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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 264/95.....

R.A/C.P No.....

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CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 264 OF 1995.

TRANSFER APPLN. NO. OF 1995.

CONT EMPT APPLN. NO. OF 1995 (IN NO.)

REVIEW APPLN. NO. OF 1995 (IN NO.)

MISG. PETITION NO. OF 1995 (IN NO.)

QA/TA/CP/RA/MP No. 264 of 1995

OFFICE NOTE	DATE	ORDER
20.2.96 copy of Order dt'd. 6.12.95 issued to the counsel of the parties re d/o/a. 467 dt'd. 26.2.96	6.12.95	<p>liberalised pension. The representation was addressed to the General Manager, N.F. Railway, Maligaon, Guwahati. Annexure-F dated 9/19.8.94 shows that the representation was sent to the DRM(P)/TSK to take necessary action on the same under intimation to the applicant. The DRM therefore should have decided the representation early. It is not decided even after the reminders sent by the applicant on 24.10.94, 27.3.95 and 25.9.95. Mr B.K. Sharma, the learned counsel for the respondents states that the representation will be decided early. However, in the circumstances following order is passed.</p> <p>The DRM(P)/TSK is hereby directed to dispose of the representation of the applicant dated 27.6.94 within a period of 2(two) months from the date of receipt of the copy of this order and the decision shall be intimated to the applicant. If applicant would feel aggrieved with the decision it will be open to her to make a further representation to the General Manager, N.F.Railway. She will ^{also} be at liberty to adopt such legal remedy as she may be advised if she feels aggrieved with the decision.</p> <p>O.A. is disposed of in terms of the above order. No order as to costs.</p> <p style="text-align: right;"><i>h.s.</i> Vice-Chairman</p> <p style="text-align: center;">pg</p> <p style="text-align: center;"><i>TM/SPW</i></p>

30 NOV 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An application under Section 19 of the Administrative
Tribunal Act, 1985.

Title of the Case : O.A. No. of 1995

Smt. Arati Chowdhury Applicant

- VERSUS -

Union of India & Others Respondents.

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For use in Tribunal's Office :

Date of Filing : 30.11.95

Registration No.: O.A. 264/95

Registrar

R
W
B
20/11/95
30/11/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A.NO. 264. OF 1995.

1. BETWEEN

Smt. Arati Chowdhury

W/O. Late Binoy Krishna Chowdhury

Ex. SM/BIMR under DRM/Tinsukia

C/O. Bappa Chowdhury

Laharijan, Hanuman Mandir

P.O. - Laharijan via Bokajan

Dist.- Karbialong, Assam PIN : 782 480. . . . Applicant

2. AND

I. Union of the India

Through the General Manager

N.F.Railway, Maligaon, Guwahati-11.

II. General Manager

N.F.Railway, Maligaon, Guwahati-11.

III. General Manager (Personnel)

N.F. Railway, Maligaon, Guwahati-11.

IV. Divisional Railway Manager (P),

N.F.Railway, Tinsukia

P.O. Tinsukia (Assam).

V. Financial Adviser & Chief Accounts Officer

N.F. Railway, Maligaon, Guwahati-11. . . . Respondents.

3. PARTICULARS FOR WHICH THE APPLICATION IS MADE :

The application is made praying for a direction
to General Manager/N.F. Railway to dispose the
appeal dated 27.6.94 on the light of Board's
letter No. F(E)III 72 PN 1/19 dt. 19.9.72.

Filed by the
applicant through
Sh. Ranadik Dwar
Advocate G.
Advocate of the
Court
28.11.95

4. JURISDICTION :

The applicant declares that the subject matter for which she wants redressal is within the Jurisdiction of the Tribunal.

5. LIMITATION :

The applicant declares that the application is within the limitation prescribed in Section 21 of the Administration Tribunal Act, 1985.

6. FACTS OF THE CASE :

- I. That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.
- II. That the husband of the applicant Late Binoy Krishna Chowdhury was a permanent Railway Servant appointed as probationary Assistant Station Master under District Personnel Officer Bengal Assam Railway (Now N.F. Railway) in the year 1943 and thereafter worked in different Stations as ASM in undivided India and then in Assam Rly. and finally N.E. and N.F.Rly. after the partition of India.

