

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Dropped date-04/10/2001

O.A.T.A No. 223/2000

R.A/C.P No. 38/2001

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 223/2000 (T) OF 199

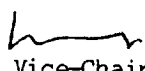
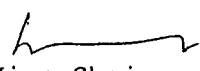
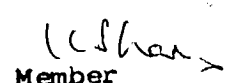
Applicant(s) *Sei Upem Kalita.*

Respondent(s) *Union of India and ors.*

Advocate for Applicant(s) *Smt. Lema Chakrabarty.*

Advocate for Respondent(s) *C.G.S.C.*

Notes of the Registry	Date	Order of the Tribunal
<i>The writ petition has been received from Gauhati High Court (by hand) vide Hon'ble Court order dtd. 1.6.2000 due to jurisdiction of the Tribunal present application before Gauhati High Court. Hence case may be transferred before this Hon'ble Tribunal.</i>	12.7.00	<p>Present : The Hon'ble Mr S.Biswas, Administrative Member.</p> <p>None for the applicant. Mr B.C.Pat learned Addl.C.J.S.C points out that is a transfer case. Even then the applicant ought to have been present.</p> <p>List on 9.8.2000 for admission.</p> <p>Meanwhile notice may go to the respondents.</p>
<i>Laid before Hon'ble Court for further orders.</i>	pg	
<i>Section officer.</i>	9.8.00	<i>There is no further order.</i>
<i>20/6/2000</i>	5.9.00	<i>22/10/2000</i>

Notes of the Registry	Date	Order of the Tribunal
	24.10.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman. Mr. B.C.Pathak, learned Addl. C.G.S.C. is present for the respondents. Counsel for the applicant is not present. Admit. Call for the records. No fresh notice need be sent. Post this case on 7.12.2000.for further orders.  Vice-Chairman
trd	7.12.2000	Let this case be listed for hearing on 18.1.2001.  Vice-Chairman
nkm	18-1-2001	As S.D. Adjourned to 24.1.2001 M.L. A.K. Jy 18.1
	24.1.2001	Left over to 15.2.2001 M.L. A.K. Jy 24.1.
	15-2	As S.D. Adjourned to 5.3.2001 M.L. A.K. Jy 15.2
	5-3.	As S.D. Adjourned to 7.3.2001 M.L. A.K. Jy 5.3.
	7-3.	Heard in part. Let it again on 21/3/2001. M.L. A.K. Jy 7.3.
	21.3.01	Mr.B.C.Pathak, learned Addl.CG.S.C says that this matter has been heard by Hon'ble Vice-Chairman. He prays that this matter may be put up before the Hon'ble Vice-Chairman. Let this case be listed on 28.3.01 before the Hon'ble Vice-Chairman.  Member

The case is ready for
hearing.

33
27.3.01

Notes of the Registry

Date

Order of the Tribunal

28.3.01

Judgment delivered in open Court.
Kept in separate sheets. Application is
disposed of. No costs.

h.v.
Vice-Chairman

lm

18.4.2001

Copy of the Judgment
has been sent to the
D/Sec. for issuing the
same to the Applicant
as well as to the Add.
C.G.S.C for the Respondent.

B.S.

25.4.2001

Copy of the Judgment
has been sent to the
D/Sec. for issuing the same
to the applicant as well as
to the Add. C.G.S.C for
re-issuing the same after
correcting the name. accordingly in
Register No 4 and 5.

B.S.

Notes of the Registry	Date	Order of the Tribunal
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No.223 of 2000 (T)

DATE OF DECISION... 28.3.01

Sri Upen Kalita

(PETITIONER(S))

Mrs.U.Chakraborty

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)


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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR.JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
THE HON'BLE

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

Judgment delivered by Hon'ble VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.223 of 2000(T)

Date of Order: This the 28th Day of March 2001.

HON'BLE MR.JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN

Sri Upen Kalita
Son of Late Lataru Kalita
Gandhi Basti, Guwahati-781003.

By Advocate Mrs,Uma Chakraborty.

-vs-

- | | |
|---|--|
| 1. The Union of India . | 4. Section Officer, Publication Division, Ministry of Information & Broadcasting, Patiala, House, New Delhi. |
| 2. The Director (Admn) Government of India, Ministry of Information & Boardcasting, Patiala House, New Delhi-1 | 5. The Editor -Cum-Senior Correspondent, Yojana [Assamese] Naujan Road, Ujam Bazar, Guwahati-881001 |
| 3. The Deputy Director(Admn) Government of India, Ministry of Information & Broadcasing, Patiala House, New Delhi-110001. | |

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

O R D E R.

CHOWDHURY (J):V.C.:

The case has a chequered carrier. By order dated 5.11.86 the applicant was engaged as Casual Packer on daily wage basis for a period of 15 days in a month and his appointment was extended from time to time. In this fashion the applicant worked under the respondents. He sought for regular appointment against the post of Peon and Paker. He reiterated his prayer for regular appointment. His name was included in the list prepared by the department. By letter dated 9th July 1990 the respondents authority assured the applicant that his request would be given due consideration at the appropriate time. By order dated 11th July, 1990 the petitioner was informed that since the office had not received sanction for post of daily wage

contd/-

paker from the competent authority, the applicant was not required to attend office until further orders. The applicant moved the Hon'ble High Court by Writ Petition which was numbered as Civil No.1845/90. Considering the respective cases of the parties the High Court finally disposed the matter on 11.2.1992 with the following observations :-

9. "On careful consideration of the submissions on behalf of the parties, we are inclined to think that the petitioner who has been working since 1986 and whose discontinuation from service as said before we have held to be unjustified, should be considered for regularisation against a post in case it is available and the petitioner is eligible and qualified for the same."
- *10. For the aforesaid reasons, we dispose of this petition with the direction that the petitioner shall be reinstated in the post of Paker on daily wage basis which he was holding prior to the order dated 11th July, 1990, within a period of two weeks from to-day. The petitioner shall, however, be entitled to wages from the date he is reinstated. The respondents authorities shall duly consider the petitioner's case for regularisation in accordance with rules subject to eligibility for the post."

The applicant was reinstated but he was not regularised. He moved a Contempt Petition was numbered as Civil Original Contempt No.117 of 94. The High Court declined to provide with the Contempt Proceedings, but made the following observations:-


"But before I part with the record I hope and and trust that the authority shall do the needful to help the poor person like the petitioner so that he may have a decent living After all the state has the duty to treat its employee in a decent manner so that the employees may not have the grievance that they have not been treated properly. For smooth management and prosperity of the society it is always necessary that there should be a harmonious relationship between the employer and the employee. The employee should not have the grievance that he has not been considered by following due process of law.

contd/-

In that view of the matter, I hope that the authority shall consider the case of the petitioner for regularisation as against the vacancy which may arise in future. The authority have the power to regularise the employee after relaxing eligibility criteria in appropriate case. Even that power may be exercised by the authority since the petitioner is working from 1986."

The applicant stated that he was reinstated on 11.2.92 and completed 206 days in each year as he used to work from 15 to 18 days in every month even though on records he was supposed to have worked for 15 days only. The respondents did not show those extra days of his excess working in his attendance register in the first two years of his service i.e. 1992 and 1993. But those days were shown thereafter from the year 1994 onwards. Be that as it may on the own showing of the respondents that the applicant rendered his services 206^{from 94 onwards}/days in each of the year in the office of the respondents, as it be reflected from the order dated 9.9.98. The policy 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993,' since the applicant fulfilled the requirement of the scheme. There is no justification for denying the benefits of the applicant from the scheme with effect from 1.1.94. On considering all the aspects of the matter the respondents are ordered to take up the matter of the applicant for granting of temporary status as per the scheme with effect from 1.1.94 and thereafter consider the case of the applicant for regularisation if post is available in Group 'D', and The respondents shall take necessary steps for granting temporary status from 1.1.94 as expeditiously as possible within 2 months from the date of receipt of this order.

Application is disposed to the extend indicated. There shall however, be no order as to costs.


(D.N. CHOWDHURY)
VICE-CHAIRMAN

9

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM & ARUNACHAL PRADESH)

WRIT PETITION (CIVIL) NO. 6147/99

SHRI UPEN KALITA petitioner.

- Vs. -

THE UNION OF INDIA & ORS. Respondents.

P R E S E N T
THE HON'BLE MR JUSTICE DN CHOWDHURY .

For the Petitioner : Mrs U Chakraborty, Adv. .
For the Respondents : CGSC.
Date of Order : 08.12.99.

O R D E R

Heard Ms U Chakraborty, the learned counsel for the Petitioner. Also heard Mr B Sarma, the learned CGSC.

Ms Chakraborty, the learned counsel for the petitioner has submitted that the petitioner is not receiving his salary since September, 1999 onwards.

Mr Sarma, the learned CGSC fairly submitted that he shall look to the matter and report before this Court.

put up the matter after four weeks for admission.

Endeavour shall be made to dispose of the Civil Rule at the admission stage.

Sd/- DN CHOWDHURY,
Judge.

.....

Contd.... 2/-

PRIN COPY

ntd
6.6.2000
Superintendent (Civil Judge)
GAUHATI HIGH COURT
GAURAHAT

- 2 -

P R E S E N T
THE HON'BLE MR JUSTICE AK PATNAIK

Date:10.1.2000

O R D E R

List this matter after 2(two) weeks as
prayed on behalf of Mr U Chakraborty.

.....

P R E S E N T
THE HON'BLE MR JUSTICE AK PATNAIK

Date:3.2.2000

O R D E R

List this matter on Monday i.e. 7.2.2000.

Sd/- AK PATNAIK,
Judge.

.....

TRUE COPY

Handwritten signature
6.6.2000

SUPERINTENDENT (Civil Judge)
GADHATI HIGH COURT
GADHATI

Handwritten initials
6/6

Contd.... 3/-

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM & ARUNACHAL PRADESH)

WRIT PETITION (CIVIL) NO. 6147/99

SHRI UPEN KALITA Petitioner.

- Vs. -

THE UNION OF INDIA & ORS. Respondents.

P R E S E N T
THE HON'BLE MR JUSTICE AP SINGH.

For the Petitioner : Mrs U Chakraborty, Adv.

For the Respondents : CGSC.

Date of Order : 07.02.2000.

O R D E R

Shri P Sarma, Addl. C.G.S.C. states that counter affidavit will be filed within short time. As prayed 2 weeks time is allowed to enable the Govt. of India to file the counter affidavit. Matter shall be listed immediately thereafter. In case the counter affidavit is not filed within 2 weeks the petitioner's prayer for grant of interim stay order shall be considered.

Sd/- AP SINGH,
Judge.

.....

P R E S E N T
THE HON'BLE MR JUSTICE JN SARMA
O R D E R

Date: 23.2.2000

List the matter after 2(two) weeks as
prayed for.

TRUE COPY

h. Datta
6.6.2000
Superintendent (Civil P.O.)
GAUHATI HIGH COURT
GAUHATI

Sd/- JN SARMA,
Judge.

.....

Contd.... 4/-

12

- 2 -

P R E S E N T
THE HON'BLE MR JUSTICE NC JAIN

Date: 13.03.2000

O R D E R

The counsel for the petitioner requests for adjournment to file reply to the written statement of respondents. Adjourned to 27 th March, 2000.

In the meanwhile, the respondents are directed to pay the salary of the petitioner whatever they think the petitioner is entitled to. However, such a payment would not prejudice the rights of the petitioner to claim higher salary. In other words, the petitioner's case in the writ petition would not be prejudiced on account of the receipt of the salary which, in the view of the petitioner, he is entitled to.

To come up on 27.3.2000.

Sd/- NC JAIN,
Judge.

TRUE COPY

h. P. M. S.
6.6.2000
SUPERIOR COURT (Civil Rule)
BANGALORE HIGH COURT
BANGALORE

Contd..... 57

P R E S E N T
THE HON'BLE MR JUSTICE JN SARMA

Date: 27.3.2000

O R D E R

List the matter after 4 (four) week as prayed for.

Sd/- JN SARMA,
Judge.

.....
P R E S E N T
THE HON'BLE MR JUSTICE AK PATNAIK

Date: 18.5.2000

O R D E R

List it on Tuesday i.e. 23.5.2000. Learned counsel for the parties will come ready on the question as to whether the High Court can entertain the matter in view of the judgment passed by the Hon'ble Apex Court.

Date: 23.5.2000

.....
O R D E R

List it on Monday i.e. 29.5.2000 as prayed for.

Sd/- AK PATNAIK,
Judge.

TRUE COPY

Handwritten: m. P. S. 6.6.2000

Superintendent (Civil Side)
PATNA HIGH COURT
PATNA

Handwritten: W3 6/6

Contd... 6/-

P R E S E N T
THE HON'BLE MR JUSTICE AK PATNAIK

Date:01.06.2000

O R D E R

Heard Ms U Chakraborty, learned counsel for the petitioner, and Mr B Sarma, learned Addl. Central Government Standing Counsel.

In this application under Article 226 of the Constitution of India, the petitioner has prayed for a writ of mandamus directing the respondents to reinstate and regularise the services of the petitioner as Mazdoor-cum-Messenger. The said regularisation of service of the petitioner as Mazdoor-cum-Messenger is to be done in the Yozna Publication and Broadcasting Branch under the Government of India.

A bare reading of section 14(1) of the Administrative Tribunals Act, 1985, would show that the Central Administrative Tribunal has jurisdiction, powers and authority in relating to recruitment and all matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union, all service matters concerning a person appointed to any civil service or any civil post under the Union, all service matters pertaining to the service in connection with the affairs of the union concerning a person appointed to any service or civil post under the Union. Thus reinstatement and regularisation of the services of the petitioner as Mazdoor-cum-Messenger or any other employment would come within the jurisdiction of the Central Administrative Tribunal. In L.CHANDRA KUMAR V. UNION OF INDIA, decided by the Supreme Court on 18.3.97 (1997(I) GLT (SC) 1), it has been held by a constitution Bench of the Supreme Court that the Tribunals created under the Administrative Tribunals Act, 1985, perform a supplementary role in discharging the powers conferred by Article 226/227 and Article 32 of the Constitution and that all decisions of the Tribunals will be subject to scrutiny before a

Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. But the Supreme Court laid down the following rider in the said decision :

"....The Tribunals will nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal:...."

It is thus clear from the aforesaid rider laid down by the Supreme Court that the Central Administrative Tribunal will continue to act like a court of first instance in respect of the areas of law for which it has been constituted and it will not be open for a litigant to directly approach the High Court even in cases where he questions the vires of statutory legislations by overlooking the jurisdiction of the Central Administrative Tribunal.

Ms U Chakraborty, learned counsel for the petitioner, cited a decision of this court in AR DAS Vs GENERAL INSURANCE CORPN OF INDIA, (1995) 1 GLR 221 and contended that even where alternative remedy is available, the jurisdiction of this court under Article 226 of the Constitution in a certiorari proceeding is not completely ousted. She also relied on another decision of this court in J.CHANDRA MANDLOI vs. OIL & NATURAL GAS COMMISSION, (1995) 2 GLR 290, wherein it has been laid down that certiorari can be issued where the action of the authority caused miscarriage of justice or there is failure of justice. She relied on the decision of this court in AMAR KUMAR SINHA vs CACHAR SUGAR MILLS LIMITED, (1994) 2 GLR 457, to the effect that existence of alternative remedy does not bar a writ court to give appropriate relief if the facts of the case justify it. She also cited a decision of this court in RABY ROY vs. COMMISSIONER, CUSTOM & CENTRAL EXCISE,

DR. U. CHAKRABORTY
6.6.2000
Petitioner (Civil Side)
MAHATI HIGH COURT
GUWAHATI

1999 (2) GLT 484, wherein regularisation of casual workman was directed by the court taking into account long length of service rendered by him.

I am afraid that the aforesaid decisions of this court cited by Ms Chakraborty, learned counsel for the petitioner do not assist the petitioner's contention that the High Court in exercise of its power under Article 226 of the Constitution can grant relief in this case in the first instance though the matter falls within the jurisdiction of the Central Administrative Tribunal. This is because in the aforesaid decision of the constitution Bench of the Supreme Court in L.CHANDRA KUMAR vs UNION OF INDIA (supra), a clear and express rider has been laid down that the Tribunals created under the Administrative Tribunals Act, such as the Central Administrative Tribunal, will continue to act like courts of first instance in respect of the areas of laws for which they have been constituted and it will not be open for the litigants to directly approach High Court by overlooking the jurisdiction of the Tribunal.

For the reasons stated above, I am of the opinion that the writ petition will have to be decided by the Central Administrative Tribunal, Guwahati Bench and if any of the parties is aggrieved by the orders that are passed by the Central Administrative Tribunal he can move this court in an application before a Division Bench of this court. Since however the writ petition was earlier entertained on 8.12.99 and affidavit and counter affidavit have already been filed and an interim order has also been passed by this court, I direct that the entire records of this case except the order sheets will be transmitted to the Central Administrative Tribunal Guwahati Bench by the office within a week from today and

Contd.... 3/-

the interim order passed by this court in this case will continue until it is vacated by the Central Administrative Tribunal, Guwahati Bench. An authenticated copy of the order sheet ~~XXXX~~ be also transmitted along with the records of this case by the office to the Central Administrative Tribunal, Guwahati Bench.

x2 With the aforesaid observations and direction, the writ petition is disposed of so far this court is concerned.
No Costs.

Sd/A.K.Patnaik

Judge

TRUE COPY

hdm
6.6.2000

RECEIVED
6.6.2000

WB
6/6

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI

Case No: OA 223 of 2000.

Shri Upen Kalita
Guwahati

..... PETITIONER

- VS -

Union of India & Others.

.....RESPONDENTS.

WRITTEN SUBMISSIONS.

1. In the petition, a prayer has been made by the petitioner for quashing the impugned order of reversion dated 17.11.99 as in Annexure- xv at page 45 to the writ petition coupled with a prayer for a direction to the Respondents to regularise the service of the petitioner.
2. The petitioner was initially appointed as a casual packer on daily wage basis for a period of 15 days in a month by following the procedure laid down by the Rules vide appointment letter dated 5.11.86 as in Annexure - I at page 21 to the writ petition and after continuation of his service for two years uninterruptedly , the seniority list was prepared on 27.5.88 for absorbing and / or regularisation of the services of the casual workers working in the various units under the said publication Division where the name of the petitioner was shown in SL. No.I, as in Annexure -III at page 24 to the writ petition.
- 3..After continuation of the service of the petitioner without any interruption as a casual packer on daily wage basis for more than three and half years, the petitioner was terminated from his service vide order of termination dated 11.7.90 and

contd 2.

the petitioner after having no efficacious alternative remedy, approached before the Hon'ble Gauhati High Court by ~~xfiling~~ filing a writ petition under Article 226 of the constitution of India with a prayer for direction to the Respondents to reinstate the petitioner in his service and regularise the said service. The Hon'ble High Court vide order dated 11.2.92 directed the Respondents to reinstate the petitioner in his service which was holding and also directed to regularise the said service of the petitioner in accordance with Rules subject to eligibility of the post as in Annexure-VIII at page 29 to the writ petition. But by virtue of the aforesaid order dated 11.2.92 the petitioner was reinstated in his service and allowing him to continue his service without regularisation of the service of the petitioner even after having availability of the vacant post as well as the eligibility of the petitioner in compliance with the direction of the aforesaid decision of the Hon'ble High Court.

4. In the meanwhile, the Govt. of India vide office Memorandum dated 10.9.93 formulated fresh guidelines regarding the grant of temporary status and regularisation of the services of the casual workers consequent upon the decision of Central Administrative Tribunal Principal Bench, New Delhi as reflected in Annexure - I to the additional affidavit as a part of the writ petition.

5. In view of the aforesaid decision of the Hon'ble High Court dated 11.2.92 and the Office Memorandum dated 10.9.93, the service of the petitioner should and ought to have been granted temporary status and regularised the service by this time. But it was not done so.

Contd..3

Moreover, when the service of the petitioner was not regularised inspite of repeated representations made by the petitioner, it is held to be violative of Article 14 and 16 of the constitution of India. It may be mentioned that petitioner was appointed on ⁵19.11.86 whereas Ranjit Kr. Pathak had been employed with effect from 25.5.87 and said Ranjit Kr. Pathak's service has been regularised being a junior employee than the petitioner is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the constitution of India.

6. After continuation of service of the petitioner as a casual packer in the said office on daily wage basis for long period of 12 years and on consideration of the several request of the petitioner, the Respondent No. 3 and 4 appointed the petitioner as Mazdoor - cum - Messenger on purely ad-hoc basis in the pay scale of Rs. 2550-55-2660-60-3200 with immediate effect vide order dated 9.9.98 on the ground that the petitioner the petitioner has rendered more than 206 days service in each preceding three years in the said office of the petitioner. In the aforesaid office order, the Respondents also stated that this ad-hoc- appointment shall not confer any right/claim on the petitioner to be appointed on regular basis to any post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc-basis shall count for any other purpose is wholly illegal, arbitrary, without jurisdiction, unreasonable and not tenable in law. The said appointment on ad-hoc-basis was for only six months and subsequently it was extended for another six months till 9.9.99 against permanent vacancy. Both the orders dated 9.9.98 and 25.10.99 as reflected in Annexures - XII and XIV at pages 42 and 44 to the writ petition.

