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.
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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.
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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.
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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.
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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.

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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.
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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.
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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 Dhani 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.
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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.

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- versus -
The Union of India and others .. Respondents.
By Advocate Mr.A.Deb Roy, Sr. [illegible]

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14. O.A.No.[illegible]/1998
All India Telecom [illegible]
Line Staff and Gr[illegible] .. [illegible]
By advocate [illegible],
Mr.U.K.Nair [illegible]
- versus -
The [illegible] others .. Respondents.
By A[illegible] Pathak,Addl. Sr. C.G.S.C.

15. [illegible]/1998
All India Telecom Employees Union,
Line Staff and Group-D and another .. [illegible]
By advocates Mr. B.K.Sharma and [illegible],
and Mr.U.K.Sharma.
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak,Addl. Sr. C.G.S.C.

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O R D E R

[illegible] (V.C.)

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

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of these applications were submitted by the said union, namely the Line Staff and Group-D employees and some other applications 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 Mazdoors under the respondents were likely to be terminated with [illegible] 1.[illegible].1998. The applicants in these applications, prayed [illegible] respondents to be directed not to implement the [illegible] [illegible]ating the services of the casual Mazdoors [illegible] similar benefits as had been granted to the employees [illegible] Department of Posts and to extend the [illegible] of the [illegible]

namely casual Labourers (Grnt of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors conceerned O.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 Mazdooors 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.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable

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. No.s 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 egffect 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 casiual employees furnished in the applicantions 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 employeeesare 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 besis 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.As 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 the casual employees who were engaged before the scheme came in to 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

then extended up to 1993 and thereafter by subsequent [illegible]. According to the learned counsel for the applicants the [illegible] are applicable to the present applicants. The learned [illegible] the applicants further submit that they have [illegible] in that connection. The learned counsel for the app[illegible] also submits that the [illegible] implementation of the scheme, [illegible] not given any such cut off date [illegible] conferment of temporary status [illegible] subsequent [illegible] of those casual workers who have [illegible] a year.

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

8. In view of the above we dispose of these applications with direction to the respondents to examine [illegible] applicant. The applicants may file representation [illegible], within a period of one month from the date of receipt of this order and if such representations are filed [illegible]y, the respondents shall scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. [illegible] interim order passed in any of the cases shall remain in [illegible] till the disposal of the representations.

9. No order as to costs.

[illegible]