

8  
ANNEXURE.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others.  
Date of decision : This the 31 st day of August 1999.

The Hon'ble Justice D.N.Baruah, Vice-Chairman.

The Hon'ble Mr.G.L.Sanglyine, Administrative Member.

1. O.A. No.107/1998

Shri Subal Nath and 27 others. .... Applicants.  
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.  
.....

2. O.A. No.112/1998

All India Telecom Employees Union,  
Line Staff and Group- D and another..... Applicants.  
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.  
- versus -  
Union of India and others. .... Respondents.  
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.  
.....

3. O.A.No. 114/1998

All India Telecom Employees Union  
Line Staff and Group-D and another. .... Applicants.  
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.  
- versus -  
The Union of India and others ..... Respondents.  
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.  
.....

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 others. .... Applicants.  
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda  
and Ms.N.D. Goswami.  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.  
.....

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others . .... Applicant.  
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda  
and Ms. N.D. Goswami.  
- versus -  
The Union of India and Others . .... Respondents.  
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.  
.....

6. O.A.No.131/1998

All India Telecom Employees Union and another...Applicants.  
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr. B.C. Patha, Addl.C.G.S.C.

7. O.A.No.135/98  
 All India Telecom Employees Union  
 Line Staff and Group-D and 6 others. .... Applicants.  
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma and  
 Mr.U.K.Nair.  
 - versus -  
 The Union of India and others ... Respondents.,  
 By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.  
 ....

8. O.A.No.136/1998  
 All India Telecom Employees Union,  
 Line Staff and Group-D and 6 others. .... Applicants.  
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.  
 - versus -  
 The Union of India and others. .... Respondents.  
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
 ....

9. O.A.No.141/1998  
 All India Telecom Employees Union,  
 Line Staff and Group-D and another .... Applicants.  
 By Advocates Mr.B.K.Sharma, Mr.S.Sarma  
 and Mr.U.K.Nair.  
 - versus -  
 The Union of India and others ..... Respondents.  
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
 ....

10. O.A. No.142/1998  
 All India Telecom Employees Union,  
 Civil Wing Branch. .... Applicants.  
 By Advocate Mr.B.Malakar .....  
 - versus -  
 The Union of India and others. .... Respondents.  
 By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.  
 ....

11. O.A. No.145/1998  
 Shri Dhan Ram Deka and 10 others. .... Applicants  
 By Advocate Mr.I.Hussain.  
 - versus -  
 The Union of India and others. .... Respondents.  
 By Advocate Mr.A,Deb Roy, Sr. C.G.S.C.  
 ....

12. O.A.No. 192/1998  
 All India Telecom Employees Union,  
 Line Staff and Group-D and another .... Applicants  
 By Advocates Mr.B.K. Sharma, Mr.S.Sarma  
 and Mr.U.K.Nair.  
 -versus-  
 The Union of India and others..... Respondents  
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
 ....

13. O.A.No.223/1998  
 All India Telecom Employees Union,  
 Line Staff and Group-D and another .... Applicants  
 By advocates Mr. B.K.Sharma and Mr.S.Sarma.

7

- versus -  
The Union of India and others ... respondents.  
By Advocate Mr.A.Deb Ray, Sr.C.B.S.C.

\*\*\*\*\*  
14. U.O. No. 97/1978

All India Telecom Employees Union,  
Tele Staff and Group-D and another ... Respondents.  
By advocates Mr. B.K.Sharma and Mr. S. Verma,  
Mr.D.K.Sharma and Mr. S. Verma.

The Union of India and others ... respondents.  
By Advocate Mr.B.C.Pathak, Addl. Sr. C.B.S.C.

15. U.O. No. 98/1978

All India Telecom Employees Union,  
Tele Staff and Group-D and another ... Respondents.  
By advocates Mr. B.K.Sharma and Mr. S. Verma,  
and Mr.D.K.Sharma.

- versus -  
The Union of India and others ... Respondents.  
By Advocate Mr.B.C.Pathak, Addl. Sr. C.B.S.C.

\*\*\*\*\*  
Q & D & R

Question & Answer

All the above applicants involve common question of law  
and similar facts. Therefore, we propose to dispose of the above  
above applications by a common order.

2. The All India Telecom Employees Union is a registered  
union of the telecommunication department. The union was formed  
one cause of the members of the Sato Union. Some of the applications  
were submitted by the Sato Union, namely the tele staff and  
group-D employees and some other application were filed by the  
casual employees individually. Those applications were filed as  
the casual employees engaged in the telecommunication department  
came to know that the services of the casual hazardous driver and  
respondents were likely to be terminated with effect from  
1.6.1978. The applicants in these applications, prior to filing  
respondents directed me to implement the scheme of terminating  
the services of the casual hazardous driver to provide  
similar benefits as had been granted to the employees in  
Department of Posts and to cover the benefits of the

namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned D.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.756/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable

5  
12

to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. Nos 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as

casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only to the casual employees who were engaged before the scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and

7  
been extended up to 1993 and thereafter by subsequent orders. According to the learned counsel for the applicants the same is applicable to the present applicants. The learned counsel for the applicants further submit that they have written now in that connection. The learned counsel for the applicants also submits that the applicants are entitled to temporary orders for implementation of the scheme, including the applicants not given any such orders by the Tribunal. The learned counsel further submits that temporary scheme is required to regulate the employment of temporary staff and to regulate the employment of those casual workers who have completed two years of service in a year.

7. On hearing the learned counsel for the parties, we find that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration the submissions of the learned counsel for the applicants.

8. In view of the above we direct that the applicants file a site direction to the respondents to examine their cases before the applicants. The applicants may file representations before us within a period of one month from the date of receipt of this order date if such representations are filed in writing. The respondents shall scrutinise and examine each case in comparison with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter or interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order is to issue.

2000-01-01 10:45:00

1000-01-01 10:45:00