7. After continuation of the service of the petitioner on adhoc-basis for one year with effect from 9.9.98 to 9.9.99 against a permanent vacancy, the petitioner was reverted back on daily wage basis as casual worker without assigning any reason vide order dated 17.11.99 as reflected in Annexure .xv at page 45 to the writ petitione

8. As the petitioner has been working in the said office for more than 13 years being 12 years as casual packer and 1 year on ad-hoc- basis, shall be entitled for regularisation and to get pay and allowances as well as other service benifits. The petitioner was appointed on ad-hoc basis in conformity of the Rules and the petitioner had actually enjoined the fruits of ad-hoc appointment by receiving the regular pay and allowances on ad-hoc basis for one year/ and such benefit that had accrued to the petitioner was snatched away without giving opportunity of hearing before such drastic action of reversion was taken by the authority concerned amounts to discrimination and same is arbitrary, illegal inasmuch as violative of principle of natural justive.

9. When the petitioner completed 13 years of his service till the date of reversion, the same long periods required to be counted and/or considered by the authorities for the regularisation of the service of the petitioner provided the petitioner was eligible and qualified according to Rules. But the person whose service was confirmed after his service was regularised earlier was, infact, junior to the petitioner. As such, the impugned order/ or reversion dated 17.11.99 is not fair as the right of the petitioner can not be taken away by such subsequent order in the manner sought for to be done in the present case. Hence, the impugned order of reversion is as measure of punishment and the said order cast a stigma on the petitioner inasmuch as the same is violative of the provisions of Articles 14,16. and 311 (2) of the constitution of India.

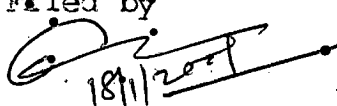
10. It is settle law that if the appointment was made according to Rules, though initially as casual worker and/or on ad-hoc basis and is continued for long period it presumed that there is a regular and need for his service . As such , the entire period of temporary service would be counted for regularisation . Hence, keeping the casual employee for a long period without regulrisation of their services is not a wise policy .

11. In view of the above back ground, the petitioner has an enforceable legal right to be regularised in this post and also entitled to the other service benefits of regular employee . As such, the order of reversion could be rendered as illegal and unjustified, improper, . On the persual of the inpunged order of reversion dated 17.11.99, it is found that the Respondents have not considered the matter in the light of guidelines of office Memorandum as well as the Hon'ble High Court's order dated 11.2.92 when the Hon'ble High Court already directed the Respondents to regularise the service of the petitioner, the same benefit should and ought have been ~~given~~ given from the date of the judgement of the High Court with a view to maintain uniformity in the order passed and also by following the guidelines of the related office Memorandum dated 10.9.93. The procedure adopted for reverting the petitioner from the permanent post is colourable exercise of power by the authorities concerned as the matter is covered by the jugement of Hon'ble High Court.

12. The petitioner after continuous service for a long period w.e.f. 5.11.86 to till this date ^{been} ~~was~~ denied from all service benefits viz. earned leave, medical leave etc. Group Insurance scheme, provident fund, and other service benefits but the junior employees of the said office are availing all benefits is wholly arbitrary , illegal, improper, whimsical, capricious, . At present the petitioner has been harassed by the Respondents by not allowing him to avail medical leave in respect of his serious illness and as such, the same actions.

is discriminatory. Hence, in view of the above facts, the order of reversion dated 17.11.99 is absolutely illegal, without jurisdiction, and is violative of the principal of nature justice. and is liable to be quashed and/or set aside as otherwise the petitioner shall suffer irreparable loss and injury.

Filed by


(Mrs. Uma Chakraborty)

Advocate.

DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:

TRIPURA: MIZORAM AND ARUNACHAL PRADESH)

(CIVIL EXTRA - JURISDICTION : WRIT JURISDICTION)

W.P.(C) No. 6147 OF 1999

NATURE OF CASE : SERVICE MATTER

CODE NO : 10042.

BENCH : B

Shri Upen Kalita
Gandhi Basti
Guwahati - 781 003.

...PETITIONER

-Vs.-

Union of India & Ors.

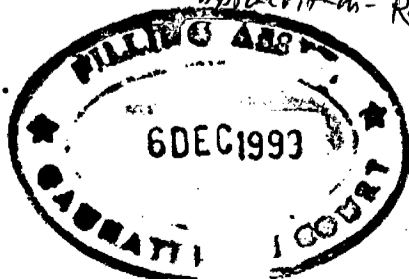
...RESPONDENTS

I N D E X

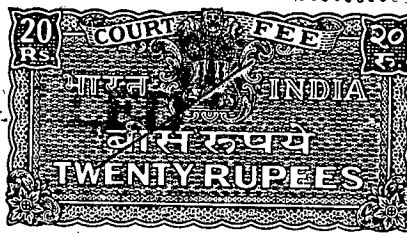
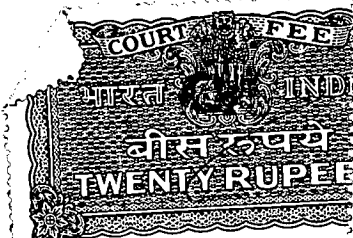
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Filed by :

(SMT. UMA CHAKRABORTY)
Advocate



for Shri Upen Kalita
- Petitioner -
through 23
Mrs. Uma Chakraborty
Advocate
6/12/99



DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR :
TRIPURA : MIZORAM AND ARUNACHAL PRADESH)

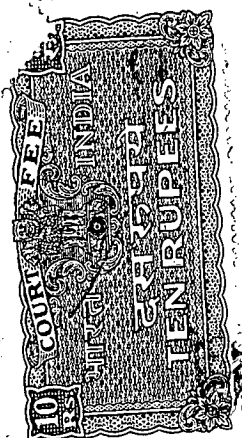
(CIVIL EXTRA ORDINARY JURISDICTION)

W.P.(C) No. 6147 OF 1999

NATURE OF CASE : SERVICE MATTER.

CODE NO. : 10042

BENCH : B



TO

The Hon'ble Shri Brijesh Kumar, B.A., LL.B., Chief Justice
of the Hon'ble Gauhati High Court and his Lordship's Compa-
nion Justices of the said Hon'ble High Court.

IN THE MATTER OF :

An application under Article 226
of the Constitution of India for
the issuance of a Writ in the
nature of Certiorari and/or
Mandamus and/or Prohibition and/or
any other appropriate Order or
Direction.

-AND-

IN THE MATTER OF :

Violation of the Fundamental
rights of the petitioner guaranteed
under Article 14, 16 and 21 as well as



Commissioner of Police
Gauhati High Court
Juwahon

Contd. 2

For Shri Upen Kalita - Petitioner
through Mrs. Uma Chakraborty Advocate
6/12/99

under Article 311 of the Constitution of India and other statutory rights.

-AND-

IN THE MATTER OF :

Implementation of order dated 11.2.92 passed by this Hon'ble Court in Civil Rule No. 1845 of 1990.

-AND-

IN THE MATTER OF :

Violation of the seniority list dated 12.5.88 issued by the Deputy Director (Administration), Ministry of Information & Broadcasting, Patiala House, New Delhi - 110 001.

-AND-

IN THE MATTER OF :

Implementation of scheme dated 10.9.93 for grant of temporary status and regularisation of Casual workers issued by Section Officer, Publication Division, Ministry of Information & Broad Casting, Patiala House, New Delhi - 110 001.

-AND-

IN THE MATTER OF :

Order of appointment on ad-hoc basis dated 9.9.98 issued by the Deputy Director (Administration), Ministry of Information & Broadcasting, Patiala House, New Delhi - 110 001.

-AND-

Contd. 3

IN THE MATTER OF :

Order of reversion of the petitioner's service from the post of Mazdoor-cum-Messenger (ad-hoc basis) in the office of the Editor-cum-Sr. Correspondent, Yojana (Assamese), Naujan Road, Ujanbazar, Guwahati - 781 001.

-AND-

IN THE MATTER OF :

Arbitrary and unfair action of the Respondents.

-AND-

IN THE MATTER OF :

Shri Upen Kalita
son of Late Lataru Kalita,
Gandhi Basti, Guwahati - 781 003.

...PETITIONER

-Vs.-

1. The Union of India.
2. The Director (Admn.)
Government of India,
Ministry of Information & Broad
Casting, Patiala House, New Delhi - 1.
3. The Deputy Director (Admn.),
Government of India,
Ministry of Information &
Broadcasting, Patiala House,
New Delhi - 110 001.

Contd. 4

4. Section Officer,
Publication Division,
Ministry of Information & Broad-
Casting, Patiala House, New Delhi - 1.
5. The Editor-cum-Senior Correspondent,
Yojana (Assamese), Naujan Road,
Ujan Bazar, Guwahati - 781 001.

...RESPONDENTS

The humble petition of the
petitioner above-named.

MOST RESPECTFULLY SHEWETH :

1. That the petitioner is a permanent resident of Village Bezpara in Mouza Chapi under Police Station Mangaldoi, Distric Darrang (Assam) and is a citizen of India by birth. The petitioner is as such entitled to all the rights and protection guaranteed by the constitution of India and other laws presently inforce.
2. That the petitioner came from a very poor peasant family and was appointed as a casual packer on daily wages basis for a period of 15 days in a month vide appointment letter No. YA/Estt/8/86587 dated 5.11.86 as per the required educational qualification of Class VIII standard and recruitment age, in the office of the Editor-cum-Sr. Correspondent, Yojana (Assamese) in Guwahati which is a branch of Yojana Publication and Broadcasting under the Government of India having its directorate at Patiala House, New Delhi - 1, and accordingly since the date of his appointment the petitioner had been working for 15 to 18 days in every month even though on records he was supposed to have worked for 15 days only.

Contd. 5

A copy of the said appointment letter is annexed herewith and marked as Annexure - I.

3. That the petitioner was working on daily wages not only for two consecutive years but for more than three and half years and in fact he has completed the minimum 206 working days in each year, as he used to work from 15 to 18 days in every month and was discharging his duties sincerely and honestly without any break.
4. That the petitioner having learnt that a regular post of peon and also a packer is lying vacant in the said office of the Respondent No. 5, the petitioner prayed for regular appointment against the said vacant post of peon and packer before the Respondent No. 2, the Director (Administration) vide applications dated 28.11.86 and 26.2.88. But the petitioner neither having heard nothing from the Respondent No. 2 nor favoured with any reply but the Respondent No. 3 issued a circular dated 12.5.88 on the subject of preparation of Seniority Roster of Daily Wages Mazdoor working in the publications Division. In the said circular it was stated that the Division is considering a proposal to fill up vacant Group-D posts from amongst the Daily Wages Mazdoors working in various units of the Divisions by regularisation of their service in terms of relevant orders and instructions issued by the Government in this regard and that for the purpose it is proposed to prepare the Seniority Roster of the Daily Wages Mazdoors working in the Divisions. Hence, by the said circular directed all the units/sections of the publications Division to furnish the detail information in respect of such Daily Wages Mazdoors who have been working for over two years as on 1.5.88.

A copy of the circular was duly received by the Editor-cum-Sr. Correspondent, Yojana (Assamese) Unit at Guwahati.

A copy of the circular dated 12.5.88 is annexed hereto and marked as Annexure - II.

5. That as per the aforesaid circular, the Respondent No. 5 prepared and submitted a Seniority Roster of Daily Wages Mazdoors working in the units/section Yojana (Assamese) at Naujan Road, Ujanbazar, Guwahati - 1 and the name of the petitioner was shown under Serial No. 1 of the said Seniority Roster.

It may be mentioned that the aforesaid Seniority Roster showed that the petitioner had head upto Class - VIII and was appointed earlier than Sri Ranjit Kumar Pathak as Daily Wage Mazdoor-cum-Messenger in the said office. Here, there were only two daily wages Mazdoors in the said unit and the petitioner was Senior to the other Mazdoor and as such the Respondent No. 5 rightly showed the name of the petitioner under Serial No. 1 of the aforesaid seniority list.

A copy of the aforesaid seniority list (Roster) alongwith the forwarding letter dated 27.5.88 are annexed herewith and marked collectively as Annexure-III.

6. That after submission of the ~~xxxxxx~~ aforesaid seniority Roster as per the terms of the above mentioned circular the petitioner expected that he will be permanently absorbed in the post on the basis of the seniority and with that expectation he had been discharging his duties sincerely and to the satisfaction of all concerned. The petitioner also in the meanwhile completed two years continuous service having worked for 15 to 18 days in every month continuously and accordingly again prayed for regular appointment by application dated

5.10.88, 11.5.89 and 3.7.89 respectively before the Respondent No. 3 which were duly received by him. Moreover, after completion of three years service of the petitioner, further represented before the authority on 16.12.89, praying for regularisation of his service, considering his long three years service in this unit. Accordingly, the Respondents had informed the petitioner that the request of the petitioner would be give due consideration at the appropriate time vide letter dated 22.1.90 and 8.6.90 respectively. The petitioner further submitted similar applications for regular post and the Respondents again informed the petitioner that the request of the petitioner shall be given due consideration at the appropriate time vide two letters dated 26.6.90 and 9.7.90 respectively.

7. That when the petitioner was expecting an order appointing and regularising him permanently in the post of the 'packer', the petitioner received an order from the Respondent No. 5 issued vide No. YA/Esstt/8/90-91/202 dated 11.7.90 whereby the petitioners service was terminated after continuation of his service more than four years with immediate effect on the reason that "the office of the Respondent No. 5 had not received 'Sanction' for the post of 'Daily Wage Packer' from the competent authority" even after the petitioner was working on daily wages not only for two consecutive years but for more than three and half years and in fact he has completed the minimum 206 working days in a year as he used to work from 15 to 18 days in every month.

A copy of the said order of termination dated 11.7.90 is annexed herewith and marked as Annexure - IV.

Contd. 8

[Handwritten Signature]
 Sanjay High
 Jharkhand

8. That after receipt of the said termination order the petitioner immediately on 13.7.90, submitted a representation before the Deputy Director of Administration, Respondent No. 3, requesting him to allow/permit the petitioner to continue in his service in view of the fact that the petitioner is the Senior most casual employee of the Unit and in the meanwhile he had served in that capacity for more than three and half years and there is no other alternative job available for the petitioner to feed his dependents.

A copy of the said representation is annexed hereto and marked as Annexure - V.

9. That the authority duly received the said representation and also forwarded a reply to the petitioner vide letter dated 23.7.90 under the signature of the Section Officer, Respondent No. 4.

A copy of the said letter dated 23.7.90 is annexed hereto and marked as Annexure - VI.

10. That by the aforesaid letter the petitioner was informed that as per the instructions of the Government only those daily wages workers can be considered for regular employment who have worked on daily wages for atleast two consecutive years and completed minimum 206 working days in each year and that the petitioner does not come within the purview of the above instruction and as such it is not possible to consider his case.

11. That in the meanwhile the petitioner also made a representation before the Director, Ministry of Information & Broadcasting, New Delhi, respondent No. 2, on 3.8.90 praying for his retention in the job as well as for regular absorption. On the

said representation, also the petitioner got a reply under the signature of Deputy Director, Administration informing him that the petitioner does not fulfil the requisite condition for being considered for regular appointment to a regular in Group 'D' category.

12. That the petitioner begs to state and contend that in the aforesaid letter also the authority has failed to give any reason as to why the petitioner was terminated abruptly from his service even on daily wage basis, when the necessity of the post exists and the same is not denied. The authority has also arrived at the opinion that the petitioner does not fulfil the conditions for being considered for regular appointment in a regular Group 'D' Category without objectively considering the petitioner's case and for that matter the records. While the authority has retained the other daily worker in the Unit who is junior to the petitioner, the authority has shown total indifference to the petitioner and he has been discriminated against arbitrarily. The aforesaid letters dated 23.7.90 and 30.8.90 also belie the contention of the termination order that there was no sanction for the post. Rather it is absolutely clear that there is a regular Group 'D' post of the Packer in the Guwahati Unit of the publication. But the authority is unwilling to retain and regularise the petitioner in the said post on the pretext that the petitioner does not fulfil the requisite conditions.

13. That the petitioner respectfully states that even if considering for argument's sake, the petitioner has not completed the minimum 206 working days in each year the authority cannot legally drive out the petitioner from his employment after having allowed him to work for more than three and half years.

contd. 10

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 C. M. M. M. M.
 C. M. M. M. M.


The petitioner contends that he worked in the unit in question from 10.11.86 to 11.7.90. regularly till the day of his termination as a casual packer and having worked for such a long period continuously the petitioner has acquired a right to be permanently absorbed/regularised in the said post.

A copy of the certificate issued by the Respondent No. 5, certifying the service of the petitioner as a casual worker is annexed hereto and marked as Annexure - VII.

14. That the petitioner respectfully submits that the order of termination of the petitioner from service, dated 11.7.90 is highly unfair, unjust and arbitrary inasmuch as by the said order the authority has arbitrarily denied the petitioner his right to employment and the means of his livelihood.
15. That the petitioner submits that there was no efficacious alternative remedy available to the petitioner against the impugned order of termination dated 11.7.90 and hence he approached before the Hon'ble High Court by way of an application under Article 226 of the Constitution of India which was numbered registered and ~~numbered~~ as Civil Rule No, 1845 of 1990 and on 11.2.92 an order was passed by this Hon'ble High Court in the following ~~xx~~ terms :

H.C.

"On careful consideration of the submissions on behalf of the parties, we are inclined to think that the petitioner who has been working since 1986 and whose discontinuation from service as said before we have held to be unjustified, should be considered for regularisation against a post in case it is available and the petitioner is eligible and qualified for the same."


Hon'ble High Court
Chennai

34

"For the aforesaid reasons, we dispose of this petition with the direction that the petitioner shall be reinstated in the post of Packer on daily wage basis which he was holding prior to the order dated 11th July, 1990, within a period of two weeks from today. The petitioner shall, however, be entitled to wages from the date he is reinstated. The respondents authorities shall duly consider the petitioner's case for regularisation in accordance with rules subject to eligibility of the post."

A copy of order dated 11.2.92 passed in CR No. 1845 of 1990 is annexed herewith and marked as Annexure - VIII.

16. That in pursuant to the order dated 11.2.92 of this Hon'ble Court passed in CR. No. 1845/90, the Respondent No. 5 directed the petition to join in his original post of packer on daily wages basis which he was holding prior to the order dated 11.7.90, but the Respondent authorities had not considered the petitioners case for regularisation in accordance with rules subject to eligibility of the post, as well as the direction of the Hon'ble High Court dated 11.2.92 as under :-

"The Respondents/authorities shall duly consider the petitioner's case for regularisation in accordance with rules subject to eligibility of the post."

It may be mentioned that the petitioner had not been regularised. Hence, the petitioner further approached before this Hon'ble High Court by way of a contempt application u/s 11 & 12 of the contempt of Court's Act, 1971 registered and numbered as Cop(C) No. 117/94 and on 9.11.94 an order passed by this Hon'ble Court in the following terms.

Contd. 12

"the authority shall consider the case of the petitioner for regularisation as against vacancy which may arise in future. The authority has the power to regularise the employee after relaving eligibility criteria in appropriate case. Even that power may be exercised by the authority since the petitioner is working from 1986."

A copy of order dated 9.11.94 passed in Cop(C)No. 117/94 is annexed herewith and marked as Annexure - IX.

17. That the petitioner respectfully submits, that in the meanwhile the petitioner passed H.S.L.C. examination in 1996 under Assam Board of Secondary Education and after that he further enrolled his name with the above educational qualification with Employment Exchange at Guwahati on 13.8.96 under Registration No. 8640/96 and since then he was trying to regularise his post and submitted his original H.S.L.C. pass certificate, Marksheet and Registration Card before the Respondents authorities.

Copies of the aforesaid H.S.L.C. pass certificate, Marksheet and Registration Card are annexed herewith and marked collectively as Annexure - X.

18. That in the meanwhile the petitioner also made a representation before the Director, Ministry of Information & Broadcasting, New Delhi, the Respondent No. 2 on 28.4.95, 8.5.95 and 9.5.95 praying for regularisation of his post on the above said representation also the petitioner got a reply dated 11.8.95, under the signature of Section Officer, Respondent No. 4 informing that the petitioner did not fulfil the requisite working days for minimum number of days i.e. 206 days in 2 years and also passing 8th Class. Moreover, in the above reply it was also stated that the Respondent No. 5 had advised the Respondent

contd. 13

No. 4 to allow the petitioner to work in all working days as that he may complete 206 days in a year and become eligible for granting temporary status.

A copy of the aforesaid office letter dated 11.8.95 is annexed herewith and marked as Annexure - XI.

