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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 222/2000

R.A/C.P No.

E.P/M.A No.

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2. Judgment/Order dtd. 16/06/2003Pg. No separate order disposedto.
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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI


ORDER SHEET
APPLICATION NO. 222/2000 ~~OF 199~~

Applicant(s) V. Sumi Sors.
VS-

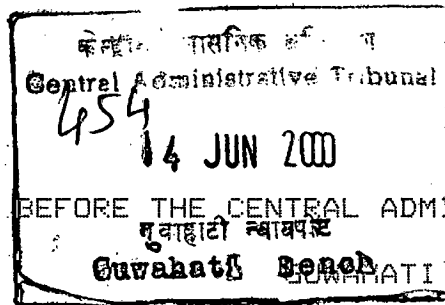
Respondent(s) *union of India Gov.*

Advocate for Applicant(s) Mr. Bk Sharang, Mr. S. Sarang

Advocate for Respondent(s) *CBSC*

Notes of the Registry	Date	Order of the Tribunal
<p> This application is in form and within time of R. of R. 50 deposited vide PO BD No. 73,73,7311 Dated 14-6-2000 14/6/2000 6.2000. Copy of the Judgment sent to the Spec. The sure to the as well as to S.C. for the Reply. </p>	<p>16.6.00</p> <p>trd</p>	<p>Present: Hon'ble Mr D.C. Verma, Judicial Member</p> <p>Learned counsel Mr S. Sarma for the applicants and Mr A. Deb Roy, learned Sr. C.G.S.C for the respondents.</p> <p>The O.A. is taken up for disposal at the admission stage itself.</p> <p>Heard the learned counsel for the parties. Hearing concluded. The O.A. is disposed of as per order dictated separately. No costs.</p> <p style="text-align: right;">  Member(J) </p>

Order of the Tribunal



(An application under section 19 of the Administrative Tribunal Act, 1985)

Title of the case :

D.A.No. of 2000.

BETWEEN


Shri V. Sumi & Ors.

VERSUS

Union of India & Ors.

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Filed by : 

File No.: C:\WS7\VIZO

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Filed by
S. S. S. S. S.
S. S. S. S. S.
S. S. S. S. S.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1985)

D.A.No.'2000

BETWEEN

1. Mr.Visheto Sumi.

Son of L.Sumi.

At present working as Casual worker,

Under the Nagaland SSA. (Complaint Section.)

Kohima, Nagaland.

2. All India Telecom Employees Union

Line Staff and Group-"D"

Nagaland, Division,

represented by, Divisional Secretary,

Shri M.Buddhi Singh.

..... Applicants.

- A N D -

1. The Union of India,

Represented by the Secretary to the

Ministry of Communication. New Delhi.

2. The Chief General Manager,

N.E.Telecom Circle,

Shillong-793001.

3. The Telecom District Manager

Nagaland, Telecom Division,

Dimapur, Nagaland.

..... Respondents.

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PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applications, others named been benefited.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

4. FACTS OF THE CASE

4.1. That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That in the instant application, the Applicant No.2 is the Divisional Secretary of All India Telecom Employees Union, Line Staff and group-D, Nagaland, Divisional Branch and he represented the interests of casual workers more particularly reflected in the Annexure-A to this Original Application. Applicant No.1 is one of the casual labourers as listed in the Annexure-A

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is also similarly situated like that of the other applicants on whose behalf the instant application has been filed by the applicant No.2. Accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together in a single application invoking rule 4(5)(b) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

A list containing the names and particulars of the applicants is annexed as ANNEXURE-A.

4.3. That the casual labourers whose interests are being represented in the instant application were all appointed in various dates ranging from 1993 onwards on temporary basis. The applicants are at present drawing their wages under ACG-17 and pay slip, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

For better appreciation of the factual position the services particulars reflected in the Annexure-A may be referred to. They are still continuing in their respective posts as reflected in the Annexure-A till date.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a

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similar direction by way of filing writ petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt.of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation)Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

Copies of the Apex Court Jugement and the above mentioned scheme is annexed herewith and marked as ANNEXURE-1 and 2.

4.5. That as per the Annexure-2 scheme as well as the directions issued by the Hon'ble Supreme Court (Annexure-1) in the cases mentioned above, the applicants are entitled to the benefits described in the scheme. The applicants are in possession of all the qualifications mentioned in the said scheme as well as in the aforesaid verdict of the Hon'ble Supreme Court, and more specifically in the datas described in the Annexure-A may be refereed to for the better appreciation of the factual position.

4.6. That the respondents after issuance of the aforesaid scheme, issued further clarification from time to time of which mention may be made of letter No.269-4/93-STN-II dated 17.12.93 by which it was stipulated that the benefits of the schene should

be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

The applicants crave leaves of the Hon'ble Tribunal to produce the said order at the time of hearing of the case.

