 6 are being matters of record from true to my information derived therefrom which I believe to be true and rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this the 19<sup>th</sup> day of April, 2010 at Guwahati.

*Subhra Jyoti Mazumdar*  
DECLARANT

## OFFICE OF THE REGIONAL LABOUR COMMISSIONER(CENTRAL), GUWAHATI.

## PAY SLIP

Name: S.J. Majumdar, LEO(C)

Month: September, 2007

## Particulars of Pay &amp; Allowance

Pay	Rs.	8900.00
D.P.	Rs.	4450.00
D.A.	Rs.	5474.00
SDA	Rs.	1889.00
HRA	Rs.	2003.00
SCA	Rs.	200.00
WA	Rs.	0.00
TA	Rs.	200.00

GRAND TOTAL RS.

22896 TOTAL DEDUCTION 4368.00

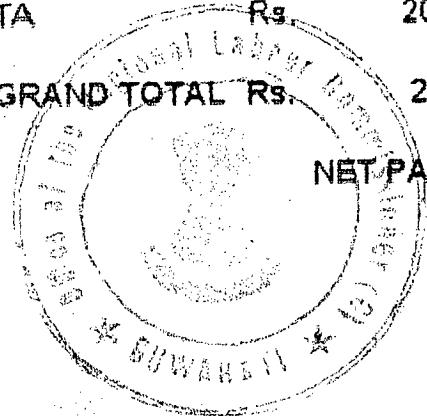
## Particulars of Deduction

CGEGIS	60.00
CGHS	100.00
GPF(Con)	4000.00
GPF(Rec)	0.00
M/Cycle(Rec)	0.00
APT	208.00
I/Tax	
Surcharge	

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

19 APR 2008

Guwahati Bench  
गुवाहाटी न्यायपीठ



NET PAYABLE RS.

18528.00

Drawing & Disbursing Officer  
Guwahati

ATTESTED

Tilly Sultan

ADVOCATE

OFFICE OF THE REGIONAL LABOUR COMMISSIONER(CENTRAL), GUWAHATI.  
PAY SLIP

Name: S.J. Majumdar, LEO(C)

Month: October, 2007

Particulars of Pay & Allowance

Pay	Rs. 8900.00
D.P.	Rs. 4450.00
D.A.	Rs. 5474.00
SDA	Rs. 1669.00
HRA	Rs. 2003.00
SCA	Rs. 200.00
WA	Rs. 0.00
TA	Rs. 200.00

GRAND TOTAL RS.

22896 TOTAL DEDUCTION 4368.00

NET PAYABLE RS. 18528.00

Particulars of Deduction

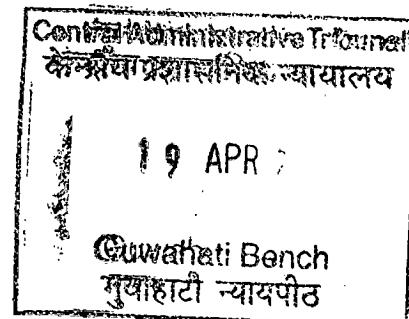
CGEGIS	60.00
CGHS	100.00
GPF(Con)	4000.00
GPF(Rec)	0.00
M/Cycle(Rec)	0.00
APT	208.00
I/Tax	
Surcharge	

Drawing & Disbursing Officer  
Guwahati

ATTESTED

*Jelly Sultan*

ADVOCATE



OFFICE OF THE REGIONAL LABOUR COMMISSIONER(CENTRAL), GUWAHATI.  
PAY SLIP

Name: S.J. Majumdar, LEO(C)

Month: November, 2007

Particulars of Pay & Allowance

Particulars of Deduction

Pay	Rs. 8900.00	CGEGIS	60.00
D.P.	Rs. 4450.00	CGHS	100.00
D.A.	Rs. 5474.00	GPF(Con)	4000.00
SDA	Rs. 1868.00	GPF(Rec)	0.00
HRA	Rs. 2003.00	M/Cycle(Rec)	0.00
SCA	Rs. 200.00	APT	208.00
WA	Rs. 0.00	I/Tax	
TA	Rs. 200.00	Surcharge	

**GRAND TOTAL Rs. 22896 TOTAL DEDUCTION 4368.00**

**NET PAYABLE RS. 18528.00**

Drawing & Disbursing Officer  
Guwahati

**ATTESTED**

Jilly Sultan  
ADVOCATE

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

19 APR 2010

Guwahati Bench  
गुवाहाटी न्यायपीठ