19. That in this connection the petitioner begs to state that the petitioner working further on daily wages not only for two consecutive years but more than three and half years since the date of his reinstatement on 11.2.92 and in fact he had completed the minimum 206 days in each years, as he used to work from 15 to 18 days in every month even though on records he was supposed to have worked for 15 days only. It being the demand of the necessity the petitioner worked for more than the stipulated period of fifteen days. Moreover, the Respondent No. 4 did not show those extra days of his excess working in his attendance register in the first two years of his service i.e. 1992 and 1993. But those days were shown thereafter from the year 1994 onwards. Therefore, it is not true that the petitioner does not come under the purview of the Government instruction mentioned in the aforesaid letter of the authority dated 23.7.90 (Annexure - VI).

20. That in the meanwhile the Respondent No. 3 vide his office letter dated 9.9.98 admitted that the petitioner has rendered more than 206 days service in each of the proceeding three years in the office of Yojana (Assamese), Guwahati and accordingly appointed the petitioner as Mazdoor-cum-Messenger on purely 'ad-hoc' basis in the pay scale of Rs.2,550-3200/- p.m. with immediate effect for a period of six months or until further orders, whichever is earlier.

A copy of aforesaid Order dated 9.9.98 is annexed herewith and marked as Annexure - XII.

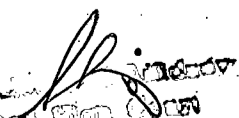
21. That the petitioner accordingly joined the said post since the date of appointment and since that day the petitioner had been discharging his duties sincerely and diligently to the satisfaction of all concern for period of six months which has been completed on 9th March, 1999 and was still working in the said post. The petitioner further on 16.3.99 submitted a representation before the Respondent No. 3, requesting him to allow/permit the petitioner to continue in his service and regularise his post and as such the service of the petitioner extended further another period of six months upto 8th September, 1999 or until further order, whichever is earlier.

A copy of the aforesaid representation dated 16.3.99 is annexed herewith and marked as Annexure - XIII.

22. That by the office order dated 25.10.99 the Respondent No. 3 informed that this extension of the service of the petitioner upto 8.9.99 shall not confer any right/claim to be appointed on regular basis to any post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc basis shall not count for any other purpose. The Respondent No. 3 also mentioned in the said order that further appointment of the petitioner on ad-hoc or regular basis to any group 'D' post in publication Division will be considered subject to production of authentic documents of the petitioner in proof of his date of birth to the entire satisfaction of the competent authority and fulfilment of other conditions mentioned in the Recruitment Rules of the relevant Group - 'D' Post and availability of vacancies.

A copy of order dated 25.10.99 is annexed herewith and marked as Annexure - XIV

Contd. 15


Secretary
Central Board of Secondary Education
Government of India

23. That the Respondent No. 5 directed the petitioner to submit the documents of the petitioner as required by the Respondent authorities as per Hqrs. letter No. A-12034/1/97-Admn-II dated 25.10.99 and as such, the petitioner furnished all the documents mentioned in above order before the Respondent No. 5/vide Order dated 17.11.99 and again vide Order dated 17.11.99 directed the petitioner received back all the documents as furnished alongwith another Order dated 17.11.99 by which the Respondent No. 5 directed the petitioner that the payment of petitioner's dues will be made as per daily wage basis for the days actually worked during that month of October, 1999 and the petitioner's service on ad-hoc basis could not be extended beyond 8.9.99.

Copies of the Orders dated 17.11.99 are annexed herewith and marked as Annexure - XV.

24. That the petitioner begs to state that in the aforesaid order dated 17.11.99 the authority has failed to give any reason as to why the petitioner was reversed and/or reduced in rank abruptly from his service even on ad-hoc basis in the pay scale of Rs.2550-3200/- p.m., when the necessity of the post exists and the same is not denied. The authority has also directed to furnish all the authentic documents of the petitioner and/also returned back on the same day without any reason as well as without objectively considering the petitioner's case and for that matter the records. Moreover, the petitioner has fulfilled the conditions for being considered for regular appointment in a regular Group 'D' Category as per Government instruction dated 23.7.90 as well as scheme for grant of temporary status and regularisation of casual workers dated 10.9.93 and as such the authority cannot legally drive out the petitioner from his post Mazdoor-cum-Messenger on ad-hoc basis while the authority has retained the other workers in the

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 Contd. Page 16
 2/10/2000

unit who is junior to the petitioner, the authority has shown total indifference to the petitioner and he has been discriminated against arbitrarily. Rather it is absolutely clear that there is a regular group 'D' post of the Mazdoor-cum-Messenger in the Guwahati Unit of the publication. But the authority is unwilling to retain and regularise the petitioner in the said post without any reasonable cause is illegal, unreasonable, unjustified and also prejudice to the petitioner and is liable to be set aside.

25. That the petitioner contends that he worked in the Unit in question ~~xx~~ from 10.11.86 to 8.9.98 regularly as a casual packer on daily wages basis and from 9.9.98 to 17.9.99 as Mazdoor-cum-Messenger on ad-hoc basis and having worked for such a long period continuously the petitioner has acquired a right to be permanently absorbed/regularised in the said post of Mazdoor-cum-Messenger in the pay scale of Rs. 2,550-3200 p.m.
26. That the petitioner respectfully submits that the order of reversion from ad-hoc post of Mazdoor-cum-Messenger to casual labour on daily wages from service 8.9.99 is highly unfair, unjust and arbitrary in as much as by the said order the authority denied the petitioner his right to employment and the means of his livelihood.
27. That the petitioner respectfully submits that the authority being the welfare Government cannot exploit the services of its citizens taking advantages of their helpless conditions. The petitioner being employed by the authority through the employment exchange in a regular manner and having utilised his services for a considerable period the authority cannot just reduced the petitioner in rank.

contd. 17

[Handwritten signature]
 Chief Officer
 Guwahati

28. That the requirement of the services/post of Group-'D' Category in the unit having not been denied by the authority and/or its necessity having not been decreased, the order of reversion of the petitioner is not warranted and as such the impugned order is absolutely malicious and unfair.
29. That the petitioner having completed minimum 206 days in a year on ad-hoc basis is entitled to the benefit of the Government Circular/Instruction as alleged by the Respondents and as such the authority is duty bound to take back the petitioner in the post of Mazdoor-cum-Messenger on ad-hoc basis in the pay scale of Rs. 2550-55-2660-60-3200 and regularise his service permanently in the post.
30. That the impugned order dated 17.11.99 is highly discriminatory in nature in as much as while the authority has retained the junior employee as the regular employee, the authority has arbitrarily reduced/reversed the petitioner for this harsh action, being guided by extraneous considerations. The impugned order as such is bad in law and is liable to be 'struck down' and/or set aside.
31. That while passing the impugned order the authority was not guided by the fair principles of law, equity and justice rather it was influenced by ~~that~~ the irrelevant and extraneous consideration and hence the impugned order cannot sustain the judicial scrutiny.
32. That the petitioner having been regularly employed as a ad-hoc employee and he having served in that capacity for about 1 year has acquired the status of a regular employee and as such he cannot be reversed by a single stroke of pen. More so, the nature of the job being permanent and regular his continuation

in such a post cannot be regarded as 'Casual/adhoc' and retention against such a post for a considerably long period converts the petitioner into a permanent one and hence the petitioner is not liable to be reversed in the impugned way.

33. That the petitioner submits that the action of the Respondent authorities as patently violative of the provisions of Article 14, 16, 21 and 311 of the Constitution of India. It is earnestly submitted that it is a fit case for interference by this Hon'ble Court for granting appropriate relief to the petitioner for the end of justice.
34. That the petitioner respectfully states that till now the post of Mazdoor-cum-Messenger is lying vacant and the authority is preparing to recruit some other person in the said post. If it is done, the petitioner shall suffer injury and loss. Hence, the authority should be restrained from making any new recruitment to the post of Mazdoor-cum-Messenger.
35. That the petitioner demanded justice and the same has been denied to him.
36. That there is no alternative and efficacious remedy available to the petitioner and the remedy sought for, if granted will be just and adequate.
37. That this application is made bonafide and for the ends of justice.

Under the premises aforesaid, it is respectfully prayed that Your Lordships may be pleased to admit this petition, call for the records, issue a Rule calling upon the Respondents to show cause as to

why a writ of Mandamus directing the Respondents to reinstate and Regularise the services of the petitioner as Mazdoor-cum-Messenger and/or any other appropriate writ/direction order as to this Court may deem fit and proper requesting the impugned order should not be issued/passed and upon perusal of the records and upon hearing the parties may graciously be pleased to make the Rule absolute;

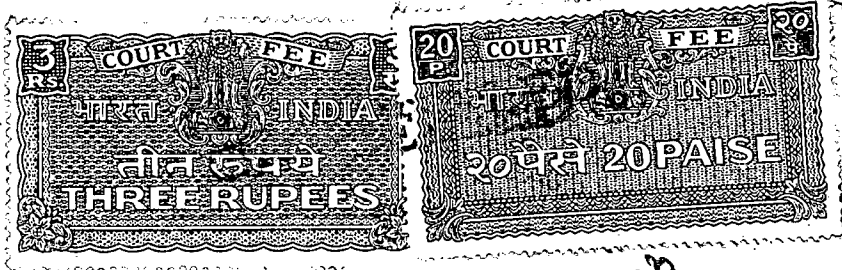
-AND-

It is further prayed that pending disposal of this writ petition the operation of the impugned order/may kindly be stayed and/or respondents be restrained from taking new recruit in the post of the petitioner.

And for which act of kindness the petitioner as in duty bound shall ever pray.

AFFIDAVIT...

[Signature]
Counsel High Court
Cuttack



A F F I D A V I T

I, Sri Upen Kalita, son of Sri Lataru Kalita, aged about 32 years, resident of Gandhi Basti, Guwahati - 3 do hereby solemnly affirm and state as follows :-

1. That I am the petitioner in this case and as such I am fully conversant with the facts and circumstances of the case.

2. That the statements made in this affidavit and in paragraphs 1 to 3, 6 to 8, 10, 11, 13, 18, 21, 25, 28, 29, 35, 36 and 37 are true to my knowledge, those made in paragraphs 4, 5, 7, 9, 15 to 17, 20, 22 & 23 are being matters of record are true to my information and the rest are my humble submissions before this Hon'ble Court.

I, Signed this affidavit on this 6th day of Dec'99. at Guwahati.

Sree Upen Kalita

DEPONENT

Identified by me

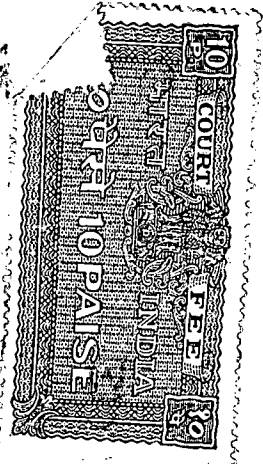
Phenim Kalita

Advocates' Clerk.

6/12/99.

Subscribed and sworn to before me on this 6th day of Dec'99
The deponent is identified by
Sri P. Kalita
known to me
explained to me
the contents of this
affidavit

Commissioner, Guwahati
6/12/99



Government of India
Yojana publications Division
Ministry of Information & Broadcasting
Happy Villa, Guwahati - 3

Dated : 5.11.86

No. YA/Estt/8/86/587

To

Shri Upendra Kalita,
C/o. Bonkiya, G. N. Road, Guwahati - 3
Near Guwahati Club

You are appointed as a casual packer in the office of the undersigned on daily wage basis for a period of 15 (fifteen) days in a month. The post is purely temporary and may be terminated at any time without assigning any reason. The payment will be made as per Government approved-rate.

You should report for duty immediately.

Sd/- B. K. Saikia
Sr. Correspondent,
Yojana (Assamese)
Guwahati - 3

No.A.12034/16/88-Admn - II
Publications Division
Ministry of I & D
patiala House, New Delhi

Dated 12.5.88

C I R C U L A R

Subject Preparation of seniority roster of daily wage mazdoors working in the publications division.

This Division is considering a proposal to fill up vacant group 'D' posts from amongst the daily wage Mazdoors working in various units of the Division by regularisation of their services in terms of relevant orders and instructions issued by the Government in this regard. For the purpose it is proposed to prepare a seniority roster of the daily wage Mazdoors working in the Division.

All the units/sections of the publications Division are requested to furnish the detailed information in respect of such daily wage Mazdoors who have been working for over two years as 01.5.88, the information sent to Admn. II Section latest by 31.5.88. Attested copies of certificates of Educational qualifications, age, caste (for SC/ST) candidates only of concerned persons may also be enclosed.

Sd/. Nirmal Ganguly,
Deputy Director (Admn)

46

Yojana Publications Divisions
Ministry of Information & Broadcasting
Happy Villa, Guwahati - 3

No. YA/Estt/8/88/181

Dated : 27.5.88

To

The Deputy Director (Admn)

Publications Division, Patiala House, New Delhi - 110 001.

Sub : Preparation of seniority roster of daily wage
Mazdoors working in the publications division.

Ref : Your Circular No. A.12034/16/88- Admn - II dt. 12.5.88

Sir,

The requisite information on the subject noted above
in respect of this unit office is forwarded here-with in the
enclosed prescribed proforma.

Yours faithfully,

Sd/- B. K. Saikia

Sr. Correspondent

Yojana, Guwahati - 3.

PROFORMA.

Subject: Information in respect of daily wage Mazdoors working in various units of the Publications Division for over two years as on 1.5.1988.

Name of the Unit/Section: Yojana (Assamese) Address: Publications Division, Happy Villa, Guwahati-3.

S.No.	Name of the daily wager	Father's Name	Date of Birth	Educational Qualification	Date of Engagement	Whether SC/ST.	No. working days the daily wager has worked during of his engagement (year wise)	XX	Whether sponsored by Dep. Ex. Registered	X	Regd. of Registered with Exch. exchange
1.	2	3	4	5	6	7	8.	9	10	11	12
1.	Shri Upendra Kalita	Shri Lataru Kalita	31.10.68	Read upto Class VIII. (eight)	10.11.86	No.	15 days in a month	15 days in a month	X	Through	1.3.88. Guwahati Regd. No. Employment 2023/88 Exchange, Guwahati. 2958/87
2.	" Ranjit Kr. Pathak	Late Bhabani Ram	22.7.63	Read upto Class VIII (eight)	25.3.87	-do-	All working days in a month.	X	X	-Do-	2.3.87

X A₂ recorded in school certificate.

XX No. of working days the daily wager had worked in each month may also be furnished in a separate sheet.

48

Govt. of India,
Yojana, Publications Division,
Ministry of Information and Broadcasting
Happy villa, Gauhati-781 003.

No. YA/Estt/8/90-91/202 dated Gauhati, the 11th July 1990.

Office order.

As this office has not received sanction for post of daily wage packer from the competent authority, Sri Upen Kalita is not required to attend office until further order.

Sd/- B.K. Saikis,
Editor-cum-sr. correspondent,
Yojana (Assamese)
Happy villa, Gauhati- 781 003.

copy to

0

Shri Upen Kalita,
Daily wagger (packer)
Yojana (Assamese) unit,
Happy Villa, Gauhati-3.

Regd with A/D.

To

The Deputy Director (Admn)

Government of India, Ministry of Information

& Broadcasting, patiala House, New Delhi.

Sub : Regularisation services

Respected Sir,

In continuation of my representation dated 26.6.90, I beg to state that the Editor cum Senior Correspondent, Yojana (Assamese) Unit, Happy villa, Gauhati-3, served an office order (copy enclosed) vide No. YA/Patt/8/90-91/202, dated Gauhati, the 11th July, 1990 under which he informed that my service as packer is no longer required as no sanction has been received from your end.

In view of the above, I request your honour kindly to consider my request as already communicated from time to time as I am the senior most casual employee of the Unit and served more than 3 years 6 months till date.

Again I request you kindly to engage me against the regular vacancy of Messenger lying vacant under the Unit at Gauhati considering the fact that I am senior most casual employee of your department and no any alternative job is available for me to feed my poor deponents. An early consideration will be highly appreciated.

Enclosures.

Yours faithfully.

1. Office order No.YA/Estt.8/
90-91/202 dated 11th July'90

Sd/- Upen Kalita

13-7-90

Office of the Sr. correspondent,
Yojana (Assamese) Gauhati-3
C/o. Bonerre pharmacy, (pooliste
Guahati club) G.N. Borolo Rd.
Gauhati 781 003.

No.A-12034/13/90-Admn. II
Publications Division, Ministry of
Information and Broadcasting, Patiala
House, New Delhi.

Dated 23.7.90

Shri Upen Kalita
C/o Boncure Pharmacy
(Opp. Gauhati Club)
G.N. Bordoloi Road
Gauhati (Assam) 781 003

Subject Regularisation of service.

Sir,

Please refer to your Regd. letter dated nil on the subject mentioned above. In this connection, it is stated that as per instructions of the Government, only those daily wage workers can be considered for regular appointment who have worked on daily wages for at least two consecutive years and completed minimum 206 working days in each year.

2. Since you do not come within the perview of the above instructions, it is not possible to consider your case.

Yours faithfully,

Sd/-

(RAM PRAKASH)
Section Officer

To whom it may concern

Certified that Shri Upen Kalita, S/o Shri Lataru Kalita, of Bazpara Village, Mangaldoi, was working in Yojana(Assamese) office, Publications Division, Govt. of India at Guwahati w.e.f. 10.11.86 to 11.7.90 as a casual packer. He was a sincere worker with aptitude for hard work

I wish him success in life.

Sd/- B.K. Saikia

Editor Yojana (Assamese)

Happy Villa, Guwahati

Dated Guwahati

the 31st August, 1990



IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh*)

Civil Rule No. 1845 of 1990.

Shri Upen Kalita -

Petitioner.

-versus-

Union of India and ors. -

Respondents.

P R E S E N T

THE HON'BLE MR. JUSTICE SRIVASTAVA

THE HON'BLE MR. JUSTICE SEMA

For the petitioner -

Sri K.K. Mahanta,
Advocate.

For the respondents -

Sri K.N. Choudhury,
Addl. Central Govt.
Standing counsel.

Date of hearing and
judgment -

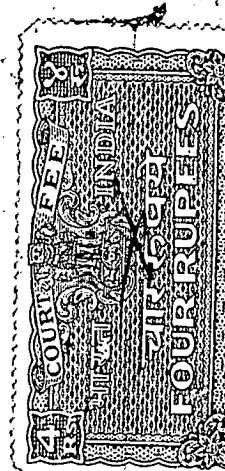
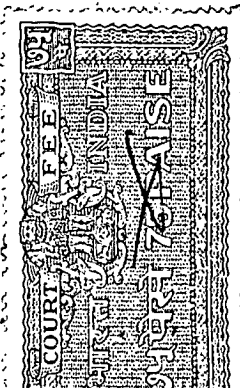
11.2.92

JUDGMENT AND ORDER (ORAL)

Srivastava, J.

By this petition under Article 226 of the
Constitution of India, the petitioner prays for
reinstatement and regularisation as packer in the
office of the Editor-cum-Senior Correspondent, Yojana
(Assamese) at Guwahati.

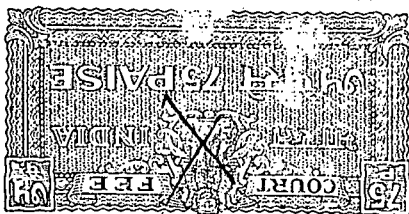
The petitioner was appointed as a casual



date of delivery of the requisite stamps and fees.	19.2.92	copy was ready for delivery to the applicant.	21.2.92	and delivery over the copy to the applicant.
date fixed for meeting the requisite number of stamps and fees.	13.2.92			
date of application for the copy.	12.2.92			

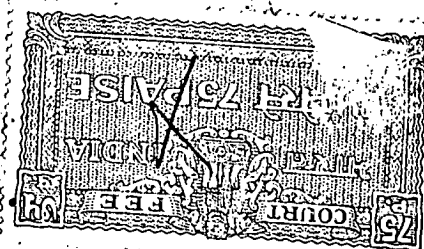
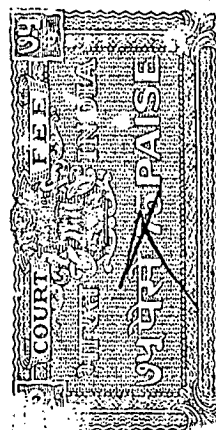
-2-

Yojana (Assamese) at Guwahati by order dated 5.11.86 (Annexure-1). The petitioner worked for certain days in a month depending upon the availability of work. The petitioner prayed for regular appointment against the post of peon and packer (Annexure-2). The petitioner reiterated this prayer on 26th February, 1988 (Annexure-3). In pursuance to a circular dated 12.5.88 (Annexure-4) preparation of seniority roster of daily wage mazdoor working in the publications division was prepared to fill up vacant group-D posts. The petitioner's name was included in the aforesaid list at serial number 1 (Annexure 5(1)). The aforesaid list shows that the petitioner had read upto Class-VIII and was appointed earlier than one Ranjit Kr. Pathak. The petitioner again prayed for regular appointment by applications at Annexures-6, 7, 8 and 11. The respondents had informed the petitioner that his request would be given due consideration at the appropriate time (Annexures 12 and 14). The petitioner further submitted similar applications for regular post (Annexures 13 and 15). By letter dated 9th July, 1990 the petitioner was again informed that his request shall be given due consideration at the appropriate time. By order dated 11th July, 1990 (Annexure-17), the petitioner was informed that "as this office has not received sanction for post of daily wage packer from the competent authority, Sri Upen Kalita is not required to attend office until further orders". Even after this letter, the petitioner kept on reiterating his request for regularisation and has filed this petition,



-3-

for the aforesaid reliefs.