A copy of Service certificate is enclosed herewith and marked as Annexure 'A'.

III. That the husband of the applicant Late Binoy Krishna Chowdhury while working as Station Master at Railway Station Bhalukmara under Tinsukia Division of N.F. Railway died in harness on 24.6.71.

IV. That the applicant being the legal heir of the deceased Rly. employee approached DVS(P)/Tinsukia to settle her dues granting pensionary and other Railway dues. But she was not granted pensionary benefit because here husband did not Opt. for pension. Only Bonus (Government Contribution) Rs. 5243/- and S.C. to P.F. had been given to her in lieu of Family pension and DCRG.

A copy of payment order issued by FA & CAO/ Maligaon is enclosed herewith and marked as Annexure 'B'.

V. That the applicant approached all corner with humble pray to grant her family pension but none did entertain her on the ground that there was no provision for opting pension at the relevant time.

VI. That the humble applicant states that Railway Board in their letter No.F(E)III 72 PN 1/19 dt. 19.9.72 instructed that in case of non-pensionable Railway Servants, who died while in service during the period from 1.4.69 to 14.7.1972, the families of

such deceased Railway servants may be allowed to Opt. for Liberalised Pension Rules, alongwith the family Pension scheme for Railway Employees, 1964 as amended from time to time in lieu of the contributory State Railway Provident Fund benefits.

A copy of the Railway Board's letter dt. 19.9.72 is enclosed herewith and marked as Annexure 'C'.

VII. That the humble applicant states that Railway Board in the aforesaid circular categorically instructed that the contents of this circular should be brought to the specific notice of the families of all the non-pensionable deceased Railway servants who died while in service during the period from 1.4.69 to 14.7.72 and to ensure that the communication should have to reach to the families of deceased Railway employee before 31.10.1972 so that they can exercise Option before 31.12.1972.

VIII. That the humble applicant beg to state that she was not informed about this scheme in terms of para 3 and 4 of the said Railway Board's circulars dated 19.9.72 and as such she did not get chance to opt. for pension scheme.

IX. That the humble applicant beg to state that since Railway Board's instruction dt. 19.9.72 extending the benefit of family Pension etc. to the families of the deceased Railway employee who died while in service in between the period 1.4.69 to 14.7.72 was not communicated to her, she was compelled to produce all requisite documents for ex-gratia payment and ex-gratia payment at the rate of Rs. 150/- per month has been sanctioned to her in terms of Railway Board's letter No. PC-IV/87/1/MP/1 dt. 30.6.88.

X. That the humble applicant having learnt from a old pensioner about the contents of Board's circular dt. 19.9.72 had no sooner collected a copy of Board's letter and made an appeal to GM/N.F. Railway praying grant of pensionary benefit giving a chance for option. A copy of the appeal & option dt. 27.6.94 are enclosed herewith and marked as Annexure 'D' & 'E'.

XI. That GM/N.F. Railway received that appeal from your humble applicant on 27-6-94 assuring her to consider her appeal sympathetically to minimise the hard ship of the applicant.

XII. That the humble applicant beg to state that GM(P)/Maligaon vide his letter dt. 9/19.8.94 communicated an interim reply to the applicant that DRM(P)/Tinsukia has been advised to take necessary action to the disposal of her appeal. GM(P)/Maligaon's letter dt. 9/19.8.94 is enclosed herewith and marked as Annexure 'F'. But since then the case is under consideration of DRM(P)/Tinsukia and GM/N.F. Railway, Maligaon even after a series of reminders to them. Copy of reminders are enclosed herewith and marked as Annexures 'G'1, 'G'2 & 'G'3.

XIII. That the respondent has no sincere effort for the disposal of the appeal of your humble applicant.

XIV. That in the aforesaid circumstances your humble applicant has no other ~~but~~ option but to pray before the hon'ble Tribunal for justice.

7. RELIEFS SOUGHT FOR :

Under the facts and circumstances the applicant pray for the following reliefs.

I. That a direction to GM/N.F. Railway for the disposal of appeal of the applicant on the light of Railway Board's letter No. F(E)III 72 PN 1/19 dt. 19.9.72.