4.7. That on the other hand casual workers of the Deptt. of Posts who were employed on 29.11.89 were eligible to be conferred the temporary status on satisfying other eligible conditions. The stipulated date 29.11.89 has now further been extended up to 10.9.93 pursuant to a judgment of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in OA No.750/94. Pursuant to the said judgment delivered by the Ernakulam Bench, Govt of India, Ministry of Communication issued letter No.66-52/92-SPD-I dated 1.11.95 by which the benefits of conferring temporary status to the casual labourers have been extended up to the recruits up to the 10.9.93.

A copy of the aforesaid letter dated 1.11.95 is annexed herewith and marked as ANNEXURE-3.

The applicants have not been able to get hold of an authentic copy of the said letter and accordingly they pray for a direction to produce an authenticated copy of the same at the time of hearing of the instant application.

4.8. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicants in the instant application more so when they are similarly circumstanced with that of the casual workers to whom benefits have been granted and presently working in the Deptt. of Posts. As stated above both the Deptts. are under the same Ministry i.e. the Ministry of Communication, and the scheme were pursuant to the Supreme Court's Judgment as mentioned above.

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There can not be any earthly reason as to why the applicants shall not be extended the same benefits as have been granted to the casual labourers working in the Deptt. of Posts.

4.9. That the applicants state that the casual labourers working in the Deptt of Telecommunication are similarly situated like that of the casual workers working in the Deptt. of Posts. In both the cases relevant schemes was prepared as per the direction of the Hon'ble Court delivered their judgment in respect of the casual workers in the Deptt. of Telecommunication following the judgment delivered in respect of casual workers in the Deptt. of Posts. As stated earlier both the Deptts. are the same Ministry i.e. Ministry of Communication. Therefore, there is apparent discrimination in respect of both the sets of casual labourers though working under the same Ministry. It is pertinent to mention here that the casual workers of the Deptt of Posts on obtaining the Temporary Status are granted much more benefited than the casual workers of the Deptt. of Telecommunication. Similar benefits are required to be extended to the casual workers of the Deptt. of Telecommunication having regard to the facts both the Deptts are under the same ministry and the basic foundation of the scheme for both the Deptts are Supreme Court's judgment referred to above. If the casual workers of the Deptt of Posts can be granted with the benefits as enumerated above based on Supreme Court's verdict, there is no earthly reason as to why the casual workers of the Deptt. of Telecommunication should not be extended with the similar benefits.

4.10. That the applicants state that the matter relating to filing up of Group-D posts came before the Regional Joint Consultancy Meeting held in Shillong on 28.11.95 under the Chairman-

ship of Shri V.P.Singh, Chief General Manager, N.E. Circle. In the aforesaid meeting including Chairman there were 5 competent officers and 11 union members from the staff side present to discuss the welfare of the Casual/Contractual Employees including regularisation of Group-D Employees. After a detailed discussion a decision was taken for one time relaxation of Group-D recruitment and to that effect both the sides office side as well as staff side decided to approach Directorate for the appropriate steps.

A copy of Minutes of the aforesaid Regional Joint Consultancy Meeting dated 28.11.95 is annexed as ANNEXURE-4.

4.11: That pursuant to aforesaid agreement of the meeting both the side approached the Directorate and as per instruction issued to the Chief General Manager, Telecom, a letter was issued on 25.7.96 whereby 400 posts of Daily Rated Mazdoors under the Chief General Manager, Telecom, N.E.Circle have been distributed in six sub stations including Nagaland, SSA. As per the aforesaid distribution 50 posts have been allotted under the Nagaland Division.

A copy of the aforesaid letter dated 25.7.96 is annexed herewith and marked as ANNEXURE-5.

4.12. That the applicants beg to state that in view of aforesaid scheme as well as the verdict of the Hon'ble Supreme Court, they entitled to be regularised more so when there is at present 50 vacancies as per Annexure-5 letter.

4.13. That the Applicant No.1 in view of the above discrimination in respect of the applicants reflected in Annexure-A working under the Respondent No.4 made several representations to

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the authority concerned. In one of the said representations the grievances of the applicants on whose behalf this application is made along with some others have been reflected. In the said representations apart from the other grievances it was pointed out that there are at least 50 vacancies and at present the Deptt. concerned in the need of Group-D employees.

A copy of one of the representation dated 17.6.98 is annexed as ANNEXURE-6.

4.14. That the applicants beg to state that making a similar prayer a group of casual workers working under Assam Circle had approached this Hon'ble Tribunal by way of filing OA No.299/96 and 302/96 and this Hon'ble Tribunal pleased to allow the afore-said application on 13.8.97 by a common judgment and order.

A copy of the said order dated 13.8.97 is annexed herewith and marked as ANNEXURE-7.