3. The respondents have resisted the petition mainly on the ground that the petitioner had not worked for the number of days he was required to work and that there was no post available against which he could have been appointed, that the sanction had not been received and accordingly the petitioner's services had been discontinued. It, however, appears that one Ranjit Kr. Pathak who had been engaged after the petitioner has been allowed to continue to work as packer on daily wage basis.

4. We have heard Sri K.K. Mahanta, learned counsel for the petitioner and Sri K.N. Choudhury, learned Additional Central Government Standing Counsel for the respondents.

5. It is quite clear from the record that the petitioner had been appointed as Packer on 10.11.86 whereas Ranjit Kr. Pathak had been employed with effect from 25.5.87. Said Ranjit Kr. Pathak has continued to work whereas the petitioner's services have been discontinued on the ground that sanction for the post of daily wage packer had not been received from the competent authority. We are unable to accept this ground for discontinuance of the petitioner's service for the reason that even if it were so, the petitioner should have been continued in service and Ranjit Kr. Pathak who had been employed after the petitioner, in that case, should have been discontinued from service. We think that the

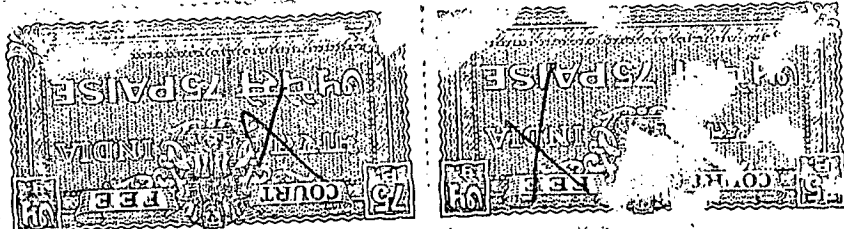
principle..

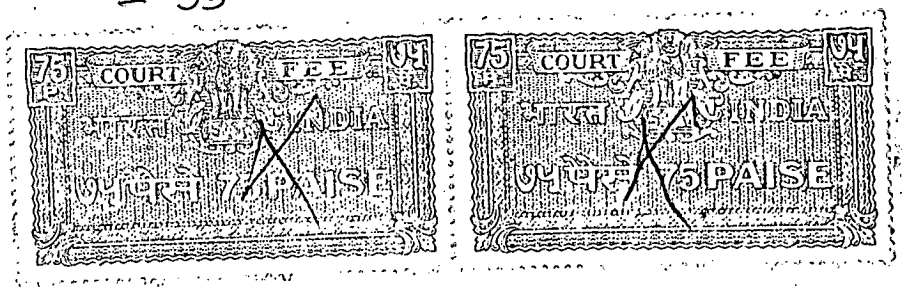
principle of first come last go should be attracted in this case and accordingly we cannot sustain the impugned action by the respondents in discontinuing the services of the petitioner.

6. Sri K.K. Mahanta, learned counsel for the petitioner, has submitted that the petitioner's service should be regularised in view of the fact that he had been serving from 1986. Sri Mahanta has, on the basis of the list of workers prepared in pursuance to the circular dated 12.5.88 (Annexure-4), submitted that the petitioner was qualified for the post for regular appointment.

7. Sri K.N. Choudhury, learned counsel for the respondents, has, however, invited our attention to Annexure-B stated to be the Recruitment Rules for the post of Packer, which read with the statement in para 8 of the affidavit-in-opposition. According to Sri Choudhury, Annexure-B is the recruitment rules for the post. It is not clear from the record that whether the rule at Annexure-B is statutory rule. However, this Rule provided that the educational qualification required for the post of Packer was 8th standard pass. Admittedly, the petitioner has not passed 8th standard, but has read upto 8th standard. Sri Choudhury, learned counsel for the respondents, has also invited our attention to the averment made in para 8 of the affidavit-in-opposition where it has been said that no vacancy of Peon and Packer

existed..





existed at Yejana (Assamese) Guwahati. The contention, therefore, is that there is no post available against which the petitioner can be appointed.

8. Sri Mahanta, learned counsel for the petitioner, on the other hand, has submitted that even in the aforesaid para 8 of the affidavit-in-opposition, it has been stated that a vacancy of Mazdoor-cum-Messenger which is also a Group-D post is available.

[✓] 9. "On careful consideration of the submissions on behalf of the parties, we are inclined to think that the petitioner who has been working since 1986 and whose discontinuation from service as said before we have held to be unjustified, should be considered for regularisation against a post in case it is available and the petitioner is eligible and qualified for the same."

✓ 10. "For the aforesaid reasons, we dispose of this petition with the direction that the petitioner shall be reinstated in the post of Packer on daily wage basis which he was holding prior to the order dated 11th July, 1990, within a period of two weeks from today. The petitioner shall, however, be entitled to wages from the date he is reinstated. The respondents authorities shall duly consider the petitioner's case for regularisation in accordance with rules subject to eligibility for the post."

Parties shall bear their own costs.

Sd/ *H. K. Sena*
Judge

Sd/J. M. Srivastava
Judge

Certified to be True Copy

adamp 19/12
Asst. Registrar (Judg)
GAUHATI HIGH COURT
Authorised U/s 76 Act. 1 of 1972

10.11.94	17.11.94	17.11.94	17.11.94	17.11.94
Stamp and photo of the applicant संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	Stamp and photo of the applicant संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	Stamp and photo of the applicant संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	Stamp and photo of the applicant संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	Stamp and photo of the applicant संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.
10.11.94	17.11.94	17.11.94	17.11.94	17.11.94

THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPURA
TRIPURA: MIZORAM AND ARUNACHAL PRADESH)

CIVIL ORIGINAL (CONTEMPT) NO. 117/94

Sri Upen Kalita,
S/o Sri Lataru Kalita,
C/o Bon Cure Pharmacy (opposite
Gauhati Club), G.N. Bordoloi Road,
Guwahati-3, P.O. Guwahati,
Dist-Kamrup, Assam.

.....Petitioner
Writ Petitioner

-Versus-

1. S.B. Mittal,
Section Officer,
Publications Division,
Ministry of Information and
Broadcasting, Patiala House,
New Delhi-11001.
2. Sri S.P. Mehra,
Deputy Director (Administration),
Government of India,
Ministry of Information &
Broadcasting, Patiala House,
New Delhi-110001.

.....Opp. Parties
Contemners.

P R E S E N T

THE HON'BLE MR. JUSTICE J.N. SARMA

- For the petitioner : Miss B. Choudhury, Advocate.
- For the respondents: Mr. K.N. Choudhury, Advocate
- Date of hearing and
judgment: 9.11.94

- 35 -

-2-

JUDGMENT AND ORDER (ORAL)

A Division Bench of this Court on 11.2.92 in Civil Rule No.1845/93 interalia passed the following order :

" The respondents/authorities shall duly consider the petitioner's case for regularisation in accordance with rules subject to eligibility of the post." . . .

The main thrust of this contempt petition is that the petitioner has not been regularised in service though the persons who joined after him have been regularised.

I have heard Mr. K.K.Mahanta, Learned Advocate for the petitioner and Mr.K.N.Choudhury, Learned Sr. C.G.S.C. for the respondents.

After hearing the learned counsel of both the parties and on perusal of the materials on record I find that no case for contempt has been made out. Accordingly, this contempt petition stands closed. [But before I part with the record I hope and trust that the authority shall do the needful to help the poor person like the petitioner so that he may have a decent living. After all the state has the duty to treat its employee in a decent manner so that the employees may not have the grievance that they have not been treated properly. For smooth management and prosperity of the society it is always necessary that there should be a harmonious relationship between the employer and the employee.

- 3 -

The employee should not have the grievance that he has not been considered by following due process of law.

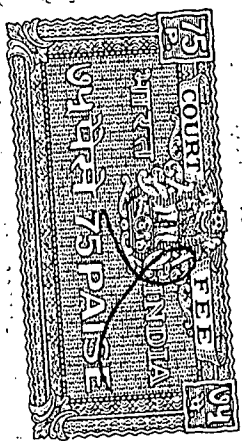
In that view of the matter, I hope that the authority shall consider the case of the petitioner for regularisation as against the vacancy which may arise in future. The authority ~~will have~~ ^{relaxing} the power to regularise the employee after ~~having~~ eligibility criteria in appropriate case. Even that power may be exercised by the authority since the petitioner is working from 1986.] ..

This disposes of the writ application.

sd/- J. N. Sarma
Judge

Certified to be true Copy
Jewel Kohli
17.11.94
Superintendent (Copying)
GAUHATI HIGH COURT
Authorized U/S 78 Act. 1 of 1982

JN
17/11/94



CHANDRAPUR HIGH SCHOOL

P. O. CHANDRAPUR-781 150 :: DIST.-KAMRUP

Transfer/Leaving Certificate

CERTIFIED that Shri/Shrimati... Leben ... Kalita ...
 son/Daughter of... Bai Letaxu ... Kalita ... an
 inhabitant of Village/Town... Nommati ... Guwahati ... under the
 P. S. Paag Nommati in the Sub-Division... Kamrup ... in the
 District of... Kamrup ... left this School on... 31-12-96 ... His/Her age at
 that date according to the Admission Register was ... 28 ...
 Years... 02 ... Months ... 4 ... days. He/She is/was
 reading in Class ... 8 (Hem) and had/had not passed the Examination for promotion
 to higher Class in 1996 under Roll No: 136 No: 128

All sums due by him/her have been paid (fees upto ... date ...)
 He/She bears a good moral character.

Reasons of Leaving :

1. Unavoidable change of residence.
2. Ill health.
3. Completion of the School course.
4. Minor reason.

Date... 1/2/96...

Attested

01/12/99
 Income Tax Officer
 Part-2 (2): Guwahati

Head Master / Headmistress
 Chandrapur High School
 Paschimanchal (Kamrup)

93

No. 095930

Education, Assam

GUWAHATI 781 021

Date : 10-07-1996

MARKS SHEET

HSLC

This is to certify that Upen Kalita Roll No. 130 No. 128 of P School has secured marks as detailed below, in the High School Leaving Certificate Examination, 1996.

WORK EXPERIENCE Grade	CORE SUBJECTS																		ELECTIVE				Grand Total	Division	Eligible for Compartmental in		
	First Language <i>As</i>						Languages in Lieu of first Language		Second Language ENGLISH		GENERAL SCIENCE			GENERAL MATHEMATICS			SOCIAL STUDIES			With Practical							
	FIRST PAPER Full marks 100	SECOND PAPER Group A Full marks 50	SECOND PAPER Group B/C Full marks 50	SECOND PAPER TOTAL Full marks 100	TOTAL Full marks 200 Pass marks 60		Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	FIRST PAPER Full marks 100	SECOND PAPER Full marks 50	TOTAL Full marks 150 Pass marks 45	FIRST PAPER Full marks 100	SECOND PAPER Full marks 50	TOTAL Full marks 150 Pass marks 45	FIRST PAPER Full marks 100	SECOND PAPER Full marks 50	TOTAL Full marks 150 Pass marks 45	FIRST PAPER Full marks 100	SECOND PAPER Full marks 50	TOTAL Full marks 150 Pass marks 45	Without practical Full marks 100 Pass marks 30	Theoretical				Practical	Total marks 100 Pass marks 30
B	45	16	26		87				24	22	46	22	12	34 +11	38	23	61	38	31	69	35				32 +11	III	

Marks entered

Marks compared

Work Experience Grade denotes:

A—Excellent
B—Good
C—Fair
D—Average
E—Poor (needs improvement)

SERICULTURE:

THEORETICAL
Practical
CRAFTS:
Theoretical
Practical

Full/Pass Marks

70	21
30	9
50	15
50	15

HOME SCIENCE:

AGRICULTURE:
 Theoretical
 Practical
 DANCE, MUSIC &
 Theoretical
 Practical

Full / Pass Marks

60	18
40	12
RTS:	
30	9
70	21

Controller of Examinations

Date.....

Date.....

Asstt. Controller of Examinations

Income Tax Officer,
Sector-2 (A), Guwahati.

Assam Schedule LXIII, Form No. 11

X-10(B)

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR
EMPLOYMENT EXCHANGE
IDENTITY CARD

(Not an Introduction card for interview with employees)

1. Name of Applicant Uppam Kacita
2. Date of Registration 13-8-96
3. Registration No. 5645/96
4. N. C. O. Code No. 20110
9/13 30/12-68

INSTRUCTION TO APPLICANT

(a) Bring this card with you whenever you come to the Exchange.	Date before which registration should be renewed
(b) Quote your Registration Number and N. C. O. Number whenever you write to the Exchange.	
(c) Renew your Registration every three months. <u>13</u>	<div style="text-align: center;"> <p><u>13-8-96</u></p> <p><u>5645/96</u></p> </div>
If you do not renew by the due date your registration will be cancelled.	
(d) You can renew your registration personally or by post. For renewal by post DO NOT SEND THIS CARD. Apply to the Exchange on a REPLY PAID POST CARD.	

Government of India
Ministry of Information & Broadcasting
PUBLICATIONS DIVISION

No. G-18013/5/90-Admn II (vol-III)

Patiala House, New Delhi
Dated the 11th August, 1990

Subject:- Regularisation of Shri Upen Kalita, daily wage labourer in Yojna (Assamese), Guwahati - Representation regarding.

The undersigned is directed to refer to the representations dated 28.4.95, 8.5.95 and 9.5.95 sent to the Secretary, Ministry of I&B, Director and Deputy Director (Admn.), Publications Division respectively received from Shri Upen Kalita, Daily Wage labourer in Yojna (Assamese), Guwahati on the above subject and to say that since Shri Kalita does not fulfill the requirement of working for a minimum number of days i.e. 206 days in a year and also passing 8th Class, the matter was taken up for relaxation with the Department of Personnel & Training twice, but both the times the Department of Personnel & Training have not agreed for allowing the relaxation in the minimum number of days (206 days) of service and educational qualification.

2. Now the Editor-cum-Sr. Correspondent, Yojna (Assamese), Guwahati has already been advised to allow Shri Upen Kalita to work on all working days so that he may complete 206 days in a year and become eligible for granting temporary status. As and when he becomes eligible, he will be given temporary status and kept enblock junior in the list of daily wage labourers. He may be regularised as per his seniority in the daily wage labourers list and also subject to the availability of vacancies.

3. This issues with the approval of DD(A)

(S.B. MITTAL)
Section Officer

To,

Shri Upen Kalita,
Daily Wage labourer,
Yojna (Assamese),
GUWAHATI-1

*****2/

Copy to:-

1. The Editor-cum-Sr. Correspondent, Yojna (Assamese), Guwahati. This has a reference to the teleconversation held between the Editor-cum-Sr. Correspondent, (Yojna, Assamese) and Section Officer (Adm. II), Publications Division on 14.6.95. Shri Upen Kalita may be allowed to work on all working days.
2. Ministry of I&B (IP&MC Section), Shastri Bhawan, New Delhi, for information w.r.t. their I.D. Note No. 20/32/95-IP&MC dated 02.08.1995.

sd/-

(S.B. MITTAL)
Section Officer
Tele : 3388183

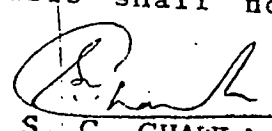
No. A-12034/6/97-Admn.II
PUBLICATIONS DIVISION
MINISTRY OF INFORMATION & BROADCASTING

Patiala House, New Delhi
Dated the 9th September, 1998

ORDER

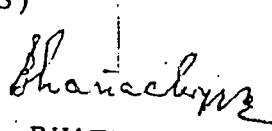
Shri Upen Kalita, Daily Wager who has rendered more than 206 days service in each of the preceding three years in the office of Yojana (Assamese), Guwahati is hereby appointed as Mazdoor-cum-Messenger on purely ad-hoc basis in the pay scale of Rs.2550-55-2660-60-3200 with immediate effect for a period of six months or until further orders, whichever is earlier. He is posted in the office of Yojana (Assamese), Guwahati of this Division.

2. This ad-hoc appointment shall not confer on Shri Kalita any right/claim to be appointed on regular basis to any Post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc basis shall not count for any other purpose.


(S. C. CHAWLA)
Deputy Director (Admn.)
Tele. : 338 6568

Copy to :

1. Shri Upen Kalita, Daily Wager in the office of Yojana (Assamese), Guwahati.
2. Sr. Correspondent-cum-Editor, Yojana (Assamese), Guwahati.
3. PAO, DAVP Min. of I&B, K.G. Marg, New Delhi.
4. Cash Section (2 copies)
5. Admn.I/B&R/A&G/Vigilance Section/Library, DPD Hqrs.
6. PAs to Director DPD/JD(L)/CE(Y)/Dy.Dir.(S)
7. Spare copies/Guard file.


(S. P. BHATTACHARYYA)
Section Officer

99.95

XV

13

Registered Post

To

The Deputy Director (Admh.),
Ministry of Information & Broadcasting,
Publications Division,
New Delhi.

Ref:-Your letter No.A-12034/6/97-Admn.II,dtd.9.9.98.

Sub:-Prayer for continuation of service and regularisation.

Sir,

I have the honour to state you that I am a poor servant working as Mazdoor-cum-Messenger in the office of the Yojana(Assamese),Guwahati under your Department since last September, 1998. I have been appointed as Mazdoor-cum-Messenger for 6(six) months period vide your letter under reference. The period of 6(six) months has been completed by 9th of March, 1999. I am still working in the said office as before. Therefore, I request your honour would be kind enough to extend my service and appointme on regular basis so that I can get my pay regularly and my poor family members are saved. And for this act of your kindness, I, as in duty bound, shall ever pray.

खोमा नहीं NOT INSURED

संगये गये डाक टिकटों का मूल्य
Amount of Stamps attached Re. 1/-

एक रजिस्ट्रि*
Received a Registered Letter

पानेवाले का नाम
Addressed to N. Delha

4986

16/3/99

100/100

Signature

Gravely Office

Yours faithfully,

U. Kalita

(Shri Upen Kalita.)

Mazdoor-cum-Messenger.

Yojana(Assamese),Guwahati-1,
Assam.

No.A-12034/6/97-Admn.II
GOVERNMENT OF INDIA
Publications Division
Ministry of Information & Broadcasting

Patiala House, New Delhi.
Dated : 25th Oct., 1999.

ORDER

Appointment of Shri Upen Kalita, daily wager as Mazdoor-cum-Messenger purely on ad-hoc basis in the pay scale of Rs.2550-55-2660-60-3200/- w.e.f. 9th September, 1998 ordered vide this Division's Order of even number dated 9th September, 1998 is extended for a further period of six months upto 8th September, 1999 or until further order, whichever is earlier.

2. This extension of ad-hoc appointment upto 8.9.99 shall not confer on Shri Kalita any right/claim to be appointed on regular basis to any post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc basis shall not count for any other purpose.

3. Further appointment of Shri Kalita on ad-hoc or regular basis to any Group 'D' post in Publications Division will be considered subject to production of authentic documents by Shri Upen Kalita in proof of his date of birth to the entire satisfaction of the competent authority and fulfilment of other conditions by him mentioned in the Recruitment Rules of the relevant Group 'D' post and availability of vacancies.

9998 R9
DPD

S.P. Bhattacharyya
(S.P. BHATTACHARYYA)
Deputy Director (Admn.II)
Tele : 338 6568

Copy to :-

1. Shri Upen Kalita, Mazdoor-cum-Messenger (ad-hoc), Yojana (Assamese), Guwahati. (Through Editor, Yojana (Assamese), Guwahati).
2. Senior Correspondent -cum-Editor, Yojana (Assamese), Guwahati.
3. PAO, DAVP etc., Ministry of I&B, K.G.Marg, New Delhi.
4. Deputy Director (S), DPD.
5. S.O., Cash Section (2 copies), DPD.
6. A&G/B&R/Vig., DPD.
7. PAs to Director/J.D. (Admn.), DPD.
8. Spare copies/Guard file.

3.11.86

- 45 -
Govt. of India,
Yojana, Publications Division,
Ministry of Information and Broadcasting,
Naujan Road, Ujanbazar, Guwahati-781001.

ANNEXURE - XV CONTD.

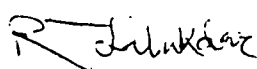
96

oYA/Esstt/8/99/446

Dated Guwahati the 17th November, 1999.

OFFICE ORDER.