II. That the applicant prays liberty to approach the Hon'ble Tribunal if She is aggrieved with the decision of the respondents.

8. The above reliefs are prayed for on the following amongst other grounds.

- I. That the respondent No. 23 and 4 did not comply para 3 of the Railway Board's letter dated 19.9.72 wherein Railway Board categorically stated that the scheme should be brought to the specific notice of the families of all the non-pensionable deceased Railway Servents.
- II. If the communication would reach to the applicant before 31.10.72, she would be able to exercise option before 31.12.72 as per Board's instruction dt. 19.9.72.
- III. It was the duty of the respondents to advise the applicant on the scheme that Railway have introduced. As such the applicant should not suffer due to negligence on the part of the respondent Railway authority.

9. Particulars of Postal Order

- I. Postal Order No. : DD 524344
- II. Date of Issue : 25.11.1995
- III. Issued from : Mahigaon Rly HQs, Guwahati 11
P.O.
- IV. Payable at : Guwahati Hd. Post off'r, GHY 1

V E R I F I C A T I O N

I Smt. Arati Chowdhury wife of Late Binoy Krishna Chowdhury, aged about 70 years, by religion Hindu, do hereby verify and declare that the statements made in paragraphs 1 to 9 of the application are true to my information and belief and I have not suppressed any material facts.

I sign this application on 29/11
day of November 1995 at Guwahati.

Arati Chowdhury

TO WHOM IT MAY CONCERN.

This is to certify that Sri. Binoy Krishna Chowdhury S/O. Late Ramani Mohon Chowdhury of Sunchia, P. S. Patiya, Dist. Chittagong (East Pakistan) is working as A.S.M. at Bordubi Road P.O. Hoogrijan under District Traffic Superintendent, N.F.Rly., Dibrugarh on present pay of Rs. 12/- (one hundred & twenty) D.A. Rs. 55/- (fifty five).

He was appointed as Prob. A.S.M. under D.P.O./B.A. Rly., Dacca in Sept. 1943.

In May 1944 he has been transferred under D.T.S/B.A. Rly. Chittagong and put into Relg. list of A.S.M.

In February 1945 he was posted as A.S.M. at Kamalasagar.

Therefrom he has been transferred to Fouzderhat on mutual arrangement in April 1945. Since then he had been working under D.T.S., Chittagong upto August 1947.

On exercise of Option for rest of India he has therefrom been transferred under D.T.S/Assam Rly., Duning during the partition of India.

Since then he is working as A.S.M. under A.T.S/D.T.S - Assam Rly, N.F.Rly., Dibrugarh as Citizen of India upto now.

Dated, Dibrugarh,

The 12th Dec., '60

DIST. TRAFFIC SUPERINTENDENT
N.F.RLY. DIBRUGARH

Attested
D. M. 29/11/75
Advocate

NORTHEAST FRONTIER RAILWAY

No. PF/FS/ 683/71

Annexure 'B'

Dated Pandu, the 15/9/1972
18

To The... Area Office

Northeast Frontier Railway.

Sub:-Final Settlements With Late Biray Krishna Choudhury
Ex - SM/BLMR

Ref:—Your No E/2140 (F.S.) At, 29.7.72

1. Please note that the S. R. P. F. Contributory/Non-Contributory Account of the above named has been closed and balance with interest amounts to Rs. 5.24.21 = With held (with held 130 rupees)
2. Please note that the Special Contribution to Provident Fund of the above named amounts to Rs. 50.32.50.
3. Please note that 90%/50% of the S. R. P. F. assets of the above named with interest amounts to Rs. X
4. From the above mentioned amount, Rs. 839.50 has been withheld for Share of Banam Chandni Rs. 613.37 P. has been deducted as per list below and Rs. X .. has been made payable to the Secretary X .. Ltd X .. 882.31/3
5. Arrangement has been made to pay the net amount of Rs. 911.36.50 P. in cash through pay Clerk/by money order less commission/by cheque on T.S.K to the address of the party in presence of S.M. G.D.T. as per letter of authority Submitted by the party.