4.15. That the applicants state that it is settled position of law that when some principles have laid down in a given case those principles are required to be made applicable to other similarly situated cases without requiring them to approach the Hon'ble Court again and again. But in a nutshell case in spite of judgement of Hon'ble Ernakulam Bench delivered in respect of casual labourers of Deptt. of Posts, the Deptt. of Telecommunication under the same ministry has not yet extended the benefits to the casual labourers working under them.

4.16. That the applicants beg to state that the action of the respondents towards the non implementation of the case of the applicants are with some ulterior motive only to deprive the them from their legitimate claim of regularisation. The main crux of

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their representation was for regularisation and grant of temporary status and for consideration of their cases against the sanctioned 50 nos of posts for Gr D employees but in reply to the said representation, the respondents have not issued any order as yet. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

4.17. That the applicants state that in a nutshell their whole grievances are that to extend the benefit of the aforesaid scheme as well as similar treatment as has been granted to the casual workers working under Deptt. of Posts in regard to treating the cut of date of engagement as has been modified from time to time by issuing various orders, of which mention may be made of order dated 1.9.99 by which the benefit of the scheme has been extended to the recruitees up to 1998.

A copy of the order dated 1.9.99 is annexed herewith as Annexure-8.

4.18. That the applicants beg to state that the respondents are presently making arrangements for filling up those 50 posts of Gr.D Mazdoors within a short time and it is also learnt that the cases of the applicants will not be considered for those posts and some outsiders are going to be appointed in these posts. Claiming similar benefits of the said scheme numbers of casual workers had approached the Hon'ble Tribunal by way of filing various OAs and the said OAs have been disposed of directing the respondents to consider the cases of those applicants and the present applicants in view of the aforesaid factual position.

as well as the similarities have been praying before the Hon'ble Tribunal for a similar order.

A copy of the said order dated 31.2.99 passed in O.A. Nos 107 and other connected matters are annexed as Annexure-9.

4.19. That the applicants who are at present working as casual workers, have got reasonable apprehension that the respondents in view of filing of the instant application may disengage them from their service and hence they are constrained to make further prayer before the Hon'ble Tribunal for protection of the interest by way of passing an interim order directing the respondents not to disturb them from their present posts and to allow them to continue in their posts during the pendency of the OA. The applicants also pray for a further interim order directing the respondents not to fill up any vacant posts including those 50 sanctioned posts till disposal of this application.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of benefit of the scheme to the casual labourers whom the applicants union represent in the instant case is prima-facie illegal and arbitrary and same are liable to be set aside and quashed.

5.2. For that it is the settled law that when some principles have been laid down in a judgement extending certain benefits to a certain set of employees, the said benefits are required to be similarly situated employee without requiring them to approach the court again and again. The Central Govt. should set an example of a model employer by extending the said benefit to the applicants.

5.3. For that the discrimination meted out to the members of the applicants union in not extending the benefits of the scheme and in not treating them at par with postal employees is violative of Articles 14 and 16 of the Constitution of India.

5.4. For that the respondents could not have deprived of the benefits of the aforesaid scheme which has been applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicants crave leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedies available to them.

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. It is further stated that since the respondents have not yet issued any impugned order, and due to paucity of time and having regard to the urgency in the matter the applicants even have not file any representation however, they have made several verbal representations.

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8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants:

8.1. To direct the respondents to extend the benefits of the said scheme to the members of the applicants and to regularised their services .

8.2. To direct the respondents to extend the benefits of the scheme to the applicants particularly who have joined in the year 1998 taking in to consideration the judgement of the Hon'ble eamnakulam Bench as well se the clarification issued in this regard and to regularise their services.

8.3. To direct the respondents not to fill up any vacant posts of Daily Rated mazdoors without first considering the case of the applicants.

8.4. Cost of the applicants.

8.5. Any other relief/reliefs to which the applicants are entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to fill up any vacant posts of Daily Rated Maxdoors without first considering the case of the applicants. The applicants further prays for an interim order direction the respondents not to disturb

their services and to allow them to continue in their respective posts during the pendency of the case.

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11. PARTICULARS OF I.P.O.:

1. I.P.O. No.

:

OG- 73H

2. Date

:

16-6-2000

3. Payable at

:

Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

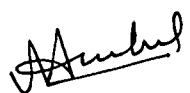
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VERIFICATION

I, Shri Visheto Sumi, s/o L.Sumi, aged about 27 years, at present working as Casual Worker under Nagaland SSA in the Complaint Section, Nagaland, do hereby verify and state that the statements made in paragraphs 1;2,3, 4.1 to 4.3, 4.5 to 4.6, 4.8 to 4.9, 4.12, 4.14 to 4.16, 4.19 and 5 to 12 are true to my knowledge and those made in paragraphs 4.4, 4.7, 4.10, 4.11.4.13, 4.17, and 4.18 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the applicant No.2 to sign this verification on his behalf.