As you are aware that as per Headquarters letter No.A-12034/6/97-Admn.II dated 4.11.1999 that your appointment of Mazdoor-Cum-Messenger purely on ad-hoc basis could not be extended beyond 8th September, 1999. As such your salary for the month of October, 1999 could not be drawing. As per instruction received from Headquarters, I am to inform you that payment of your dues will be made as per daily wage basis for the days actually worked during that month. Hence the daily wage bill for the same may be signed for making necessary payment at the earliest.


(Ranu Talukdar),
Editor-Cum-Sr. Correspondent,
Yojana (Assamese),
Naujan Road, Ujanbazar,
Guwahati-781001.

✓ Shri Upen Kalita,
Daily wager,
Yojana(Assamese) Unit,
Ujanbazar, Guwahati-1.

Copy to the Deputy Director (Admn.II), Publications Division, Patiala House,
New Delhi-1 for information.

(Ranu Talukdar)

Govt. of India,
Yojana, Publications Division,
Ministry of Information and Broadcasting,
Naujan Road, Ujanbazar, Guwahati-781001.

69

oYA/Esstt/8/99/447

Dated Guwahati the 17th November, 1999.

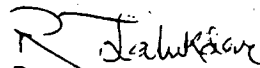
To

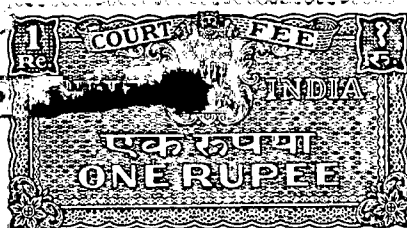
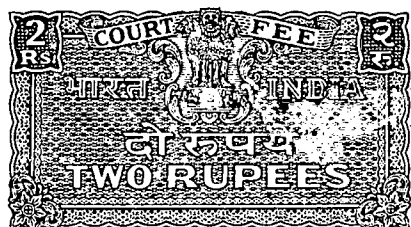
Shri Upen Kalita,
Daily Wager,
Publications Division,
Yojana (Assamese) Unit,
Naujan Roda, Ujanbazar, Guwahati-1

Sub: Submission of documents.

As per Hqrs. letter No. A-12034/1/97-Admn.II dated 25th October, 1999,. You are required to submit the following documents to this office for onward transmission to DPD(Hqrs.).

1. Attested true copy of your Employment Exchange Registration No. 2023/73 issued by Guwahati Employment Exchange.
2. Copy of the Ration Card and CHG. Card, if any with date of birth of self and dependent family members.
3. Original mark-sheet and certificate issued by the Board of Secondary Education, Assam, Guwahati in proof of ~~his~~ having passed the High School Leaving Certificate Examination 1999 in 1996.


(Ranu Talukdar),
Editor-Cum-Sr. Correspondent,
Yojana (Assamese),
Naujan Road, Ujanbazar,
Guwahati-781001.



DISTRICT : KAMRUP

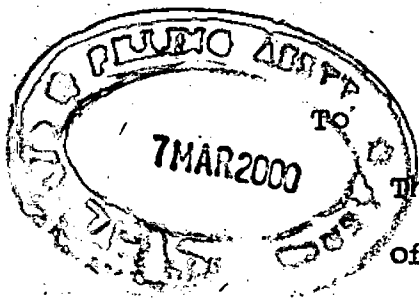
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IN THE GAUHATI HIGH COURT

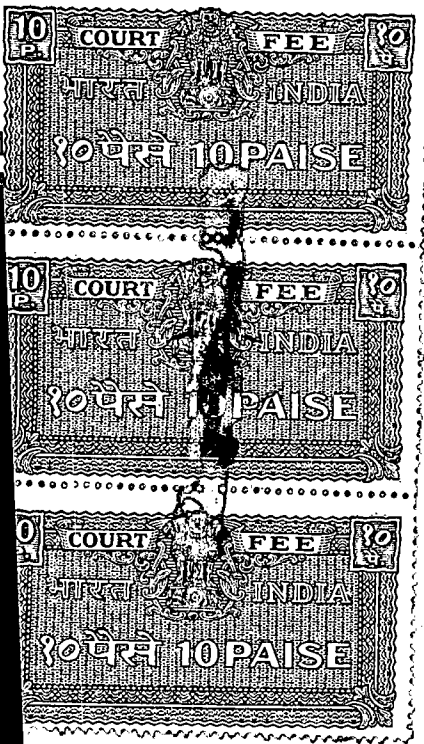
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

(CIVIL EXTRA - JURISDICTION : WRIT JURISDICTION)

W P(C) No. 6147 of 1999



The Hon'ble Shri Brijesh Kumar, B.A., LL.B., Chief Justice
of the Gauhati High Court and His Lordship's Companion
Justices of the said Hon'ble High Court.



IN THE MATTER OF :

An additional affidavit in WP(C) No.6147
of 1999 on behalf of the petitioner.

-AND-

IN THE MATTER OF :

Shri Upen Kalita

Gandhi Basti

Guwahati - 781 003.

...PETITIONER.

-Vs.-

Union of India & Ors.

...RESPONDENTS.

I, Sri Upen Kalita, son of Sri Lataru Kalita, aged about
32 years, resident of Navagraha, Guwahati - 3 do hereby
solemnly affirm and state as follows :-

1. That I am the petitioner in this case and as such I am
fully conversant with the facts and circumstances of the case.

48

2. That in WP(C) No. 6147 of 1999, the petitioner has challenged the legality and validity of the order of reversion of service dated 17.11.99 (Annexure - XV/Page - 45) passed by the Respondent No. 5, Editor-cum-Sr. Correspondent Yojana (Assamese). In the said assessment, the Respondent No. 5 has reverted the service of the petitioner to casual worker on daily wage basis on the ground that the appointment of the petitioner as Mazdoor-cum-Messenger on ad-hoc basis could not be extended beyond 8.9.99 and directed the petitioner to draw the payment on daily wage basis for the days actually worked during that month without considering the petitioner for regular appointment and/or regularisation of his service even after completion of 206 days for two consecutive years under the facts and circumstances of the case in right perspective and without appreciating the relevant provisions of law as well as the guide lines contained in the office memorandum dated 10.9.93 for taking appropriate, prompt and suitable action. As such the actions of Respondents are violative of Article 14 and 16 of the Constitution of India.

3. That Govt. of India Ministry of Personnel, Public Grievances and Pensions, Dept. of Personnel & Training, New Delhi, vide their office memorandum dated 7.6.88 reviewed the policy of recruitment of casual worker and persons on daily wage basis consequent upon a related judgement of the Supreme Court of India and, as per related office memorandum, all eligible casual workers are adjusted against regular posts to the extent such posts are justified and the rest of the casual workers not covered by the first category of workers and whose retention is concerned absolutely necessary and is in accordance with the guidelines are paid emoluments strictly, and these conditions were subsequently reviewed under a related office memorandum dated 10.9.93 thus formulating fresh guidelines regarding the grant of temporary

AG

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status and regularisation of casual worker consequent upon the decision of the Central Administrative Tribunal Principal Bench, New Delhi, as reflected. Hence, the Respondents ought to have granted a temporary status and regularised the services of the petitioner by following the aforementioned related office memorandum dated 10.9.93; but it was not done so. Instead of affording temporary status or regularising the services of the petitioner, the petitioner was reverted from his service on ad-hoc basis at the pay scale of Rs.2,550-55-2660-60-3200 under the impugned order of severison dated 17.11.99 without any reason.

A copy of aforesaid office memorandum dated 10.9.93 is annexed herewith and marked as Annexure - I.

4. That the additional affidavit has been filed to bring an record the aforesaid office memorandum dated 10.9.93 for granting temporary status and Regularisation of services in the case of the petitioner for consideration by this Hon'ble Court.

5. That the statements made in this affidavit and in paragraphs 1, 2 and 4 above are true to my knowledge, those made in paragraph 3 being matter of record of the case are true to my information derived therefrom.

I signed this Affidavit on this the 7th day of March 2000 at Guwahati.

Identified by
Shaniv. Kelita,
Advocate's Clerk
7-3-2000

Sree Upen Kelita
7-16-2000
P. Kelita
A/C
7/13/2000

G.I., Deptt. of per & Trg., O.M.No. 51016/2/90-Estt(C)Dt. 10.9.93

SCHEME FOR GRANT OF TEMPORARY STATUS AND REGULARISATION OF CASUAL WORKERS

The guidelines in the matter of recruitment of persons on daily wage basis in Central Government office were issued vide this Department's O.M. No. 49014/2/86-Estt(C) dated 7.6.1988 (Sl. No. 310 of Swamy's Annual, 1988). The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi, delivered on 16.2.1990, in the writ petition filed by Shri Raj Kamal and others V. Union of India and it has been decided that while the existing guide lines contained in OM dated 7.6.1988 may continue, to the follow- ed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of contin- uous service in Central Government office other than Depart- ment of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance, etc., are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guide lines contained in O.M. dated 7.6.1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

APPENDIX

DEPARTMENT OF PERSONNEL & TRAINING, 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 Government of India, 1993".
2. This scheme will come into force with effect from 1.9.93.
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of

Contd. 2

Certified to be true.
Mrs. U. Chakraborty.
Advocate.

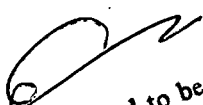
issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. Temporary status

- (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- (ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' Posts.
- (iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle 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 Group 'D' posts.

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

- (i) Wages at daily/with reference to the minimum rates of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.
- (ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro rata wages 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 from the date of conferment of temporary status.


Certified to be true.
Mrs. U. Chakraborty.
Advocate.

- (iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity 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 benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- (v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.
- (vi) After rendering three years continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided that they furnish two sureties from permanent Government servants of their Department.
- (vii) Until they are regularised, they would be entitled to productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any, additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

Certified to be true
Mrs. U. Chakraverty
Secretary

7: (53)

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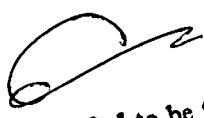
8. Procedure for filling up of Group 'D' posts :-

(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extent recruitment rules and in accordance with the instructions issued by Department of personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

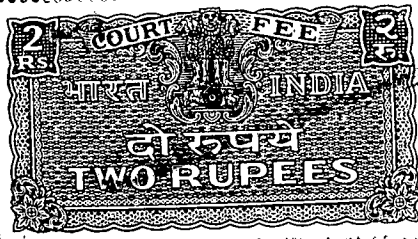
9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM dated 7.6.1988 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.

11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.


Certified to be true.
Mrs. U. Chakraborty.
Advocate.

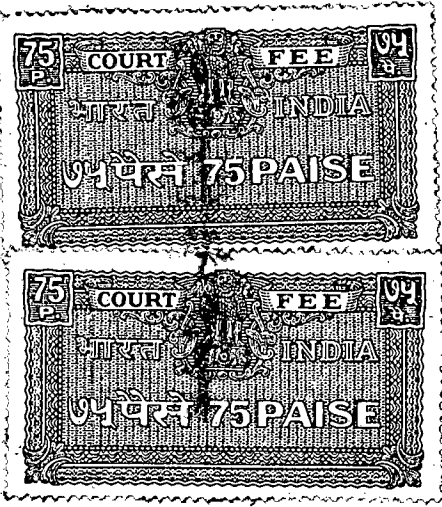
DISTRICT - KAMRUP



IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya,
Manipur, Tripura, Mizoram & Arunachal Pradesh)

54
47
Flashy
Forced Sand
100% C-Case
10/1/19



Civil Original Jurisdiction.

Civil Rule No. /2000.

In W.P.(C) No.6147 of 1999.

Sri Upen Kalita

.....Petitioners

Vs.

Union of India & Ors.

.....Respondents

AND

In the matter of

An affidavit in opposition filed by
the Respondents in the aforesaid
W.P.(C) No. 6147 of 1999.

AFFIDAVIT IN OPPOSITION

I, Smt. Ranu Talukdar, wife of late Shri Sarat
Chandra Talukdar, aged about 60 years, do hereby solemnly
affirm and state as follows:-

.....2/-



2934/55

GAUHATI HIGH COURT
KAMRUP DISTRICT
Gauhati

1. That I am Editor-cum-Senior Correspondent, Yojana (Assamese), Guwahati in Publications Division in the Ministry of Information and Broadcasting, Government of India and in my official capacity I am conversant with the facts and circumstances of the case and I am also authorised and competent to swear this Affidavit on behalf of all the respondents.

2. That a copy of the Writ Petition was served upon me by the petitioner and I have gone through the same and understood the contents thereof in the said petition and denied the same except those which are specifically submitted hereinbelow.

3. That with regard to the averment made in paragraph 1 of the Writ Petition, the deponent/answering respondent has no comments.

4. That with regard to the averment made in paragraph 2 of the Writ Petition, the deponent/answering respondent has denied the same and states that the Writ Petitioner was engaged purely on casual basis for a period of 15 days in a month vide engagement letter dated 5/11/86 but the claim of the writ petitioner that he has worked for more than 15 days in every month is strongly denied.

A copy of the engagement letter dated 5/11/86 is enclosed herewith and marked as Annexure R-I.

.....3/-

10/12/86
Copy to High Court
Guwahati

5. That with regard to the averment made in paragraph 3 of the writ petition, the deponent/answering respondent has denied the same and states that the writ petitioner was engaged as a casual labourer on daily wage basis for more than two years but for the purpose of regularisation of service, the actual days of working in each year is important. It is fact that the writ petitioner has worked for the following numbers of days in each year as per the details given below :-

November'86 to December'86	=	30 days
January'87 to December'87	=	179 days .
January,88 to December'88	=	180 days
January'89 to December'89	=	180 days

From the aforesaid it is apparently clear that the petitioner has not completed minimum 206 days in each year as alleged by him.

6. That with regard to the averment made in paragraph 4 of the Writ Petition, the deponent/answering respondent begs to state that the statements made in this paragraph are matters of record and the deponent does not admit anything which are contrary to and inconsistent with the facts and circumstances of the case and further states that the prayer of the writ petitioner for regular appointment against any vacant Group 'D' post in Publications Division in the office of the Yojana (Assamese), Guwahati could not be considered

.....4/-

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as casual labourers senior to the writ petitioner in the Publications Division were awaiting regularisation and the petitioner could not be appointed ignoring the genuine claim of other casual labourers senior to him. However, it is fact that a circular dated 12/5/88 was issued to various Sections/Units/ Offices in the Publications Division with a view to preparing a combined seniority list of all casual labourers working in the Publications Division and accordingly the office of Yojana (Assamese) was also requested to furnish the list of casual labourers working there.

A copy of the circular dated 12/5/88 is enclosed herewith and marked as Annexure R-II.

7. That with regard to the averment made in paragraph 5 of the writ petition, the deponent/answering respondent has admitted the same to the extent of record that the petitioner was engaged as casual labourer in the office of Yojana (Assamese), Guwahati on 5/11/86 and the actual days of working which counted for regularisation of service of casual labourer in 1988 was 206 days in each of the two years. Regarding seniority of the casual labourers it is submitted that seniority of a casual labourer in the combined seniority list of all casual labourers in the Department as a whole is to be taken into consideration for the purpose of regularisation of services of the casual labourers and not the seniority of an individual casual labourer in respective units/offices, as alleged by the writ

.....5/-

Copy of the
Circular dated 12/5/88
is enclosed
for reference.

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petitioner. It is further stated that the Group 'D' employees of Publications Division belong to a centralised cadre maintained by the Division's Hqrs. at Patiala House, New Delhi and a combined seniority list was prepared in respect of the casual labourers working in Publications Division including those working in its field units based on the information furnished by the respective units in response to the circular dated 12/5/88. While preparing the seniority list maintained by the Publications Division, the name of the writ petitioner could not be included in the combined seniority list because he had actually worked for only 15 days in a month and thereby did not complete 206 days of working in each of the consecutive two years which was required as one of the eligibility criteria for inclusion of the name of the writ petitioner in the combined seniority list of the casual labourers as per instruction of the Department of Personnel and Training (DP&T). It is submitted that the circular dated 12/5/88 was intended for preparation of seniority roster of daily wage mazdoors meaning thereby casual labourers working in the Publications Division. Moreover, the circular had only mentioned that Publications Division was considering a proposal for filling up the vacant Group 'D' posts from amongst the daily wage mazdoors, working in the respective units/offices of the Division by regularisation of their services in terms of Govt. orders/instructions in force.

8. That with regard to the averment made in paragraph 6 of the writ petition, the deponent/answering respondent begs

.....6/-

RECEIVED
GOVT. HIGH COURT
DELHI

82 59

to state that prayer of the writ petitioner for regular appointment could not be considered as his name was not included in the combined seniority list of casual labourers of Publications Division because he did not fulfil the requirements and eligibility criterion of actually working for 206 days in each of the two consecutive years and the writ petitioner worked only for 15 days in every month as stipulated in the engagement letter dated 5/11/86.

9. That with regard to the averment made in paragraph 7 of the writ petition, the deponent/answering respondent has denied the same. Further the contention of the writ petitioner that his service has been terminated is totally baseless and misconceived. There is no question of termination of services as alleged by the writ petitioner as he was never appointed to any sanctioned post in the office of Yojana (Assamese), Guwahati on regular basis. The writ petitioner has rendered service as per the contractual engagement which is distinct from an appointment. Disengagement of the writ petitioner as casual labourer in the office of Yojana (Assamese), Guwahati was made strictly adhering to the terms of the initial engagement and also because his service was no longer required in the said office as there was no work of casual nature. Moreover, the petitioner was not found eligible for regularisation in Group 'D' post because he did not satisfy the eligibility condition of working for minimum 206 days as casual labourer during each of the two consecutive years.

.....7/-

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[Signature]
[Signature]
[Signature]

10. That with regard to the averment made in paragraphs 8, 9, 10 and 11 of the writ petition, the deponent/answering respondent has no comments and the same are matters of record and the deponent does not admit anything which are contrary to and inconsistent with what appear from the records of the case.

11. That with regard to the averment made in paragraph 12 of the writ petition, the deponent/answering respondent has denied the same as not correct. It is fact that the petitioner was engaged for 15 days in a month for performing jobs of casual nature and when no such kind of job was available in the office of Yojana (Assamese), Guwahati, the petitioner was disengaged and his disengagement was strictly according to the terms and conditions of his initial engagement. The services of Sri Ranjit Pathak, the other casual labourer in the same office were continued because the name of Sri Ranjit Pathak was included in the combined seniority list of the casual labourers for the department as a whole by virtue of his completing 206 days of actual working in the consecutive two years, though Sri Ranjit Pathak was engaged as casual labourer in the same office at a date later than engagement of the petitioner. Further the respondents beg to state that they had not shown any apathetic and indifferent attitude towards the petitioner and they had granted temporary status to Sri Ranjit Pathak as he satisfied the eligibility criteria by virtue of his completing 206 days of actual working and being in employment on the date of issue of DP&T O.M. No.51016/2/90-

.....8/-

[Handwritten signature]
Cmty. Dep. Secy.
Cmty. Dep. Secy.

Estt(C) dated 10.9.93. The allegation of the writ petitioner that the respondent has shown indifferent attitude towards him is vague and baseless and the same has been strongly denied by the respondent. It is further submitted that mere availability of a vacant Group 'D' post in the office of the Yojana (Assamese), Guwahati does not make the petitioner eligible for appointment in Group 'D' post in the said office and he cannot claim the same as accrued right by virtue of his initial engagement as there are set procedures and recruitment rules for filling up vacant posts in government departments. The writ petitioner was informed vide letter No.A-12034/13/90-Admn.II dated 23/7/90 that he could not be considered for appointment as he did not fulfil the eligibility criteria. The deponent has also reserved his right to produce all relevant records before this Hon'ble Court at the time of hearing.

A copy of the letter dated 23.7.90 is enclosed herewith and marked as Annexure R-3.

12. That with regard to the averment made in paragraph 13 of the writ petition, the deponent begs to state that the available records establish the fact that the writ petitioner did not complete minimum 206 days of actual working in order to get the entitlement as per the eligibility criteria for regularisation. It is a fact that the writ petitioner was engaged purely on casual basis for carrying out jobs of casual nature and the fact that he worked continuously in the office of Yojana (Assamese),

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Commissioner of District
Charid Diga Court
Guwahati

Guwahati from 10.11.86 to 11.7.90 does not confer any right upon him for regularisation unless he fulfilled the eligibility criteria for regularisation. It is not the number of years of engagement but the actual days of working in various years which is counted for the purpose of considering regularisation of services of casual labourers.


13. That with regard to the averment made in paragraph 14 of the writ petition, the deponent/answering respondent begs to state that service of the petitioner was never terminated, but his service was discontinued vide office order dated 11.7.1990 due to non-availability of sanctioned post at the point of time. The writ petitioner was informed accordingly in this regard. Hence there is no question of regularisation of his service and disengagement of the petitioner was fully justified and as per terms of his initial engagement.

A copy of the Order dated 11.7.90 is enclosed herewith and marked as Annexure R-4.

14. That with regard to the statements made in paragraph 15 and 16 of the writ petition, the deponent/answering respondent has no comments as the same are matters of record.