PARTICULARS OF DEBITS

2d July = 32.5°⁰⁰

1/ Rent = 39.63

$$O.P. \text{ of } 10 \text{ cny } \{ = 248.74$$

$$\overline{TV}_{\text{nl}} = 613.37$$

Com. Rs.....

Bonus Rs.....

Total Rs

N.B. Mode of payment for the above financial Adviser & Chief Accounts Officer.
 Amount drawn by me on the Northeast Frontier Railway, Pandu.

Copy to Smt. Arati Chowdhury, W.O. late Biju
Chowdhury, for information. The amount is payable to him/her
on his/her own behalf and on behalf of his/her minor children as mother and as natural
guardian/as defacto guardian/as nominee.

2. The Chief Cashier, Pandu or the pay Clerk TSK.....
may be contacted for any delay in receipt of the amount quoting reference to A. B.
No.55.....F. of 14.9.72 included in C O 7. No ..
F. S. of 15.7.72

P.O - Hogaigan
Vill - Barabia
Dist - Lakhimpur
(Assam)

For Financial Adviser & Chief Accounts, Officers
Northeast Frontier Railway Pudukkottai

Attested

~~Stone 25/11/64
Advocate~~

SGP/Aligaon, P/O, 7003164/10-0008/NS/40191/25 D 20.6.70-20 000 forms

(Copy of Railway Board's letter No. F(E)III 72
PN 1/19 dated 19.9.1972).

Sub:- Grant of option for pensionary benefits
to the widows of the railway servants who
died before 15.7.1972.

Several representations have been made to the Government that hardship has been caused in certain cases to the families of railway employees who died without having been in a position to exercise an option to be governed by the Pension Scheme. The Railway Board have carefully considered the matter and have decided, with the approval of the President, that in the case of non-pensionable railway servants who died while in service during the period 1.4.69 to 14.7.1972 the families of such deceased railway servants may be allowed to opt for Liberalised Pension Rules, along with the Family Pension Scheme for Railway Employees, 1964 as amended from time to time in lieu of the Contributory State Railway Provident Fund benefits, provided that a request for the same is specifically made by the nominee(s) validly nominated by the subscriber or in the absence of a nomination, by all the members of the family of the deceased as defined in the State Railway Provident Fund Rules. If the family includes minor children, the request on their behalf can be made by their natural guardian and if there is no natural guardian by the legal guardian.

The option allowed above is in pursuance of the recommendation made by the National Council of the Joint Consultative Machinery in their meeting held on 28/29-7-1972.

*Attested
D.S.M. 29.11.72
Adulat*

2. If, in such cases, the Government contribution and/or special contribution to the Provident Fund have already been paid to the beneficiaries who make a specific request for the benefit of the Liberalised Pension Rules, the Government contribution and the excess, if any, of the special contribution over the death-cum-retirement gratuity due, should be recovered from them before acceding to the requests.

3. The contents of this letter should be published by the Railways in their Gazettes in an extraordinary issue (in English, Hindi and regional languages as necessary) within a week at the latest with copies to the recognised unions and should be brought to the specific notice of the families of all the non-pensionable deceased railway servants who died while in service during the period from 1.4.69 to 14.7.72. The amount to be refunded vide para 2 above should also be advised to them simultaneously. If the family members in question desire to take advantage of these orders the request from them to that effect, duly accompanied by the amount to be refunded by them as afore-mentioned, must be received within a period of one month from the date of receipt of the communication of these orders by them.

4. The last date by which such options can be exercised is 31.12.1972. It should, therefore, be ensured that in all such cases, the communication as above, should be issued so as to reach the families concerned before 31.10.1972.

5. Hindi version of this letter will follow.

26.11.75
Adv.

...

To,

The General Manager,
N.F. Railway, Maligaon,
Guwahati - 781 011.

Sir,

Sub:- Grant of Pensionary Benefit.

With due respect and humble submission I beg to state the followings :-

That Sir, My husband Late Binoy Krishna Chowdhury ex. Station Master, Bhalukmara died in harness while he was in service on 24.6.71 leaving me helpless with three little children.