And I sign this verification on this the 14 th day of June, 2000.

Signature.


VISHETO SUMI

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ANNEXURE - A

LIST OF CASUAL / ~~00000000~~ LABOURS WORKING UNDER NAGALAND SSA

S.L NO.	NAME OF THE LABOUR	NAME OF FATHER	WORKING UNDER	MODE OF PAYMENT	DATE OF ENTRY	EDUCATIONAL QUALIFICATION
1.	R. NZAMO NUGIE	R.HONT HUNGO	T.D.M.	ACG-17	December '93	Class-X
2.	ASHOK KUMAR GONDA	L.GONDA	I.B.	Do	1-2-1994	Class-X
3.	HARI MECH	B.MECH	S.D.O.T.	do	1-4-1995	Class-X
4.	ABDHESH THAKUR	S. THAKUR	T.D.M.	do	1-6-1995	Class-VII
5.	JINTU GOGOI	K.GOGOI	S.D.O.T.	do	1995	Class-VII
6.	PRADIP CHAKRABORTY	P.CHAKRABORTY	S.D.E.(Plg)	do	1995	Class-VII
7.	KOLIE ANGAMI	K.ANGAMI	S.D.E.(Intl)	do	1995	Class-VIII
8.	SUDHANGSHU KR.SUDHAKAR	RAM SEWAK DAS	S.D.O.T.	do	1996	P.U.
9.	HUMET MECH	UTTAM MECH	do	do	9-3-96	Class-X
10.	ASHOK DAS	RAMJEE DAS	do	do	Sept '96	P.U.
11.	SAVITO	SATOI	S.D.E.(Intl)	do	1997	Class-IV
12.	HEKATO	M .SEMA	S.D.E.(Intl)	do	JULY '97	H.S.L.C.
13.	AKUTO KIBA	PULMO	do	do	OCT897	Class-VI
14.	BINODH DEWARI	D.H.DEWARI	S.D.O.T.	do	1996	Class-IX
15.	VISHETO SUMI	L. SUMI	Complaint sec.	do	1-10-97	B.Com.
16.	SAKETO SEMA	Y.SEMA	S.D.O.T.	do	1997	Class-VIII
17.	SANJEEV KUMAR	S.GUPTA	do	do	1997	P.U.
18.	SUBRATO BHOWMIK	S.BHOWMIK	do	do	12-5-97	Class-VIII
19.	RANJIT SINGH	M.T.SINGH	Group	do	Sept '97	H.S.L.C.
20.	MADHUMITA BHATTACHARJEE	M.BHATTACHARJEE	S.D.O.T.	do	1998	H.S.L.C.
21.	HONIVI SEMA	L.SEMA(S.I.T.)	do	do	1998	P.U.
22.	SEKAVI SEMA	NIVITO SUMI	do	do	1998	Class-V
23.	NEHUMBMO LOTH	N.LOTHA	Store	do	Feb'98	Class-IX
24.	AJIT Ch. DAS	Das	I/B	do	1-4-98	Class-VII
25.	KEVITO SEMA	S.H.SEMA	S.D.O.T.	do	1998	H.S.
26.	HUKATO SEMA	XUKISHE	do	do	1998	Class-IX
27.	BASANTA PRADHAN	PRADHAN	do	do	1998	-
28.	Mrs.ANUSHILA DEB	J.C.DEY	do	do	Oct '97	H.S.L. C.
29.	BABUL CHAKRABORTY	N.CHAKRABORTY	do	do	Nov '97	H.S.L.C.
30.	POUTHLONG RONGMEI	K.D.RONGMEI	do	do	1998	-
31.	GOKHETO		do	do	1998	-
32.	S.T. ANGAMI		do	do	1998	-
33.	T.A.KULRU	Z.KULRU	Kohima	do	May '97	Class-VII
34.	Mrs.SONGMUCHANG		S.D.E.(Intl)	do	June '97	P.U.
35.	MS.UMA DEY		do	do	June 897	Class-VII
36.	Miss M.DEY		do	do	July '97	B.A.
						P.U.