15. That with regard to the statement/averment made in paragraph 17 of the writ petition, the deponent/answering respondent states that the writ petitioner did not inform

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Chief Magistrate
Guwahati

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the office of the yojana (Assamese), Guwahati of Publications Division/Headquarters about his subsequently acquiring educational qualification. He has also not given any intimation about his registering afresh with Employment Exchange with aforesaid qualification. He has not furnished any authentic H.S.L.C. pass certificate issued by the Board of Secondary Education, Assam. Moreover, the writ petitioner has not submitted any original certificate like Marksheet, Admit Card, Employment Exchange Registration Card before the competent authority for considering regularisation of his service as alleged by him. It is also observed from records that the date of birth furnished by the writ petitioner at the time of his initial engagement as casual labourer in Yojana (Assamese), Guwahati is different from the date of birth mentioned in subsequent Employment Exchange Registration Card.

16. That with regard to statement made in paragraph 18 of the writ petition, the deponent/answering respondent has no comments as the same are matters of record.

17. That with regard to the averment made in paragraph 19 of the writ petition, the deponent/answering respondent has denied the same as not correct and states that the writ petitioner worked only for 15 days in a month and accordingly, as per the claim preferred by him, he was paid wages for 15 days only in each and every month as per records available in the daily wage register. It is

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Signature of
Chief Dip. Comm.
Guwahati


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pertinent to mention that when his appointment was made for contractual purpose only for 15 days in a month, question of working 18 days in each and every month does not arise. According to records available, the petitioner has not worked and completed minimum of 206 days of actual working in any year upto 1994. However, even if the petitioner would have worked for 206 days or more in a year after 1994, he would not have been considered for grant of temporary status under the scheme formulated by the DP&T in 1993 because the scheme is applicable only to those casual labourers who were in service as on 10.9.93 and had rendered atleast 206 days of service in a year. Hence under the relevant scheme introduced by DP&T, the case of the petitioner cannot be considered as he does not fulfil the eligibility criteria for grant of temporary status and regularisation.

18. That with regard to the averment made in paragraph 20, 21 and 22 of the writ petition, the deponent/answering respondent has no comments, as the same are matters of record available in this case.

19. That with regard to the averment made in paragraph 23 of the writ petition, the deponent/answering respondent has denied the same as not correct and further reiterates that it was made clear to the writ petitioner in Publications Division's letter dated 25.10.99 that his further appointment on ad-hoc basis or regular basis would be considered on production of authentic documents to the

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Sd/-
(Name of the Officer)
Officer


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satisfaction of the competent authority subject to availability of vacancies in Group 'D' post and his fulfilling the eligibility conditions mentioned in the recruitment rules of relevant Group 'D' posts. The writ petitioner was asked to submit the documents regarding the proof of his age and educational qualification. But the petitioner has submitted the H.S.L.C. pass certificate issued by Head Master and not issued by the Board of Secondary Education, Assam. As the Admit Card which has been submitted by the petitioner was without his photograph affixed on it, the aforesaid document cannot be accepted as a valid document unless the same is authenticated. Therefore, the writ petitioner was again asked to submit the Ration Card and Central Govt. Health Scheme Card, if any, alongwith original Marksheet and the Certificate issued by Board of Secondary Education, Assam in proof of his having passed the High School Leaving Certificate Examination, 1996 in 1996 for the purpose of considering his regularisation subject to availability of vacancy in Group 'D' post.

A copy of the Publications Division's letter dated 25.10.99 is enclosed herewith as Annexure R-5.

20. That with regard to the averment made in the paragraph 24 of the writ petition, the deponent/answering respondent has denied the same as not correct and further begs to offer that the writ petitioner was communicated/

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informed vide letter No.A-12034/6/97-Admn.II dated 4.11.99 that his ad-hoc appointment cannot be extended beyond the period of one year completed on 8.9.99. It is submitted that as per recommendation of Staff Inspection Unit of Ministry of Finance, Government of India, the post of Mazdoor-cum-Messenger in the office of Yojana (Assamese), Guwahati is among 26 Group 'D' posts abolished by the Ministry of Information and Broadcasting vide their sanction letter No.20/18/92-IP&MC dated 27.9.99. Hence the post of Mazdoor-cum-Messenger in Yojana (Assamese), Guwahati was abolished and the ad-hoc appointment of the petitioner could not be extended beyond 8.9.99. It is further mentioned that the case of the petitioner for regular appointment to Group 'D' post at this stage does not arise because 50 casual labourers and 11 ad-hoc Group 'D' employees who were senior to the petitioner are required to be regularised first. The question of granting temporary status to the petitioner cannot be considered due to non-fulfilment of the eligibility criteria by the petitioner who did not render atleast 206 days of service in a year as on 10.9.93 as per the requirement of the approved scheme of DP&T. Moreover, grant of temporary status by virtue of his working 206 days or more from 1994 onwards cannot also be considered because the scheme stipulated that those casual labourers were eligible for grant of temporary status who rendered atleast 206 days of working in a year as on 10.9.93 and was in employment on the crucial date.

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Commissioner of Labour
Guwahati High Court
Guwahati

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Hence the averment of the writ petitioner alleging indifferent and discriminated attitude are antidiluvian and fundamentally wrong.


A copy of the letter dated 4.11.99 and letter dated 27.9.99 are enclosed herewith and marked as Annexure R-6 and Annexure R-7 respectively.

21. That with regard to the statement made in the paragraph 25 of the writ petition, the deponent/answering respondent has denied the same as not correct and prefers to state that the writ petitioner did not work for a minimum of 206 days in any year during the period of engagement upto 1994. The writ petitioner remained disengaged from service from 11/7/90 to 25/2/92. However, it is reiterated that the engagement of the petitioner for 206 days and more during the years 1995, 1996 and 1997 did not make him eligible for either grant of temporary status or regular appointment to Group 'D' post in the office of Yojana (Assamese), Guwahati.

A copy of the scheme for grant of temporary status approved by the DP&T is enclosed herewith and marked as Annexure R-8.

However, the writ petitioner was appointed on ad-hoc basis for a particular period vide order dated 9/9/98, wherein it was stipulated that the said ad-hoc appointment shall not confer any right upon the petitioner for claiming

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Secretary to the
Central Board of
Secondary Education

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his regularisation in any Group 'D' post in Publications Division including the post of Messenger-cum-Mazdoor in Yojana (Assamese), Guwahati. The ad-hoc appointment was made purely on ad-hoc basis for a particular job of specified period.


Hence service rendered by the writ petitioner on ad-hoc basis cannot be taken as ground for regularisation of his service. The terms and conditions of the said ad-hoc appointment clearly reflected that the same was made conditional.

A copy of the said ad-hoc appointment order is enclosed herewith and marked as Annexure R-9.

22. That with regard to the averment made in the paragraph 26 of the writ petition, the deponent/answering respondent has denied the same and begs to state that there is no question extension of ad-hoc appointment of the petitioner as his ad-hoc appointment was made for a particular period for carrying out certain job of ad-hoc nature and as soon as the job is over, the ad-hoc appointment of the writ petitioner stands terminated. However, the respondent has no objection to engage the writ petitioner as casual labourer on daily wage basis subject to availability of job of casual nature.

23. That with regard to the averment made in the paragraph 27 of the writ petition, the deponent/answering

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Commissioner of Labour
Cochin High Court
Cochin

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respondent has denied the same as not correct and further submits that the department used to engage the writ petitioner as casual labour on daily wage basis for performing any job of casual nature arising in the department and he was duly paid the due wages and proper treatment. It is, therefore, unfounded that the respondent authority had exploited the services of the writ petitioner and he was not paid, as alleged by the writ petitioner.

24. That with regard to the averment made in the paragraph 28 of the writ petition, the deponent/answering respondent has denied the same as not correct and begs to offer that mere availability of a vacancy in the office of the Yojana (Assamese), Guwahati did not make the petitioner eligible for regularisation of his services. The petitioner did not render minimum 206 days of working in any year upto 1994. Hence the question of appointing the petitioner in Group 'D' post on regular basis does not arise at all. The writ petitioner did not even fulfil the requirement for grant of temporary status in pursuance of the scheme introduced by the DP&T in 1993. It is submitted that the scheme was introduced with a view to regularising the services of the casual labourers who rendered minimum 206 days service in a year as on 10/9/93. Though the petitioner has rendered 206 days of service in the subsequent years from 1994 onwards, he could not be considered for grant of temporary status as the scheme was not applicable to him. Besides, the case of the writ petitioner for regularisation

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Chief Deputy Commissioner
Guwahati

can be considered only after regularising 50 casual labourers (Granted Temporary Status) and 11 ad-hoc Group 'D' employees who were working in the Department as senior to the writ petitioner. Moreover, it is further submitted that extension of ad-hoc appointment of the writ petitioner as Mazdoor-cum-Messenger does not arise as the post has been abolished by Ministry of I&B as part of implementation of the recommendations of Staff Inspection Unit of Ministry of Finance. Therefore, non-extension of the ad-hoc appointment of the writ petitioner is fully justified.

25. That with regard to the averment made in the paragraph 29 of the writ petition, the deponent/answering respondent has denied the same as not correct and further begs to submit that rendering of service of 206 days on ad-hoc basis in a year does not at all make the petitioner entitled for regular appointment to any Group 'D' post including the post he held on ad-hoc basis. It was made clear to the writ petitioner that his appointment on ad-hoc basis did not confer any right upon him for regular appointment to the post.

26. That with regard to the averment made in the paragraph 30 of the writ petition, the deponent/answering respondent has not admitted the same as correct and prefers to state that the letter dated 4/11/99 of Publications Division (Hqrs.) has specifically clarified that the said ad-hoc appointment is only for a total period of one year

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Chief Clerk
Court

including the extended period of six months and on expiry of the said period on 8.9.99 he was allowed to draw his wages on daily wage basis for the period he worked subsequently. It is further submitted that there is no question of reverting or reducing the petitioner in rank as because the petitioner did not hold any substantive post in the Department. It is further submitted that Shri Ranjit Pathak who was engaged as casual labour subsequent to the engagement of the writ petitioner was granted temporary status in accordance with the provision contained in the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India, 1993" by virtue of his rendering more than 206 days of service in a year as on 10.9.93. Shri Ranjit Pathak has not been appointed to any Group 'D' post in the Deptt. Moreover, it is clarified that the Department has already abolished the post of Mazdoor-cum-Messenger in the office of the Yojana (Assamese), Guwahati.

27. That with regard to the averment made in the paragraph 31 of the writ petition, the deponent has denied the same as incorrect and the same are not sustainable in the eyes of law.

28. That with regard to the averment made in the paragraph 32 of the writ petition, the deponent has denied the same as not correct and states that the appointment of the writ petitioner was only for one year purely on ad-hoc

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basis for the purpose of carrying out specific job for the said period. The ad-hoc appointment is always made for making just a stop-gap arrangement for the period and the petitioner was categorically informed that such appointment on ad-hoc basis would not confer any right upon him for claiming regularisation in the said post. Since the petitioner did not hold a substantive post prior to his ad-hoc appointment as Mazdoor-cum-Messenger, non-extension of his ad-hoc appointment cannot be termed as reversion. Rendering of service on ad-hoc basis for a period of one year does not at all convert the petitioner into a permanent employee as claimed by the petitioner.

29. That with regard to the averment made in the paragraph 33 of the writ petition, the deponent begs to offer that there is no violation of any law or rules framed under Articles 14, 16 and 21 of the Constitution of India. Fair treatment and reasonable opportunities were always given to the writ petitioner.

30. That with regard to the averment made in the paragraph 34 of the writ petition, the deponent begs to offer and clarify that the post of Mazdoor-cum-Messenger in the office of the Yojana (Assamese), Guwahati has been abolished. Therefore, recruitment of any person in the said post does not arise at all.

31. That with regard to the averment made in the

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paragraphs 35, 36 and 37 of the writ petition, the deponent has denied the same as incorrect and states that the writ petition of the petitioner is devoid of any merit and the same is liable to be dismissed. The writ petitioner has failed to make any case and twisted the facts making out a different story about regularisation of his service. Hence the writ petition deserves to be summarily rejected as this Hon'ble Court has no jurisdiction to entertain the petition under Article 226 of the Constitution of India as the petitioner's grievance pertain to non-regularisation of his service in a field office of Publications Division under Ministry of Information & Broadcasting, which is a Central Govt. Department.

That the statement made in the foregoing Affidavit in the paragraphs 4, 5, 6, 10, 11, 13, 14, 16, 18, 19, 20, 21 are matters of record and the statement made in the paragraphs 1, 2, 3 to 7, 8, 9, 12, 15, 17, 22, 23, 24, 25, 26, 27, 28 are derived from source of information and knowledge and the rest are my humble submissions before this Hon'ble Court.

Accordingly, I sign this Affidavit on this 9th day of March, 2000 at Guwahati.

Identified by me

Ashraf Ali

9-3-2000 ALC

Ranu Talukdar
DEPONENT

9th Mar 2000
A. Ali ALC

9-3-2000

Government of India
Yojana publications Division
Ministry of Information & Broadcasting
Happy Villa, Guwahati - 3

Dated : 5.11.86

No. YA/Eatc/8/86/587

To

Shri Upendra Kalita,
C/o. Bonklya, G. N. Road, Guwahati - 3
Near Guwahati Club

You are appointed as a casual printer in the office of the undersigned on daily wage basis for a period of 15 (fifteen) days in a month. The post is purely temporary and may be terminated at any time without assigning any reason. The payment will be made as per Government approved rate.

You should report for duty immediately.

Sd/- D. K. Saikia

Sr. Correspondent,
Yojana (Assam)
Guwahati - 3

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ANNEXURE - R-2 75

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No. A. 12034/16/88-Adm - II

Publications Division

Ministry of I & O

Patila House, New Delhi

Dated 12.5.88

C I R C U L A R

Subject Preparation of seniority roster of daily wage mazdoors working in the publications division.

This Division is considering a proposal to fill up vacant group 'D' posts from amongst the daily wage mazdoors working in various units of the Division by regularisation of their services in terms of relevant orders and instructions issued by the Government in this regard. For the purpose it is proposed to prepare a seniority roster of the daily wage mazdoors working in the Division.

All the units/sections of the publications Division are requested to furnish the detailed information in respect of such daily wage mazdoors who have been working for over ten years as on 01.5.88, the information sent to Adm. II Section latest by 31.5.88. Attested copies of certificates of Educational qualifications, age, caste (for SC/ST) candidates only of concerned persons may also be enclosed.

Sd/- Nirmal Ganguly,
Deputy Director (Adm)

23 - ANNEXURE - R-3
No. A-12034/13/90-Admn. II
Publications Division, Ministry of
Information and Broadcasting, Patiala
House, New Delhi.

Dated 23.7.90

Shri Upen Kalita
c/o Boncare Pharmacy
(Opp. Gauhati Club)
G.N. Bordoloi Road
Gauhati (Assam) 781 003

Subject Regularisation of service.

Sir,

Please refer to your Recd. letter dated nil on the subject mentioned above. In this connection, it is stated that as per instructions of the Government, only those daily wage workers can be considered for regular appointment who have worked on daily wages for at least two consecutive years and completed minimum 206 working days in each year.

2. Since you do not come within the purview of the above instructions, it is not possible to consider your case.

Yours faithfully,

SA/-
(RAM PRAKASH)
Section Officer

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ANNEXURE - R - 4 77
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Govt. of India,

Yojana, Publications Division,

Ministry of Information and Broadcasting

Happy villa, Gauhati-781 003.

No. YA/Sec/B/70-91/202 dated Gauhati, the 11th July 1990.

Office order.

As this office has not received sanction for post of daily wage packer from the competent authority, Sri Upen Kalita is not required to attend office until further order.

SA/- B.K. Saikia,

Editor-cum-sr. correspondent,

Yojana : (Assamese)

Happy villa, Gauhati- 781 003.

copy to

Sri Upen Kalita,

Daily wage (packer)

Yojana (Assamese) unit,

Happy Villa, Gauhati-3.

GOVERNMENT OF INDIA
Publications Division
Ministry of Information & Broadcasting

Patiala House, New Delhi.
Dated : 25th Oct., 1999.

ORDER

Appointment of Shri Upen Kalita, daily wage as Mazdoor-cum-Messenger purely on ad-hoc basis in the pay scale of Rs.2550-55-2660-60-3200/- w.e.f. 9th September, 1998 Ordered vide this Division's Order of even number dated 9th September, 1998 is extended for a further period of six months upto 8th September, 1999 or until further order, whichever is earlier.

2. This extension of ad-hoc appointment upto 8.9.99 shall not confer on Shri Kalita any right/claim to be appointed on regular basis to any post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc basis shall not count for any other purpose.

3. Further appointment of Shri Kalita on ad-hoc or regular basis to any Group 'D' post in Publications Division will be considered subject to production of authentic documents by Shri Upen Kalita in proof of his date of birth to the entire satisfaction of the competent authority and fulfilment of other conditions by him mentioned in the Recruitment Rules of the relevant Group 'D' post and availability of vacancies.

S.P. Bhattacharyya
(S.P. BHATTACHARYYA)
Deputy Director (Admn.II)
Tele : 336 6568

Copy to :-

1. Shri Upen Kalita, Mazdoor-cum-Messenger (ad-hoc), Yojana (Assamese), Guwahati. (Through Editor, Yojana (Assamese), Guwahati.)
2. Senior Correspondent -cum-Editor, Yojana (Assamese), Guwahati.
3. PAO, DAVP etc., Ministry of I&B, K.G.Marg, New Delhi.
4. Deputy Director (S), DPD.
5. S.O., Cash Section (2 copies), DPD.
6. A&G/B&R/Vig., DPD.
7. PAs to Director/J.D. (Admn.), DPD.
8. Spare copies/Guard file.

No. A-120387/1999-Admn.II

Copy to-

Editor - cum Senior Correspondent
Yojana (Assamese) Nagan Road, Panbazar.

-26-

By Speed Post / Fax

No.A-12034/6/97-Admn.II
Publications Division

ANNEXURE - R-6

Ministry of Information & Broadcasting
Patiala House, New Delhi

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179

Dated : 4.11.1999

To

Ms. Ranu Talukdar,
Editor-cum-Sr. Correspondent,
Yojana (Assamese), Guwahati.

Sub: Release of salary for the month of October, 1999 in respect of Shri Upen Kalita, Mazdoor-cum-Messenger (Ad-hoc).

Madam,

In response to the representation dated 28.10.99 of Shri Upen Kalita, Mazdoor-cum-Messenger (Ad-hoc) [copy enclosed for ready reference], I have been directed to inform that ad-hoc appointment of Shri Upen Kalita has not been extended beyond one year i.e. 8.9.99. You may be aware that extension of ad-hoc appointment beyond one year requires the approval of Department of personnel & Training (DP&T). Besides extension of ad-hoc appointment of Shri Upen Kalita as Mazdoor-cum-Messenger was not envisaged as the post of Mazdoor-cum-Messenger was likely to be abolished on the recommendation of Staff Inspection Unit (SIU). In fact, as already intimated, the post has been abolished by Ministry of Information & Broadcasting vide their sanction letter No.20/18/92-IP&MC dated 27.9.1999.

2. It was therefore not possible to draw salary of Shri Upen Kalita for the month of October, 1999.

3. If Shri Upen Kalita has rendered service during the month of October, 1999, you may kindly consider making payment to him on daily wage basis for the days he actually worked in October, 1999. The daily wage claims of Shri Upen Kalita for October, 1999 in the prescribed proforma duly certified by you may be sent to this office at the earliest.

4. I am also directed to refer to para-3 of this Division's letter of even number dated 22/25.10.99 requesting for a dated acknowledgement of Shri Upen Kalita to the effect that he has received the following documents in original submitted by him to this office:-

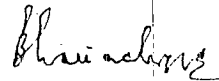
1. Admit Card No.182132 (without photograph) in respect of Shri Upen Kalita for admission to the High School Leaving Certificate Examination, 1996 issued by the Board of Secondary Education, Assam, Guwahati.

20/11/99

2. Transfer/Leaving Certificate No.424 issued by Head Master, Chandrapur High School, Distt.-Kamroop, Assam.

The dated acknowledgement from Shri Upen Kalita has not yet been received in this office. The same may kindly be expedited.

Yours faithfully,



(S.P.BHATTACHARYYA)
Deputy Director (Admn.II)
Tele : 338 8164/216

No.20/18/92-IP&MC
Government of India
Ministry of Information and Broadcasting

New Delhi, Dated: 21.09.1999

The Pay & Accounts Officer,
DAVP etc.,
Ministry of I&B,
Curzon Road,
New Delhi.

Subject : Abolition of Ex-Cadre posts in Publication Division - Implementation of
SIU's Work Measurement Study Report.

Sir,

I am directed to convey sanction of the President to the abolition of 32 Ex- cadre
posts in the Publications Division for implementing the SIU's Work Measurement Study
Report, as per details in Annexure, with immediate effect.

This issues with the concurrence of Finance-II Branch vide their U.O.
No.844/Fin-II/99 dated 22.09.1999.