That sir, under that circumstances I approached to DVS(P)/Tinsukia for his kind sanction to the grant of pensionary benefit to save me alongwith my children from hardship, But I was told that my husband did not exercise option for pension and as such I am not entitled for pension. However, only Bonus and S.C. to P.F. had been given in lieu of Pension and DCRG respectively.

That sir, Railway Board vide their letter No.F(E)/III 72 PN 1/19 dt. 19.9.72 instructed that the non-pensionable Railway servants who died while in service during the period 1.4.69 to 14.7.72 the families of such deceased Railway Servants may be allowed to Opt. for liberalised pension rules alongwith the family pension scheme for Railway Employees 1964 as amended from time to time in lieu of the contributory state Railway Provident Fund Benefits, Railway Board also instructed that the scheme should be brought to the specific notice of the families of all the non-pensionable deceased Railway servants who died while in service during the period from 1.4.69 to 14.7.72. But I regret to say that I was not intimated in this regard as such I did not get chance to Opt. for the scheme.

That sir, the Railway Board vide their letter No. FC-N/87/IMP/1 dt. 30.6.88 introduced a new scheme of ex.gratia payment w.e.f.1.1.86. Since I was not

attested
Date 29/1/97
Adarsh

- 14 -
- : / : -

advised the Board's earlier instruction dt. 19.9.72, I was compelled to produce all requisit documents for ex-gratia payment and the ex-Gratia @ Rs. 150/- P.M. has also been granted to me. In this connection I beg to stated that in case of grant of family Pension, the amount drawn on account of Ex-gratia payment may be adjusted.

That Sir, I hereby declare that the amount of Government contribution (Bonus) amounting to Rs. 5243/- will be deposited in terms of Board's instruction contained letter dt. 19.9.72 in the even of grant of family pension.

I am enclosing herewith an option as per Railway Board's instruction for consideration and sanction of Family Pension.

In view of the above, I pray your honour, you would be kind enough to me to the grant of the pensionary benefit in terms of the above Board's letter and for this forever, I shall remain grateful.

DA/- As above.

Yours faithfully,

Dated : 27.06.1994.

Arati Chowdhury

(Arati Chowdhury)
W/O. Late B.K. Chowdhury,
Ex. SM/BLMR under DRM(P)/TSK
C/O. Bappa Chowdhury,
Laharijan, Hanuman Mandir,
P.O. Laharijan via Bokajan,
Dist- Karbialong, Assam,
P I N : 782 480.

Copy to : DRM/Tinsukia alongwith an Option for
family pension for information and necessary action
please.

DRM 27.6.94
Arati

O P T I O N

I do hereby opted for Liberalised Pension Rules, alongwith the Family Pension scheme for Retired Employees, 1964 as ~~are~~ amended from time to time in lieu of the contributery State Railway Provident Fund benefits in terms of Railway Board's letter No. F(E)III72PN 1/19 dt. 19.9.72.

Arati Chowdhury

17.06.94

(Arati Chowdhury)

W/O. Late Binoy Krishna Chowdhury
Ex SM/BIMR under
DRM/P/Tinsukia.

Attestd
D/o
Advocate 28.11.95

NORTHEAST FRONTIER RAILWAY:

OFFICE OF THE
GENERAL MANAGER (PERSONNEL)
MALIGAON: GUWAHATI-11.

NO:195G/4/2(I)(TSK)

Dated:- 9/08-1994

TO

DRM(P)/TSK

Sub:- Grant of Pensionary benefit.

Enclosed herewith, please find a Photocopy of representation dated 27-6-94 alongwith its enclosures received from Smt. Arati Chowdhury, W/O Late Binoy Krishna Chowdhury, Ex-SM/BIMR in connectionwith the above.

You are requested to take necessary action on the representation under intimation to applicant and this office also.

DA-2 (two)

for GENERAL MANAGER (PERSONNEL) MALIGAON.

Copy forwarded for information to:-

*affited
B.K.
Advocate*

1. Mrs. Arti Chowdhury,
W/O Late B.K. Chowdhury,
Ex-SM/BIMR under DRM(P)/TSK
C/o. Bappa Chowdhury,
Inharijam, Hanuman Mandir,
PO. Inharijan Via Bokajan,
Dist- Karbinalong, Assam,
PIN-782 480.