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SL.NO.	NAME OF THE LABOUR	NAME OF FATHER	WORKING UNDER	MODE OF PAYMENT	DATE OF ENTRY	EDUCATIONAL QUALIFICATION
37.	RAJNISH RANJAN DAS	RAJ KISHORE DAS	group	ACG.17	July'98	Class-X
38.	SHIVASISH DASGUPTA	BIMAL DASGUPTA	Complaint Sec.	do	1996	P.U.
39.	SANJAY DEB	S.CH.DEB	S.D.O.T.	do	12-8-97	H.S.L.C.
40.	BISWAJEET BHOWMIK	B.Ch.BHOWMIK	Group	do	10-5 1996	H.S.L.C.
41.	NIRMAL DEBNATH	Lt.P.DEBNATH	do	do	March'96	Class-XI
42.	AMRIT BARUAH	D.BORUAH	Signal Exchange	do	1997	Class-X
43.	SANJAY KUNDO	G.KUNDU	Group	do	1997	Class-IX
44.	KEJEO ANGAMI	P.ANGAMI	do	do	March'97	Class-VIII
45.	TOHOKHU		S.D.O.T.	do	1997	Class -VII
46.	HOTOSHE SUMI	SUMI	do	do	Sept'97	Class-X
47.	BISWANATH MECH	K. MECH	do	do	Feb'98	Class-IX
48.	THUNGJAMO NGULLIE	N.NGULLIE	S.D.OP/Kohima	do	1-1-98	H.S.L.C.
49.	BIDHUT DAS	B.DAS	S.D.O.T.	do	Feb'98	Class-VIII
50.	NIKUTO SEMA	K.SEMA	Chumukedima	do	June 897	Class-VIII
51.	RAMESH Ch.PRADHAN	G.PRADHAN	Mokekchung	do	1997	Class-X
52.	KWASAR AHMED	AHMED	S.D.O.T.	do	1997	H.S.L.C.
53.	K.HELEN ASSUMI	K.ASSUMI	do	do	1-5-98	P.U.
54.	ADO TASE	Lt.V.TASE	Kohima	do	1993	Class-VI
55.	I.SUKHAI SUMI	I. SUMI	S.D.O.T.	do	Feb'98	Class-X
56.	MUKUNDA HALOI	D.HALOI	do	do	Jan'98	H.S.L.C.
57.	SANTOSH	Lt.B.MAHTO	S.D.E.(Int1)	do	Jan 898	H.S.L.C.
58.	JISHU BHATTACHARJEE	C.R.BHATTACHARJEE	S.D.O.T.	do	Oct'97	Class-IX
59.	M.I.SHARMA	K.SHARMA	Store	do	Oct'97	Class-IX
60.	CHANDAN BHATTACHARJEE	R.K.BHATTACHARJEE	Group	do	Oct'97	Class-X
61.	P.SHARMA	Lt.P.SHARMA	Group	do	1997	Class-IX
62.	C.KUMAR YADAV	B.YADAV	Group	do	Oct'997	Class-X
63.	A.RAJESH SINGHA	A.B.SINGHA	S.D.O.T.	do	Nov'97	H.S.L.C.
64.	GOPAL SEN	M.SEN	store	do	Feb'97	Class-X
65.	PREM KR. SINGHA	A.T SINGHA	Group	do	Nov'97	H.S.L.C.
66.	RAKHEMO NGULLIE	TSENTHUNGO	STO C/D	do	FEB-98	H.S.L.C.

Absorption of Casual Labours
Supreme Court directive Department of Telecom take back all
Casual Mazdoors who have been disengaged after 30.3.85.

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors.

Petitioners.

-versus-

Union of India & ors.

Respondents.

With

Writ Petition Nos 1246, 1248 of 1986 176, 177 and 1248 of 1988.

Jant Singh & ors etc. etc. Petitioners.

-versus-

17. 1990.

Union of India & ors.

Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India.

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual/Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30 th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in case of Casual Employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the

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22-
22

posts and Telegraphs Department".

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist. Madras/
Calcutta.

V.S. to Heads of all other Administrative Units.

Subject: Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme.

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No. 269-29/87-STC dated 18.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3. In this connection, your kind attention is invited to letter No. 270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O. letters No. 270-6/84-STN dated 22.4.87 and 22.5.87 from member (pers. and Secretary of the Telecom Department) respectively. According to the instructions subsequently issued vide this office letter No. 270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrification Circles also should not be resorted to.

3.2. In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.85 requiring consideration for conferment of temporary status. Such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non retrenchment was resorted to.

3.3. No Casual Labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No

- 87 - 20

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SMF/70/98 dated 27.9.89.

5. Necessary instructions for expeditious implementation of the scheme may kindly be issued and payment for arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information.
MCG/SEA/TE-II/IPS/Adm., I/CSE/PAT/SPD-I/SR Secy.

All recognised Unions/Associations/Federations.

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

ASSISTANT DIRECTOR GENERAL (STN).

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

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labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

labourers fulfilling the relevant conditions prescribed in the relevant provisions of the Act and Rules thereunder. sd/=

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ANNEXURE

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989"

2. This scheme will come in force with effect from 1.10.89 onwards.

3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed a relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Staff.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they are selected through regular selection process for Gr. posts.