Yours faithfully,

Mona 27/9/99
(MONA SHARMA)
Director (PP)

Copy to:-

- Director, Publications Division.
- Chief Controller of Accounts, P&AO, Ministry of I&B.
- Director SIU, Lok Nayak Bhavan (Vth Floor), New Delhi.
- Senior Analyst, IWSU, Ministry of I&B.
- Under Secretary (Fin.II)
- All Media Units.
- AS&FA/JS(P&A)/JS(B)/JS(F)/Dir(Fin.)/DS(A) in Main Sectt. of I&B.
- Pay & Accounts Officer, (Main Sectt.)/Pay & Accounts Officer (IRLA).
- IP&MC/Fin.II/B&A Sections in Main Sectt. of I&B.
- Guard File.

2181 / Admin II/99
6-10-99

off/PS
Mona 27/9/99
(MONA SHARMA)
DIRECTOR (PP)

Ref to
20/12/99
4/11/99

Approved by A.O. d. S.K.?
for v/s. Implementation
21/10/99

27/9

Section may
for information
21/10/99

Annexure to letter No.20/18/92-IP&MC Dated : 24.09.1999
**ABOLITION OF POSTS AS A RESULT OF SIU's
 WORK MEASUREMENT STUDY**

S.No	Name of Posts	Classification and Cadre	Pay Scale	No. of Posts
1	Chief Accounts Officer	Group 'A'	Rs.10,000-15,200	1
2	Sales Representatives	Group 'C'	Rs.5,000-8,000	5
3	Franking Machine Operator	Group 'D'	Rs.2550-4000	1
4	Daftry	-do-	Rs.2610-3540	1
5	Jamadar	-do-	Rs.2610-3540	1
6	Maxdoor-com- Messenger	-do-	Rs.2550-3200	1
7	Frash	-do-	Rs.2550-3200	1
8	Sweeper	-do-	Rs.2550-3200	2
9	Packer	-do-	Rs.2550-3200	19
			Total	32

for taking prompt and suitable action.

APPENDIX

Department of Personnel and Training, Casual Labourers (Grant of Temporary Status and Regularization) Scheme

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularization) Scheme of Government of India, 1993"

2. This scheme will come into force with effect from 1-9-1993.

3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.

4. *Temporary status.*—(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).

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

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(iii) Conferment of temporary status on a casual labourer would not involve and change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle 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 Group 'D' posts.

5. 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 for a corresponding regular Group 'D' official including DA, HRA and CCA. [Special Compensatory Allowance or Compensatory (City) Allowance or Composite Hill Compensatory Allowance, etc., i.e., only one of the compensatory allowance, more beneficial to them, can be taken into account for the purpose of calculating their wages.—O.M. No. 3 (2)/95-E.H (B), dated the 15th January, 1996.]
- (ii) Benefits of increments at the same rate as applicable to a Group 'D' employee would be taken into account for calculating pro rata wages 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 from the date of conferment of temporary status.
- (iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
- (iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.
- (v) 50% of the service rendered under temporary status would be counted for the purpose of retirement benefits after their regularization.
- (vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood Advance on the same conditions as are applicable to temporary Group 'D' employees, provided they furnish two sureties from permanent Government servants of their Department.

(vii) Until they are regularized, they would be entitled to Productivity-Linked Bonus/*Ad hoc Bonus* only at the rates applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. *Procedure for filling up of Group 'D' posts.*—(i) Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by Department of Personnel and Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior-claim for absorption against existing/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for the post, regularization will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularization of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10. In future, the guidelines as contained in this Department's OM, dated 7-6-1988, should be followed strictly in the matter of engagement of casual employees in Central Government offices.

11. Department of Personnel and Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

[G.I., Dept. of Per. & Trg. O.M. No. 51016/2/90-Estt. (C), dated the 10th September, 1993.]

8. *Clarifications to OM, dated 10-9-1993, regarding grant of temporary status and regularization of casual workers*

References are being received from various field formations seeking clarifications regarding orders issued by the D.P. & Trg. in connection with

2,0250.

33

84

ANNEXURE XII

R-9 108

No. A-12034/6/77-Admn. II
PUBLICATIONS DIVISION
MINISTRY OF INFORMATION & BROADCASTING

Patilala House, New Delhi
Dated the 9th September, 1998

ORDER

Shri Upen Kalita, Daily Wager who has rendered more than 206 days service in each of the preceding three years in the office of Yojana (Assamese), Guwahati is hereby appointed as Mazdoor-cum-Messenger on purely ad-hoc basis in the pay scale of Rs.2550-55-2660-60-3200 with immediate effect for a period of six months or until further orders, whichever is earlier. He is posted in the office of Yojana (Assamese), Guwahati of this Division.

2. This ad-hoc appointment shall not confer on Shri Kalita any right/claim to be appointed on regular basis to any Post of this Division including the post of Mazdoor-cum-Messenger and the service rendered by him on ad-hoc basis shall not count for any other purpose.

193 Scheme

(S. C. CHAWLA)
Deputy Director (Admn.)
Tele. : 338 6568

Copy to :

1. Shri Upen Kalita, Daily Wager in the office of Yojana (Assamese), Guwahati.
2. Sr. Correspondent-cum-Editor, Yojana (Assamese), Guwahati.
3. PAO, DAVP Min. of I&B, K.G. Marg, New Delhi.
4. Cash Section (2 copies)
5. Admn.I/B&R/A&G/Vigilance Section/Library, DPD Hqrs.
6. PAs to Director DPD/JD(L)/CE(Y)/Dy.Dir.(S)
7. Spare copies/Guard file.

31/12/1993

86 / Temporary per 92

(S. P. BHATTACHARYYA)
Section Officer

List-2

9th Sep

Governing Letter



-85-

DISTRICT : KAMRUP

IN THE GAUHATI HIGH COURT

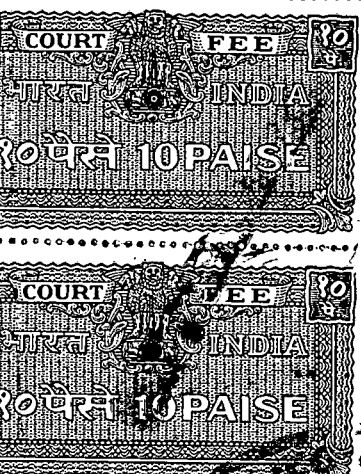
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

CIVIL ORIGINAL JURISDICTION

WP(C) No. 6147 OF 1999

TO

The Hon'ble Shri Brijesh Kumar, B.A., LL.B.
Chief Justice of the Hon'ble Gauhati High Court
and His Lordships' Companion Justices of the
said Hon'ble High Court.



IN THE MATTER OF :

Sri Upen Kalita
Guwahati.

-Petitioner

-VS.-

Union of India & Ors.

-Respondents

-AND-

IN THE MATTER OF :

An affidavit-in-reply on
behalf of the petitioner to the
Affidavit-in-opposition filed on
behalf of Respondents.

AFFIDAVIT-IN-REPLY

I, Shri Upen Kalita, son of Sri Lataru Kalita, aged
about 32 years, resident of ~~Navagraha~~ Gandhi Basti, Guwahati - 3
in the State of Assam do hereby solemnly affirm and state as
follows :-

for
Sri
Upen
Kalita
-petitioner-
109
through
Mess. Uma
Chatterjee
Advocates
11/10/99

5349/17

- 1 That I am the petitioner of the present writ petition and as such, I am fully conversant with the facts and circumstances of the present case.
- 2 That a copy of the affidavit-in-opposition was filed on behalf of the Respondents and was served upon me by the Respondents. I have gone through the same and understood the contents thereof in the said Affidavit-in-opposition. I do not admit any of the averments made in the said Affidavit-in-opposition which are contrary to those made in the writ petition and which have not been specifically admitted in the present Affidavit-in-reply. I state that all such averments shall be considered to have been denied except those which are specifically submitted herein below.
3. That with regard to the averments made in paragraph I of the Affidavit-in-opposition, the deponent/answering petitioner has no comments.
- 4 That with regard to the averments made in paragraphs 2 of the Affidavit-in-opposition are of general nature and no comments are required in respect thereof.
- 5 That with regard to the averments made in paragraphs 4, 5, 6 & 7 of the affidavit-in-opposition, the deponent/answering petitioner humbly states that the deponent petitioner after fulfilment of all eligible recruitment Rule, initially appointed as a casual packer on daily wage basis for a period of 15 days in a month vide appointment letter dated 5.11.86 (Annexure - I to the writ petition) and accordingly since the date of his appointment the deponent/answering petitioner had been working for 15 to 18 days in every month even though on records he was supposed to have worked for 15 days only.

It may be mentioned that the deponent/petitioner was working on daily wages not only for three consecutive years w.e.f. 5.11.86 to 31.12.89 as reiterated by the Respondents in the para 5 of the affidavit-in-opposition but for more than 12 years since 5.11.86 to till the date of appointment on adhoc basis on 9.9.98 and infact he had completed minimum 206 working days in every year and discharging his duties sincerely and honesty without any break.

6. With regard to the statement made in paragraph 6, 7 & 8 of the Affidavit-in-opposition in relation to the circular dated 12.5.98, preparation of seniority list and prayer for regular appointment averments made in paragraph 4, 5 & 6 of the writ petition as well as Annexure II & III at pages 22 to 24 to the writ petition are reiterated elaborately. Moreover, it was also stated that the aforesaid list showed that the deponent/petitioner was appointed earlier than Ranjit Kr. Pathak. The deponent/petitioner in pursuance of aforesaid seniority list prayed for regular appointment by applications on various dates. The Respondents had informed the deponent/petitioner vide letter dated 22.1.90 that his request would be given due consideration at the appropriate time.

A copy of the aforesaid office letter dated 21.1.90 is annexed herewith and marked as Annexure - I.

- 6(A) That the deponent/petitioner further prayed for regular appointment vide his application dated 24.5.90. The Respondents in response to the aforesaid application dated 24.5.90 further informed the deponent/petitioner vide letter dated 8.6.90 that his request would be given due consideration at the appropriate time without raising any dispute in regards to the seniority list and/or combined list.

Copies of the aforesaid application dated 24.5.90 and office letter dated 8.6.90 are annexed herewith and marked as Annexure - II & IIA.

- 6(B) That the deponent/petitioner after waiting for long time further submitted similar application for regular appointment vide application dated 26.6.90. The Respondents without appreciating the submissions of the deponent/^{post} petitioner and not appointing him in a regular/~~post~~ further informed the deponent/petitioner vide letter dated 9.7.90 on the same fact that his request shall give due consideration at the appropriate time.

Copies of the aforesaid application dated 26.6.90 and office letter dated 9.7.90 are annexed herewith and marked as Annexure - III & IIIA.

- 7 That with regard to the averments made in paragraph - 8 of the Affidavit-in-opposition the deponent/petitioner begs to state & submit that if the prayer of the deponent/petitioner for regular appointment could^{not} be considered as his name was not included in the combined seniority list of casual workers of publication Division due to non-fulfilment of 206 days in each of the two consecutive years, the Respondent could stated the said statements in their various office letters without stating that his request shall be given due consideration for regular appointment at appropriate time. Thus, the averments made in paragraph - 8 of the Affidavit-in-opposition is misconceived and misinterpreted and is colourable exercise of power and malafide intention of the Respondents.

8 That with regard to the averments made in paragraph 9 and 11 of the Affidavit-in-opposition, in relation to the termination of the deponent/petitioner vide order dated 11.7.90 and Representation for allowing the deponent/petitioner to continue his services, averments made in paragraphs 7, 8 of the writ petition as well as Annexure - IV & V to the writ petition at pages - 25 and 26 of the writ petition, with regard to the office memorandum dated 10.9.93, averments made in additional affidavit as well as Annexure 1 to the additional Affidavit are reiterated. As such the averments made in the aforesaid paragraph is misconceived and wrong and hence denied. Even after this order of termination dated 11.7.90 the deponent/petitioner kept on reiterating his request for regularisation. On receipt of representation of the deponent/petitioner forwarded a reply to the deponent/petitioner vide letter dated 23.7.90 under the signature of the Section Officer, Respondent No. 4, averments made in paragraphs 9, 10 of the writ petition as well as Annexure - VI to the writ petition at page 27 are reiterated. With regards to the temporary status and regular appointment to the post of Group 'D' is further stated that the deponent/petitioner continued his services for more than three and half w.e.f. 10.11.86 to 11.7.90 for the purpose of regular appointment in the said post. The Hon'ble Supreme Court pointed out in the case of Kailash Chandra Rajawat Vs. Union of India & Ors reported in Supreme Court service Rullings, Vol - 14 at page 44 "that the period spent as temporary duty prior to regularisation was required to be taken into consideration for reckong eligibility for promotion depending on the facts and circumstances of each case". Relying on the decision of the Hon'ble Supreme Court

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 Contd. 6

the deponent/Petitioner humbly submits that he was eligible for the regularisation of his services in accordance with the length of service since 1986. Hence, the Respondents/ committed a manifest error of law by denying the prayer of the deponent/petitioner for regular appointment.

9. That with regards to the statements made in paragraph 12 of the Affidavit-in-opposition, the deponent/petitioner humbly submitted that he was working since 10-11-86 to 11-7-90 i.e more than three and half years. It is further stated that it is well settled law that right of the citizen to employment and his entitlement for employment to the labourer would all harmoniously be blended to serve larger social interest and public purpose. It is a settled law that on the order of reinstatement by order dated 11.2.92 passed by this Hon'ble Court the petitioner should become a Government servant and he acquired as such a status, a civil status and his rights accrued thereto cannot be taken away except in accordance with law, The Supreme Court in Roshan v. Union of India, AIR 1967 SC 1889, has ruled that a person once appointed to his post of office under Government, he acquires a status and his rights and obligations are no longer determined by consent of both parties, but by the statute or statutory rules which may be framed and altered unilaterally by the Government. In other words, the legal position of a Government servant is more of status than of contract. The hall-mark of status is the attachment to a legal relationship of rights and duties imposed by the public law and not by mere agreement of the parties. The employment of the Government servant and his terms of service are governed by statute or statutory rules. This view was reiterated by supreme Court in Dines Chandra Sangma v. State of Assam and others AIR 1978 SC 17.

Contd... 7

It is further stated that when the deponent petitioner was continued for a fairly long three and half years a presumption may arise that there was regular need for his services. In such situation, it became obligatory for the concerned authorities to examine the feasibility of his regularisation. While doing so, the Respondents ought to adopt a positive approach with an empathy for the deponent/petitioner. As a result, when the deponent/petitioner had put in three and half years of service w.e.f. 11.10.86 to 11.7.90 were quite generous and leave no room for any legitimate grievance by him. As such, question of night arose and/or was applicable to the deponent/petitioner in the facts and circumstances of the case.

Moreover it may be mentioned that Hon'ble Gauhati High Court already observed in its order dated 11.2.92 passed in Civil Rule No. 1845 of 1990, Shri Upen Kalita Vs. Union of India and Ors. (Annexure - VIII to the writ petition at pages - 29 to 33) that discontinuation of the service of the deponent/petitioner was unjustified and he should be considered for regularisation against a post with a direction that the deponent/petitioner shall be reinstated in the post of packer on daily wage basis which he was holding prior to the order dated 11.7.90 and to consider the deponent/petitioner's case for regularisation in accordance with rules subject to eligibility for the post. But the deponent/petitioner was denied from regularisation of his service.

- 10 That with regard to the statements made in paragraphs 13 & 14 of the Affidavit-in-opposition, it is humbly stated that by order of termination dated 11.7.90 why the deponent/

Contd. 8

petitioner was terminated abruptly from his service even on daily wage basis was not known which was best known to the Respondents only when the necessity of the post existed and the same was not denied by the Respondents. Being aggrieved, the deponent/petitioner further made a representation before the Director, Ministry of Information & Broadcasting, New Delhi, Respondent No. 2 on 3.8.90 praying for his retention in service and for regular appointment but the Respondent No. 2 did not appreciate the submissions of the deponent/petitioner and only informed with an the alternative adverse view the deponent/petitioner did not fulfill the requisite condition for being considered for regular appointment to a regular Group 'D' post vide order dated 30.8.90 was illegal, violation of the fundamental rights of the deponent/petitioner under Article 14 & 16 of the Constitution of India while the Respondents had allowed that Ranjit Kr. Pathak, Casual worker to retain in the unit who is junior than the deponent/petitioner. As such, the Respondent had shown total indifference to the deponent/petitioner and he had been discriminated against arbitrary. Hence, the order dated 11.7.90 was highly unfair, unjust and arbitrary in as much such order had taken away the right to employment and the means of livelihood of the deponent/petitioner is not tenable in law.

A copy of the aforesaid office letter dated 30.8.90 is annexed herewith & marked as Annexure - IV.

- 11 That with regard to the statements made in paragraphs 15 and 19 of the Affidavit-in-opposition in relation to the submission of original documents viz both Employment Registration Cards, passed certificate of H.S.L.C. examination and marksheets of H.S.L.C. examination and Admit Card, Transfer/Leaving Certificate, in support of the date of birth etc., Averments made in para 17 of the writ petition are reiterated.

11(A) That the statement made in the above said paragraphs 15 & 19 of the Affidavit-in-opposition were an after thought and the entire plea was concocted and fabricated even after submission of the Admit Card, old employment Registration Card and Ration Card along with H.S.L.C. pass certificate, Marksheets, New Employment Registration Card. The deponent/petitioner's letters dated 31.12.98, 9.2.99, 11.2.99, 30.7.99 and 24.2.99 addressed to the Respondent Nos. 4 and 5 in response to their letters dated 23.12.98, 27.2.99 which were self explanatory. It is submitted that aforesaid letter dated 24.2.99 of the deponent/petitioner was very relevant to the proceedings before the Respondent No. 5 and the Respondent No. 5 has committed a manifest error of law in ignoring the same. The aforesaid Admit Card of H.S.L.C. Examination and both the Employment Exchange Registration Cards and Transfer/Leaving Certificate were not accepted as valid documents even after authentication which clearly shows that the deponent/petitioner had not suppressed any facts in relation to his date of birth. The Respondents did not consider the same at all.

Copies of the admit card & old employment Registration card, Ration Card are annexed herewith & marked as Annexure - V(A), V(B), V(C). And copies of letters dated 23.12.98, 31.12.98, 9.2.99, 11.2.99, 24.2.99, 30.7.99 are annexed herewith and marked as Annexure - VI(A), VI(B), VI(C), VI(D), VI(E), VI(F).

11(B) That it is respectfully submitted that the Respondents being a quasi judicial authority acted otherwise in an unbecoming and unfair manner for reasons only best known to him. It is further submitted that where there was dispute about the age, the deponent/petitioner had to be given an opportunity to show his correct date of birth. Moreover, date of birth as stated in the Matriculation or H.S.L.C. Certificate and/or Admit Card

must be accepted to be correct. This view was reiterated in Pranatha Nath Choudhury Vs. State of West Bengal, (1981) ISLR 570.

It is respectfully stated that the Respondent No. 4, Section Officer directed the Chief Medical Officer, Guwahati vide office letter dated 11.11.98 and as such the deponent/petitioner was examined on 12.11.98 accordingly by the Chief Medical Officer and submitted the said Medical Report before the Respondent No. 4 by which it was proved that the age of deponent/petitioner by his appearance was about 30 years and the date of birth was 30.10.1968 by Christian Era as nearly as can be ascertained. As such, the Respondents have no right to ignore the original documents produced by the deponent/petitioner as there was no reason to ignore this scientific fixation of age in view of Medical Report. The manner in which the objections have been raised and dealt with by the Respondents is unheard of and the same reflects a prejudice against the deponent/petitioner. Hence, that ignorance caused by the Respondents are most arbitrary, uncalled for, unwarranted and not tenable in law.

Copies of the aforesaid office letter dated 11.11.98 and Medical Report dated 12.11.98 are annexed herewith and marked as Annexure - VI.

11(C) That after duly received and verification of the said documents, the Respondent No. 5 returned those documents to the deponent/petitioner on 17.11.99. But the Respondent No. 5 further informed vide letter dated 5.1.2000 that the deponent/petitioner has not produced the aforesaid documents when he already challenged the impugned reversion order dated 17.11.99 by filing the present writ petition before this Hon'ble Court. In response to the aforesaid letter the deponent/petitioner vide his letter dated 6.1.2000 stated all the facts in relation to the production of documents.

Copies of the office letter dated 5.1.2000 and letter dated 6.1.2000 are annexed herewith and marked as Annexure - VIII & VIII(A).

12 That with regard to the statements made in paragraphs 20 and 21 of the Affidavit-in-opposition, it is humbly stated that the deponent/petitioner had been allowed to work in all working days w.e.f. 11.8.95 vide Order dated 11.8.95 as well as Annexure - XI of the writ petition at page 40 so that he may complete 206 days in a year and become eligible for granting temporary status w.e.f. 11.8.95 and since then the deponent/petitioner was working in all working days and completed 206 days and more during the years 1995, 1996 and subsequently made a representation on 1.3.96 before the Respondents to issue necessary orders granting temporary status and regularisation of his service in the post of Mazdoor-cum-Messenger in Yojana (Assamese), Guwahati which was lying vacant in the office of Yojana (Assamese) Guwahati since 1987.