(B.K. Chowdhury)

for GENERAL MANAGER (PERSONNEL) MALIGAON.

To,
The General Manager (Personnel),
N.F. Railway, Maligaon,
Guwahati - 11.

Sir,

Sub:- Grant of Option for Pensionary Benefit.

Ref:- Your letter No. 195G/4/2(T)/TSK
dated 9/19.8.94.

...

I am grateful to you for your kind consideration to dispose of my appeal dt. 27.6.94 vide your letter under reference.

Sir, as I was neither aware of Board's letter dt. 19.9.72 nor I was informed in this regard, I did not able to Opt for pensionary benefit. But as soon as I came to know the Board's instruction I approach to you with that humble pray.

Sir, I hope that you will sympathetically consider my appeal dt. 27.6.94 and allow my Option for family pension and sanction pensionary benefit at your earliest to save me from hardship at the fag end of life and obliged.

Yours faithfully,

Dated : 24.10.94.

Arti Chowdhury

(Mrs. Arti Chowdhury)
W/O. Late B.K. Chowdhury,
Ex. SM/BIMR under DRM(P)/TSK,
C/O. Bappa Chowdhury,
Laharijan, Hanuman Mandir,
P.O. Laharijan, Vn. Bokajan,
Dist. - Karbialong, Assam,
P I N - 782 480.

*attested
25/10/94
Advocates
29.11.94*

Copy to : DRM(F)/TSK for information & necessary action to.

To,

The General Manager (Personnel),
N.F. Railway, Maligaon,
Guwahati - 11.

Sir,

Sub:- Grant of Option for Pensionary benefit.

Ref:- Your letter No. 195 G/4/2(T)(TSK)
dated 9/19.8.1994.

...

With due respect and humble submission I beg
to state the followings :-

Sir, I am a poor unfortunate widow prayed my
legitimate claim for family pension vide my appeal
dt. 27.6.94. But till date the fate of my appeal is
unknown.

So, I again request your honour you would be
kind enough to allow my option for family pension and
sanction family pension in terms of Board's letter
No. F(E)III 72 PNI/19 dt. 19.9.72 and obliged.

Yours faithfully,

Arti Chowdhury

Dated : 27.3.95.

Attested
27/3/95
Adv.

(Mrs. Arti Chowdhury)
W/O. Late B. K. Chowdhury.
EX-SM/BIMR under DRM(P)/TSK,
C/O. Bappa Chowdhury,
Laharijan, Hanuman Mandir,
P.O. Laharijan, Via Bokajan,
Dist. - Karbialong, Assam,
PIN - 782 480.

Copy to : DRM(P)/TSK for information & and necessary
action to.

3

To,

The General Manager (Personnel),
N.F. Railway, Maligaon,
Guwahati - 11.

Sir,

Sub:- Grant of Option for Pensionary Benefit.

Ref:- Your letter No. 195 G/4/2(T)/TSK
dated 9/19.8.94.

With due respect and humble submission I beg
to state the followings :-

Sir, as soon as I came to know that Railway
Board's vide their circular No. F(E)III/72 PNI/19
dated 19.9.72 extended the benefit option for family
pension to the families of deceased Railway employees
who died while in service between 1.4.69 to 14.7.72
I prayed for the same vide my appeal and option dt.
27.6.94 and I was assured to get my legitimate claim on
Pension. But till date I did not get my family Pension.

So, I again request your honour you would be
kind ~~be~~ enough to allow my option for family Pension
in terms of said Railway Board's letter and sanction
family pension and obliged thereby.

Yours faithfully,

Dated : 25.9.95.

Arti Chowdhury

attested
Dated 28/9/95
Adwale

(Mrs. Arti Chowdhury)
W/O. Late B. K. Chowdhury,
Ex-SM/BIMR under DRM(P)/TSK,
C/O. Bapp Chowdhury,
Laharigan, Hanuman Mandir,
P.O. Laharigan, Via: Bokajan,
Dist- Karbiabong, Assam,
P. I. N - 782 430.

Copy to : DRM(P)/TSK for information and necessary
action to.