-26- 22-

6. Temporary status would entitle the casual labourers to the following benefits :

- i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr.D officials including DA, HRA, and CCA.
- ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.
- iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.
- iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.
- v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.
- vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labourer may be dispensed within accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of unavailability of work. A casual labourer with temporary status can quit service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

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- 23 -

- 27 -

ANNEXURE-3.....
EXTRACT.

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION)
SCHEME.

NO.66-52/92-SPB/I

dated 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letter No 45-95/87 SPB-I dated 12.4.91 and 66-9/91-SPB-I dated 30.11.92 as per which full time casual labourers who were in employment as on 29.11.89 were eligible to be conferred "temporary status" on satisfying other eligibility conditions.

The question of extending the benefit of the scheme to those full time casual labourers who were engaged /recruited after 29.11.89 has been considered in the office in the light of the judgement of the CAT Earnakulam Bench delivered on 13.3.95 in O.A. No 750/94 .

It has been decided the full time casual labourers recruited after 29.11.89 and up to 10.9.93 may also be considered for the grant of benefit under the scheme.

This issue with the approval of I.S and F.A. vide Dy. No 2423/95 dated 9.10.95.

Minutes of
XVII R.J.C.M. Meeting dtd: 28.11.95.

ANNEXURE- 4

The following are the Minutes of the XVII Regional J.C.M. Meeting held in Shillong on the 28.11.95, under the Chairmanship of Shri V.P.Sinha, Chief General Manager Telecom. N.E.C. Shillong.

Members present in the Meeting:

Official Side

1. Shri H.C.Singh, D.G.M. (A)
2. Shri G.K.Chin, D.F.A
3. Shri C.S.Kataria, T.D.M/SH.
4. Shri G.N.Chyne, A.G.M(A)
5. Shri M.Pal, A.D.T. (ESTT.)

Staff side

1. Shri P.Dutta, Leader, Staff side.
2. Shri H.Chakraborty, Secy. Staff Side.
3. Shri Gopal Das
4. Shri S.S.T Gashnga.
5. Shri M.Kulla Singh.
6. Shri S.K. Ghosh.
7. Shri I.L.Roy.
8. Shri H.K.Dhattacharjee.
9. Shri S.Lyngdoh.
10. Shri H.R.Lyngdoh.
11. Shri H. Buddhi Singh.

Others

1. Shri B.K.Chakraborty, SE (C)
2. Shri Sanjay Kumar, E.E. (C) SH
3. Shri R.P.Sharma, A.D.T (Bldg.)
1. Shri Surajit Chakraborty/SH.
2. Shri N.L. Sha, Itanagar.
3. Shri S.K.Sharma, Imphal.
4. Shri Tridip Das, Shillong.

Observers

Before the agenda was placed into for discussion, the staff side pointed that (i) the word 'SORKAR' was misspelt at the entry of the Administrative building (ii) The brief was illegible (iii) Brief on old item may be sent alongwith meeting notice and (iv) Memo regarding approval of nom.of members be circulated to all R.J.C.M. Members.

REVIEW OF OLD ITEMS:

Item No.1

15-10/93
AD (Bldg.)/
SE (C)/SH:

I.B. At GUWAHATI: The first offer was rejected since it was not in a suitable area. However, new offer has been received and the same is being examined. *Possible*

14-2/94
A.O. (TA)/
D.F.A

DEDUCTION OF G.P.F. OF TSM: A.O. (TA) has issued instruction to all Units to furnish G.P.F. Schedules of TSMs. Prov. Balance slip will be issued for amount deducted so far. *Not yet done*

14-4/94
SE/SC/
AD (Bldg.)

CONSTRUCTION OF OFFICE ACCOMDN. & QUARTERS: T.D.M. Office building at Imphal, Site plan & structure plan have been submitted to C.E. Office where estimate is being taken up. *Possible*

1/95
IMP.

RECTT. OF SPORTS MAN IN GROUP 'C' AND 'D' POSTS
IN N.E. CIRCLE:

This may be discussed in LJCM, Manipur.

Closed.

30-11/95
AGM(P)/
AD(Bldg.)

IRREGULAR OCCUPATION OF TY.III TWO STORY QUARTERS IN
RYNJAM BY TASK FORCE (PROJECT):
This may be discussed in the Standing Committee.
Moreover, it is confirmed that the quarters was
allotted to project Officials doing project works
in the Circle and necessary deduction as per rules
will be made soon. Matter may be referred to standing
Committee.

Closed.

31-11/95
AD(Bldg.)/
DGM(A)

ABNORMAL EARMARKING OF BY-POST QUARTERS FOR E-10B
EXCHANGE/SHILLONG:

D.G.M(A) will look into it.

32-11/95
AD.(E)

ONE TIME RELAXATION OF RECTT. FOR GROUP 'D' CADRE:
The Directorate will be approached in respect of
suggestion given by the staff-side to request for
One-Time relaxation of Gr-D recruitment citing
the actual shortage of the cadre in the circle
with justification of the requirement.

