

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::GUWAHATI-5.

O.A.No. 124 of 1997.

DATE OF DECISION...16-9-1998.....

Shri Parama Das

(PETITIONER(S))

Shri A.K.Roy

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Shri S.Ali, Sr.C.G.S.C

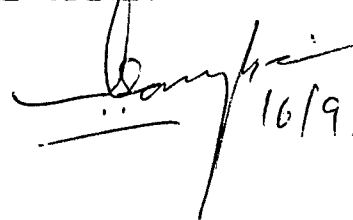
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


16/9/98

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 124 of 1997.

Date of Order : This the 16th Day of September, 1998.

Shri G.L.Sanglyine, Administrative Member.

Shri Parama Das
son of Shri Nabin Das,
resident of Nijhara Park,
Chandmari, Guwahati-3.

. . . Applicant

By Advocate Shri A.K.Roy.

- Versus -

1. Union of India
represented by the Secretary,
Department of Telecommunications,
Government of India,
New Delhi-1.

2. Telecom District Manager,
Kamrup, Ulubari,
Guwahati-7.

3. Divisional Engineer (Planning & Admn.)
Office of the Telecom District Manager,
Kamrup, Guwahati-7.

. . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

The applicant was a casual employee under the Telecom District Manager, Guwahati. He has submitted this Original Application seeking a direction on the respondents to regularise his service under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989 framed by the Government of India, Department of Telecommunications.

2. According to the applicant he was a casual labourer in the Sub-Divisional Office Telegraphs, Kamrup, Guwahati and also in the office of T.R.A Section from April 1987 to May 1993 with breaks. In the month of May 1993, the Junior Accounts Officer directed him not to come to office anymore and since then he was no longer working as casual labourer in the

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department. On 3.4.1994 the Divisional Engineer (Planning and Administration), Office of the Telecom District Manager, Kamrup, Guwahati issued a Memo No.TDM/Est-179/Loose/93-94/101 dated 3.4.1994 conferring temporary status on the casual labourers with effect from 1.2.1994. In the said list his name was not included though the names of some casual labourers, who were junior to the applicant and were like him retrenched in the same period, i.e. in May 1993, were included in the list. The applicant felt aggrieved and ultimately submitted an Original Application No.175/96 before this Tribunal. Consequent to the direction of the Tribunal in the order dated 27.8.1996 the applicant submitted a representation dated 23.9.1996 to the respondents which was rejected by letter No.TDM/Est-179/Gen/96-97/44 dated 18.2.1997, Annexure-E, on the ground that on the basis of existing orders of Government of India the claim of the applicant for appointment cannot be considered. This order however contains no details. Hence this original application

3. The applicant claims that he had worked as follows :

"April '87 to Dec. '87	= 163 days
Jan. '88 to Dec. '88	= 240 days
Jan. '89 to Dec. '89	= 241 days
Jan. '90 to Dec. '90	= 242 days
Jan. '91 to March '91	= 72 days
April '91 to Dec. '91	= 240 days
Jan. '92 to Dec. '92	= 250 days"

and also from January '93 to May '93. He further claims that the particulars above are supported by letter No.E-11/SDOT/Kamrup/95-96/11 dated 8.11.1995 issued by the Sub-Divisional Officer, Telegraphs (Kamrup), Ambari, Guwahati to the Sub-Divisional Engineer (Admn.), Office of the Telecom District Manager, Kamrup and by certificate dated 5.3.1992 Annexure-A issued by SE/TRA and certificate dated 31.5.1993 issued by the Junior

Accounts Officer (TRA), Telecom District Manager, Annexure-A.

As already mentioned earlier the Annexure-E order does not contain any detail. However, the reasons and the mind of the respondents in rejecting the prayer of the applicant can be gathered out of the written statement submitted by them. In para 5 and 6 of the written statement which are re-produced below they have stated :

"5) That with regard to the statements made in paragraph 4 IV of the application the Respondents beg to state that, the petitioner was disengaged by the Junior Accounts Officer as there was no work to be assigned to him during that period. The scheme of grant of temporary status - 1989 implemented bases on works particulars as well as payment particulars and not simply on production of certificate by any Mazdoor engaged during certain period. The Respondents further begs to state that the scheme granting temporary status of 1989 was applicable to those workers who were engaged by the Respondents and payment was made to them. On production of certificate from any officer about his engagement can not be given any temporary status to any mazdoor engaged during the certain period.

6) That with regard to the statements made in paragraph 4 V of the application the Respondents beg to state that, those who have worked as per scheme with proof of work as casual labour his case will definitely be considered but the applicant has no proof that he had worked as casual Labour in the department."

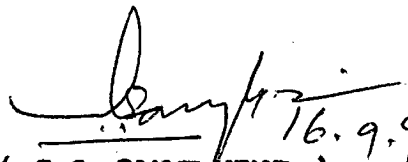
The respondents have not denied the contention of the applicant that some casual labourers who were junior to him and who were also retrenched in the period about May 1993 like him were included in the list dated 3.4.1994 referred to above. The SDO, Telegraphs, Kamrup, Guwahati had sent letter dated 12.8.1995 and also letter dated 8.11.1995 to the Sub-Divisional Engineer (Admn.), Kamrup, Guwahati giving details of working particulars of Shri Parama Das, the present applicant. The S.E and the Junior Accounts Officer of TRA Section had given certificates regarding

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the periods of works of the applicant under them. Yet it is the contention of the respondents that there is no record to show that the applicant was engaged as casual labourer under them. I am of the view that the respondents cannot take such stand unless they are clearly of the view that their Field Officers had issued false letters and certificates. Further, these Field Officers had certified and stated that the applicant worked during the relevant periods. Yet the respondents have contended that there is no particulars of payment to the applicant in their office and, for that reason, the case of the applicant could not be considered favourably. Unless the above letters and certificates are proved by the respondents to be false, their contention implies that their officers were exploiting the applicant by obtaining service from him without any payment. I am of the view that the above contentions have been made simply with a view to deny the benefits to the applicant. In view of the contentions of both sides, opportunities were allowed to the respondents during the course of hearing of the O.A. to produce records in order to verify the claim of the applicant that he worked from April 1987 to May 1993 under them and adjournments were granted for the purpose. There was no response however from the respondents. This simply shows that there was no bonafide intention on the part of the respondents to consider the case of the applicant. In the facts and circumstances it has to be treated that the above mentioned letters of the SDO Telegraphs and the certificates at Annexure-A to the effect that the applicant was in service as casual labourer under the respondents from 1987 to 1993 with breaks are genuine. Accordingly it is hereby held that the applicant was a casual labourer under the respondents during the period. The applicant was in service therefore when the 1989 scheme

mentioned above came into force. There is no justifying reason why the benefit of this scheme could not be conferred on the applicant at the time the scheme came into force or subsequently at appropriate time. After duly considering the contentions of both sides I am of the view that the respondents have arbitrarily failed to consider granting of the benefits provided in the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989 to the applicant. I therefore direct the respondents to consider conferring temporary status on the applicant and subsequently regularising his service as may be admissible under the scheme and the facts of his case. A final order shall be communicated by the respondents to the applicant within 60 days from the date of receipt of this order.

4. The application is allowed in terms of the order. No order as to costs.


(G.L.SANGLAYINE)
ADMINISTRATIVE MEMBER

16.9.98