33-11/95.
Prepl-CTTC

RECREATION AMENITIES TO CTTC HOSTELIERS: Principal
will justify the requirement for providing the
amenities to the hosteliars.

Next date of Meeting?

O.TWF/RJCM/MEETING/95. Dt. 27.02.96.

Copy to:

1. All Telecom District Managers/STTs In N.E.Telecom Circle.
2. The Regional JCM Members;
3. The Sr.PAs to CGMT and DGM (Dev) Circle Office, Shillong.
4. The DE, CTSD N.E.Circle) Guwahati/All Gr.Officers in C.O/SH.
5. Circle Secretaries of Unions.

For: Chief Genl. Manager Telecom,
N.E.Circle, Shillong.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOMMUNICATIONS
N.E. CIRCLE: SHILLONG-793001

No. EST/EE-543/27

Dated at Shillong, the 25th June/96

In pursuance of DOT/New Delhi's letter No.269-5/96-STM-II dated 10/4-95 regarding One time relaxation to N.E. Telecom. Circle to recruit 400 DRMs, C.G.M.T., N.E. Circle, Shillong is pleased to distribute the same as indicated below:

Name of the SSA	No. of DRMs.
1. Meghalaya SSA	45
2. Tripura SSA	45
3. Nagaland SSA	50
4. Manipur SSA	60
5. Arunachal Pradesh SSA	80
6. Mizoram SSA	120

Recruitment of DRMs should be done as per existing rules. The distribution as indicated above is inclusive of requisition placed by non recruiting units. However, the recruitment will be subject to the ceiling limit of the total strength of staff as on 1/1-1991.

(G.N. Chynb)
Asstt. General Manager (A)
for Chief General Manager Telecom.
N.E. Circle, Shillong.

Copy for information and necessary action to :-

1-6. The Telecom. District Manager, Shillong/Dimapur/Imphal/Agartala/Itanagar/Aizawl. They are requested to ensure that the over all representation of persons belong to weaker section of the society, who are recruited as DRM, does not go below the prescribed percentage in accordance with the Govt. of India instruction issued from time to time.

7-13. The D.E., C.T.S.D., Guwahati.
8. The D.E., C.T.T.C., Shillong.
9-10. The A.D.T. (HRD)/A.D.T. (T), C.O., Shillong.
11. The G.M.M. (ETR), Shillong.
12. The C.G.M. (Task Force), Guwahati.

13. The S.E. (Civil), Shillong.
14. The S.E. (Elect), Shillong.
15. The DE Intell. Sec., C.O./SH

16. DE Secy to Govt. Shillong
17. All c/s of Recruitment
in N.E. Circle

(Signature)
for Chief General Manager Telecom.
Shillong - 793001

-27- -91-
N.F.T.E.

ANNEXURE - 6

India Telecom Employees' Union Line Staff & Gr.

NAGALAND DIVISIONAL BRANCH

C/O TELEPHONE EXCHANGE

DIMAPUR - 797 112

Ref. No.

Date 17-6-98

To
The Telecom District Manager,
Nagaland S.S.A.,
Dimapur.

Dated:

Subj: Request for making the Casual Labour (paid in AGG-17) into regular casual labour.

With due honour I beg to state that the following few lines for your immediate necessary action. For your kind information the above said matter discussed in different occasion from the off-records all of we know that approximately 288 nos of casual labour are working in this Nagaland S.S.A. Since long back. The details of the contractual labour and date of joining in this S.S.A. and names are enclosed for your ready reference. In view of the shortage of line staff and development work rapidly in the S.S.A., engagement of the contractual labour as regular casual labour is very much required. And for maintenance of the Telecom network regularisation of the contractual labour is very much essential.

We therefore, under this critical juncture, requesting you to take prompt necessary action, in that regularisation and engagement in the sanctioned D.R.M. post of the contractual labour as per the list may be completed immediately.

Thanking you in anticipation,

Sincerely yours

(M. Jyoti Singh)
Divisional Secy.
A.T.E. (A.L. & Group-I)
Nagaland S.S.A. Dimapur.
Nagaland Div. Secy.
17-6-98

Copy to:

1. The Chief General Manager Telecom, N.E. (Circle, Shillong) for information and necessary action for approval of the matter in connection with very much development & maintenance work in the trouble torn Nagaland state.
2. The Circle Secy., AITEU, L/O & Group-I N.E. (Circle, Shillong) for information and necessary action please.
3. The Branch Secy. of Nagaland S.S.A. for information.

(M. Buddhi Singh)
Divisional Secy. Dimapur
17-6-98

ANNEXURE-07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

302 of 1996.

Date of order : This the 13th day of August, 1997.

Justice Shri D.N. Baruah, Vice-Chairman.

The casual labourers O.A.No.299 of 1996 and the casual labourers O.A.No.302 of 1996
Application and the applicants in the
All India Telecom Employees Union,
Line Staff and Group-D,
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.
Postal Department under the Ministry of Communications

O.A. No.302 of 1996.

At the applicant No 1 are all the casual labourers in the
All India Telecom Employees Union,
Line Staff and Group-D
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.
Ministry of Communications

Advocate for the applicants : Shri B.K. Sharma
labourers of the applicants
Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury
labourers employed in the
Addl.C.B.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law
and similar facts. In both the applications the applicants have

Handwritten signature and initials

prayed for a direction to the respondents to give them certain benefits which are being given to their counter parts working in the Postal Department. The facts of the cases are as follows:-

1. O.A. No.302/96 has been filed by All India Telecom Employees Union, Line Staff and Group-D, Assam Circle, Guwahati, represented by the Secretary Shri J.N.Mishra and also by Shri Upen Pradhan, a casual labourer in the office of the Divisional Engineer, Guwahati. In O.A. 299/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A. No.299/96 represents the interest of the casual labourers referred to Annexure-A to the Original Application and the applicant No.2 is one of the labourers in Annexure-A. Their grievances are :-

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants stated that pursuant to that judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India, & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit

Attm
2

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to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman

Attn
on

-31-
-25-

Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

3. O.A.299/96 is also of similar facts. The grievances of the applicants are also same.

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3 (in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

Sd/- Vice Chairman.

Alleged

(15)

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ANNEXURE-8

~~13~~ 32

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No.269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section

New Delhi

Dated 1.9.99

To

All Chief General Managers Telecom. Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative offices,
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Subject: Regularisation/grant of temporary status to Casual
labourers & regarding.

Sir,

I am directed to refer to letter No.269-4/93-STN-II
dated 12.2.99 circulated with letter No.269-13/99-STN-II dated
12.2.99 on the subject mentioned above.

In the above referred letter, this office has conveyed
approval on the two items, one is grant of temporary status to the
Casual Labourers eligible as on 1.8.98 and another on regularisa-
tion of Casual Labourers with temporary status who are eligible as
on 31.3.97. Some doubts have been raised regarding date of effect
of these decision. It is therefore clarified that in case of
grant of temporary status to the Casual Labourers, the order dated
12.2.99 will be effected w.e.f. the date of issue of this order
and in case of regularisation to the temporary status Mazdoors
eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully,

(HARDAS SINGH)

ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

RECEIVED

33-ANNEXURE 9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

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

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

1. O.A.No.107/1998

Shri Subal Nath and 27 others

By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and others

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

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others

By Advocate 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

By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.118/1998

Shri. Dhuban Kalita and 4 others

By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

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28 5. O.A.No.120/1990

Shri Kamala Kanta Das and 6 othersApplicant
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

6. O.A.No.131/1998

All India Telecom Employees Union and
anotherApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents

By Advocate Mr B.C. Patha, Addl. C.G.S.C.

O.A.No.135/98

7. All India Telecom Employees Union,
Line Staff and Group 'D' and
6 othersApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents

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 othersApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents

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 anotherApplicants

By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

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10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.

By Advocate Mr B. Malakar

-versus-

The Union of India and others

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others

By Advocate Mr I. Hussain.

-versus-

The Union of India and others

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

By Advocates Mr D.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and others

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

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

The Union of India and others

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

14. O.A.No.269/1998

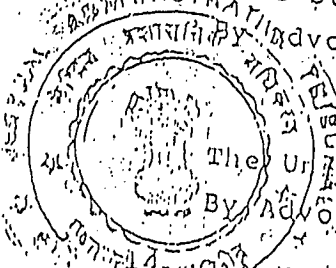
All India Telecom Employees Union,
Line Staff and Group 'D' and another

By Advocates Mr D.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others

By Advocate Mr B.C. Pathak, Addl. C.G.S.C.



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40 15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.

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O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions of law and similar facts. Therefore, we propose to dispose of all the 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 the 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 effect from 1.6.1990. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the



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benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid 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 service 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 in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given benefit 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 DA 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 22.6.1989. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended



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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit 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.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.A.s.

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.A.s is that the Association had no authority to

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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 servants are not eligible to become members or office bearers of 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 into 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 the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot 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

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Tribunal dated 13.8.1997 passed in O.A.Nos.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 Addl. 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 upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel 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

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definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the 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 the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize 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. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE-CHAIRMAN
SD/- MEMBER (A)

Certified to be true Copy

प्रमाणित प्रतिलिपि

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20/9/2019

Central Administrative Tribunal

Mumbai Bench

Attorney