A copy of the aforesaid representation dated 1.3.96 is annexed herewith and marked as Annexure - [X]

12(A) That in response to the aforesaid representation and on completion of the 206 day in each year i.e. 1995, 1996 and 1997, the Respondent No. 4 appointed the deponent/petitioner in the post of Mazdoor-cum-Messenger on ad-hoc basis who already accepted that the deponent/petitioner completed 206 days service in each of the three years in the office of the Yojana (Assamese), Guwahati and accordingly the deponent/petitioner continued in the said post for one year w.e.f. 9.9.98 to 8.9.99 and vide order dated 25.10.99 the deponent/petitioner was further directed to submit the authentic documents in proof of his date of birth to the entire satisfaction and as such, the deponent/petitioner submitted Admit Card of H.S.L.C. Examination, 1996, Transfer/

Leaving Certificate issued by Head Master, Chandrapur High School, Assam before the Respondent No. 5 for consideration his appointment on regular basis. But the Respondent No. 5 without appreciating and accepting the same reverted the deponent/petitioner on 17.11.99 (Annexure - XV of the Writ petition) without assigning any reason in pursuance of Headquarter letter dated 4.11.99 which was not communicated to the deponent/petitioner at all and directed him to draw the payment w.e.f. October, 1999 on daily wage basis without assigning any reason and also directed to submit the documents already submitted before the Respondent No. 5, averments made in paragraphs 23 and 24 as well as Annexure XV to the writ petition at pages 45 and 46 are reiterated as well as Paragraph 11 of the present Affidavit-in-reply and Annexure to the present reply are itself explanatory and the said documents were returned to the deponent on 17.11.99.

A copy of letter dated 17.11.99 is annexed herewith and marked as Annexure - X.

12(B) That it may be mentioned that by the order dated 4.11.99 and 27.9.99 (Annexure - 6 and 7 to the Affidavit-in-opposition) it reveals that the post of Mazdoor-cum-Messenger was likely to be abolished but not abolished. Though one post of Mazdoor-cum-Messenger was abolished in publication Division in pursuance of order dated 27.9.99; but it was not mentioned where and in which unit the said post was abolished. So the statements made by Respondents in relation to the abolision of the said post is misconceived, not correct as well as misinterpretation of the aforesaid orders.

13 That with regard to the 24 of the Affidavit-in-opposition, to the effect that the granting of temporary status and regularisation of the service of the deponent/petitioner

it is stated that the statements made in the para 4(i), 5(vi), 8 and 10 of the office Memorandum dated 10.9.93 which came into force with effect from 1.9.93 ^{were} ~~was~~ not automatic but a matter of right ^{since} ~~and~~ the deponent/petitioner had completed 206 days in the year 1995, 1996 and 1997 as well as one year service on ad-hoc basis w.e.f. 9.9.98 to 8.9.98 and rendering his service for long period of 14 years since 1986 and he was in employment on the date of issue of this office Memorandum dated 10.9.93 and hence, acquired right for granting temporary status as well as Regularisation of his service. Though the deponent/petitioner was terminated illegally but he was reinstated by this Hon'ble Court vide Order dated 11.2.92 and directed the Respondents to regularise the service of the deponent/petitioner after relaxing eligibility criteria in appropriate case vide judgement dated 9.11.94. The period of absence due to illegal termination w.e.f. 11.7.90 to 11.2.92 would be considered as a period spent on duty. Hence, breaks in service are discriminatory and the deponent petitioner is entitled to consideration for regularisation. It is stated that the Respondent had not acted in pursuance of the aforesaid judgement dated 9.11.94 for regularisation. Hence, impugned action of the Respondents is not granting temporary status and/or regularisation of service of the deponent committed a manifest error of law while the junior casual worker to the deponent/petitioner had been granted temporary status. So the statements are not in accordance with law and are not tenable in law in any view of the matter. If the office Memorandum clearly provides for age relaxation equivalent to the period for which he has worked continuously for 13 years as casual packer on daily wage basis and Mazdoor-cum-

20/11/94
 (11/11/94)
 Contd.

- 98 - 120

: 14 :

Messenger on ad-hoc basis for one year. Such relaxation cannot be denied on technical considerations. Legislative intentions if clear, are not to be disturbed by the authorities on account of whim and pleasure.

- 14 That with regard to the statements made in paragraphs 26 & 28 of the Affidavit-in-opposition to the effect that the deponent/petitioner rendered service for one year on ad-hoc basis as Mazdoor-cum-Messenger is not entitled for regularisation is not correct and not tenable. Hence, the Respondents misleading their Hon'ble Court by misinterpreting the Principles of law as laid down by the Apex Court in the several cases on similar matter in as much as violation of office Memorandum dated 10.9.93.

- 14(A) That it is humbly submitted that deponent/petitioner appointed on ad-hoc basis towards seniority as well as on completion of 206 days in three consecutive years i.e. 1996, 1997 and 1998 already accepted by the Respondent in conformity of the Rules, averments made in para 20 as well as Annexure - XII at page 42 to the writ petition are reiterated.

It is further submitted that the order of termination dated 11.10.90 showed that the service was terminated as the petitioner was not longer required. The fact was that the junior was a retained and it showed discrimination as such said order of termination was hit by Article 14 and 16 of the Constitution. Therefore, granting of temporary status to Ranjit Pathak who is junior to the deponent/petitioner as Casual labour subsequent to the engagement of the deponent/petitioner without considering his restatement in his post vide order dated 11.2.92 junior was allowed to continue in the post of the deponent/petitioner is illegal, unjustified and not tenable in law. Though the deponent/petitioner was

absent during the period of his illegal termination and reinstated in the said post, the absence period would be considered a period spent in duty. In such situation, Ranjit Pathak, junior to the deponent/petitioner is not entitled for granting temporary status on the ground that he was engaged as casual labour subsequent to the engagement of the deponent/petitioner. The deponent/petitioner held entitled to the benefit of the provision contained in the casual labours (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993 by virtue of his rendering service more than 206 days of service in a year as on 10.9.93.

14(B) That the impugned view of the Respondents in respect of the ad-hoc appointment is always for making just a stop-gap arrangement for a period is not reasonable, unjustified and not tenable in law. It is also stated in the aforesaid para 28 of the Affidavit-in-opposition that the deponent/petitioner did not hold a substantive post prior to his ad-hoc appointment as Mazdoor-cum-Messenger, and non-extension of his ad-hoc appointment cannot be termed as reversion. Further it is also stated that rendering of service on ad-hoc basis for a period of one year neither confer any right for regularisation nor permanent employment is wholly illegal, misconceived and not attracted in this case and hence denied. It is humbly stated and submitted that such impugned views accepted by the Respondents are patently erroneous, misconceived and not tenable in law on a fair construction of the provisions of Article 311(2) of the Constitution and a consideration of the judicial precedents having a bearing on the question it was not possible to hold that the reversion of service brought about by the abolition of the post effected in good faith attacks Article 311(2). The said contentions were a challenge to the juris-

diction of the Respondents in not making the deponent/petitioner eligible for regularisation after counting of the period of service ad-hoc basis as well as periods prior to ad-hoc appointment in confirmity of the Rule and such, the Respondents acted arbitrarily in not considering the same in the right perspective.

14(C) That it is further submitted that on consideration of the facts of the present case, the abolition of the post was only a device to reduced in rank of revert the service of the deponent/petitioner. Moreover, the reversion of the services of the deponent/petitioner without holding an enquiry on ground that it was practicable to hold as well as without granting any temporary service status or ~~regularisation~~ regularising the service of the deponent/petitioner it is not proper and as such, the deponent/petitioner is entitled to the benefit of ad-hoc service and/or regularisation of his service in the said post in view of the direction of this Hon'ble Court passed in several cases on similar matter.

15 That with regard to the statements raised in paragraph 31 to the Affidavit-in-opposition, it is stated that the Respondents resisted the writ petitioner by filing Affidavit-in-opposition wherein contended that the the writ petition of the petitioner is devoid of any merit and is ~~not~~ not maintainable in law. That in the writ petition of the petitioner is reiterated that the petitioner had no alternative remedy available under the statutory provisions against the impugned order dated 17.11.1999 and the writ petition filed before this Hon'ble Court is maintainable in law in all respect.

16 That in law and equity the petitioner having got appointment on ad-hoc basis as he completed 206 days in three consecutive years and as such, he is entitled to be regularised in his post by taking into account of his length of service with the vacancy position of the related post as well as the related office Memorandum dated 10.9.93. irrespective of his position in the combined seniority list since his initial appointment was w.e.f. 1986. Therefore, the petitioner was not liable to be replaced by another junior candidate, Shri Ranjit Pathak.

It is submitted that there is no such other equally adequate and efficacious remedy available to the deponent/petitioner and the relief and prayed for in the writ petition, would be allowed, shall be just, adequate and proper.

17 That the statements made in this affidavit and those made in paragraphs 1 to 4, 6A, 6B to 9, 11 to 14 and 15 are true to my knowledge which I believe to be true and those made in paragraphs 5, 6, 10, 11A, 11B, 11C & 12A being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 1st day of May 2000 at Guwahati.

Identified by me

Treybkya Delant
Advocate's Clerk

3.5.2000

Sme Upenkarito
DEPONENT

370
30- Confirmed to be true
As T. Seng, ...
Known to me
examination
Do CP
010
315/2000
Advocate's Clerk
3.5.2000

No. A-12034/7/90-Admn. II

Publications Division

Ministry of Information & Broadcasting

Patiala House, New Delhi

Dated 22.1.90

Shri Upen Kalita,

C/O Boncure pharmacy

(opp. Gauhati Club)

G.N. Bordoloi Road, Guwahati (Assam)

781 003.

Subject Regularisation of service.

Sir,

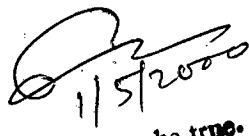
Please refer to your letter dated 16.12.1989
on the subject mentioned above. Your request till
given due consideration at the appropriate time.

Yours faithfully,

sd/-

(Sebastion Joseph)

Section officer.


11/5/2000
Certified to be true.
Mrs. U. Chakraborty.
Advocate.

-103-
124Regd with A/D.

To,

Shri Nirmal Ganguly,
Deputy Director (Admn)
Government of India
Ministry of Information & Broadcasting,
Patiala House, New Delhi 11 001

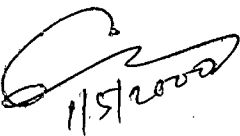
Dated, the 24th May, 1990.

Sub: Regularise of service.

Respected Sir,

Kindly refer to my letter dated 3rd July, 1989, Sir presently I am working as a pecker on casual basis in the office of the Sr. Correspondent. Yojana (Assamese) Unit since 5.11.1986 and have already been completed three years of service in your department. But it is a matter of sorrow that till to-day my service in your Department has not been regularised for which I am suffering a lot with my family members financially in hard days.

As I have served in your department for last three years with proper satisfaction to my fellow colleagues and Sr. Officers, therefore, I fervently request your honour kindly to regularise my service as per rule of Government of India and save my family members from the sufferings.


Certified to be true
Mrs. U. Chakraborty
Advocate

-104-
128

I hope , I may expect an early reply and proper
justice for your end in this regard.

Thanking you,

yours faithfully,

Sd/ - Upen Kalita,

Casual packer,

Office of the Sr. Correspondent,

Yojona (Assamese)

Guwahati.

Address for communication,

Sri Upen Kalita,

c/o Boncure Pharmacy

Opposite Gauhati Club,

G.N. Bordoloi Road, Gauhati- 781 003

Assam.


1/5/2020
Certified to be true
Mrs. U. Chakraborty.
Advocate.

No. A-12034/13/90-Admn.II

Publications Division, Ministry of Information
& Broadcasting, patiala, New Delhi.

Dated 8.6.90.

Sri Upen Kalita

C/O Boncure Pharmacy

(Opp. Gauhati Club)

G.N. Bordoloi Road, Guwahati (Assam)

781 003.

Subject: Regularisation of service.


Sir,

Please refer to your letter dated 24.5.90 on
the subject mentioned above. Your request will be given
due consideration at the appropriate time.

Yours faithfully

Sd/- Ram Prakash

Section Officer 8.6.90.


Certified to be true
Mrs. U. Chakraborty
Advocate

-100 130

Registered with A/D.

To,

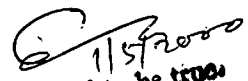
Shri S.P.Kohra,
Deputy Director (Admn),
Government of India, Ministry of Information
& Broadcasting, Patiala House,
New Delhi 110 001.

Subject : Regularise of service.

Respected Sir,

With profound sense of respect, I beg to lay before you the following few lines for your sympathetic consideration and kind necessary action please.

1. Sir, presently I am working as a packer on casual basis in the Office of the Sr. Correspondent, Yojone (Assamese) Unit since 5.11.1986 and have already been completed three years of service in your department. But it is a matter of sorrow that till to day my service in your department has not been regularised for which I am suffering a lot with my family members financially in these hard days.
2. Sir, as I have served in your department for the last three years and six months with proper satisfaction to my fellow colleagues and the Sr. Officers, therefore, I fervently request your honour kindly to regularise my service as per rule of the Government of India and save my family members from the mental and financial sufferings.
3. I hope, I may expect an early reply and proper justice and action from your end in this.


Certified to be true
Mrs. U. Chakraborty,
Advocate.

Thanking you

Yours faithfully,

Sd/- Upen Kalita,

Casual Labour packar,


Dated, the
26.6.1990

Office of the Sr. correspondent,
Yojona (Assamase).

Address for communications

Sri Upen Kalita,
C/O. Boncura Pharmacy
(Opposite Gauhati Club)
G.N. Bordoloi Road, Gauhati-781 003. Assam.

Copy to the Director Shri S.S. Shastri for his kind and necessary action. He is kindly requested to look into the matter personally and instruct the concerned section for doing the needful, so that may overcome financial hardship.


Certified to be true.
Mrs. U. Chakraborty
Advocate

708-3
No. A-12034/16/89-Admn.II.

Publications Division, Ministry
of Information and Broadcasting
Patiala House, New Delhi

Dated 9th July, 1990.

Sri Upen Kalita,
C/O Boncure Pharmacy.
(Opp. Gauhati Club)
G.N. Bordoloi Road, Gauhati (Assam)
781 003.

Subject: Regularisation of service.

Sir,

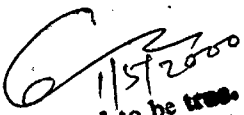
Please refer to your letter dated 26.6.90 on the
subject mentioned above. Your request will be given due
consideration at the appropriate time.

Yours faithfully,

Sd/- Ram Prakash.

9.7.90

section officer.


Certified to be true.
Mrs. U. Chakraborty.
Advocate.

No. A- 12034/16/89-Admn.II

Publications Division

Ministry of Information & Broadcasting

Patials House, New Delhi -I.

Dated 30.8.1990

Shri Upen Kalita,
C/O Boncure Pharmacy
(Opposite Gauhati Club)
G.N. Bordoloi Road, Gauhati.

Sir,

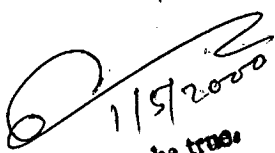
Please refer to your letter dated 3.8.1990
addressed to Director, publications Division
regularisation of service.

In this connection it is stated that due
attention has been paid to your above referred
application. It is regretted that you do not fulfil
the requisite conditions for being considered for
regular appointment to a regular in Group D
category.

Yours faithfully,

Sd/-

Deputy Director (Admn)


11/9/2000
Certified to be true.
Mrs. U. Chakraborty.
Advocate.

110-134

Office No.

182132



Photograph

Board of Secondary Education, Assam, Guwahati

ADMIT

Sri Upen Kalita

Son/daughter of Sri Lelaru Kalita

Roll N 6 — 130 No. 128

To the High School Leaving Certificate Examination, 1996 to commence on Friday, the 15th March, 1996

His/Her Date of Birth is 30-10-68

Subjects for Examination:—

MIL or its alternative	Elective
AS ²	H

Note:—Hours of Examination:— Morning—From 9 a.m. to 12 noon
Afternoon—From 1-30 p.m. to 4-30 p.m.

N. B. 1—Any alteration made in the entries on this Admit Card without the authority of the Board renders the candidate liable to disqualification for sitting at this or any subsequent Examinations.

Countersigned

Officer-in-Charge
Asstt. Officer-in-Charge
(Office Seal)

Sd/- B. C. Goswami

Controller of Examinations,

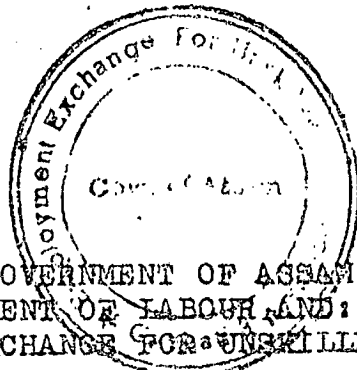
Board of Secondary Education, Assam

Guwahati-781 021

Attended
anand
2000 Aug 10 PM 2000
at Guwahati

11/5/2000

Certified to be true.
Mrs. U. Chakraborty.
Advocate.



GOVERNMENT OF ASSAM.
DEPARTMENT OF LABOUR AND EMPLOYMENT
EMPLOYMENT EXCHANGE FOR UNSKILLED APPLICANTS.

X-10-B

SILPUKHURI GUWAHATI-3

(IDENDITY CARD.)

(Not an introduction card for interview with employers)

1. Name of Applicants.....

2. Date of Registration.....

Registration. No.....

N.C.O. Code. No.....

5. Qualification.....

6. Date of Birth.....

Signature of applicants.....

Employment Officer
(স্বাক্ষরিত হইয়া থাকিবে)
কলিকাতা

FOIA
Publications
Govt. of India, Ministry
Guwahati

11/5/2000

Certified to be true.
Mrs. U. Chakraborty.
Advocate.

ANNEXURE **yc**

5772

পরিচালক

96

কালি নং... ২৭৭৫৫

২৭৭৫৫

(অতিরিক্ত পত্র প্রকাশের ব্যয়)

ক্রমিক নং... ২৬/২/৫৬

পত্র নং... ২৬০০

তারিখ... ১১/১২/৫৬

প্রকাশকের নাম

শ্রীমতী সত্যজিৎ দেবী

স্থানীয় নাম প্রকাশের নাম

Shri. M. S. Datta

Siliguri

১৯৫৬

CHECKED & FOUND CORRECT

১১/১২/৫৬

পরিচালক

Inspector, F&CS

সহ পরিচালক

Public Distribution

তারিখ

স্বাক্ষর

স্বাক্ষর

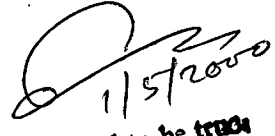
CHECKED

By Director (P. D. C. O.)

Signature

Alleged

BOJANA (Assam)
Publications Division
Govt. of India, Ministry
Guwahati - 1


11/5/2000
Certified to be true
Mrs. U. Chakraborty,
Advocate.

138

F.No.A-12034/6/97-Admn-II.
PUBLICATIONS DIVISION
Ministry of Information & Broadcasting
Patiala House, New Delhi.

Dated : 23.12.1998

To,

Renu Talukadar,
Editor-Cum-Senior Correspondent
Yojana Assamese.
Guwahati, Assam.

I am directed to refer the letter No. YA/Esstt./8/98/447 dated 26.11.98 pointing out inter Alia the discrepancy in the date of birth recorded by Shri Upen Kalita, Mazdoor cum Messenger (Ad-hoc) and to request that Shri Kalita may be advised to produce his original birth registration certificate or in absence thereof the original certificate issued by a University/Board/Educational institution recognised by the Government certifying his date of Birth as it is required in HQ for verification and completion of his service records.

The original certificate in support of his date of Birth will be returned to him, when no longer required in this Office.

Shanucharya
(S.P.BHATTACHARYA)
SECTION OFFICER
Tele : 338 6568

Copy to :

Sh. Upen Kalita,
Mazdoor cum Messenger
Yojana Assamese, Guwahati.

Through Editor - Cum - Sr.
Correspondent Yojana (Assamese)
Guwahati.

30.12.98
28

11/5/2000
Certified to be true.
Mrs. U. Chakraborty,
Advocate

To

The Section Officer,
Publication Division,
Ministry of Information & Broadcasting,
Patiala House,
New Delhi-110001.

Through the Editor-cum-Sr. Correspondent,
Yojana (Assamese), Guwahati, Assam.

Dated Guwahati, the 31st Dec.'98.

Ref:- Your letter No. A.No.A-12034/6/67-Admn.II,
dated 23.12.98.

Sub:- Submission of Original documents.

Sir,

I have the honour to submit herewith the
original documents viz., (1) Admit Card, (2) Passed
certificate of passing the Matriculation Examination
as asked for in your letter under reference for favour
of your kind consideration and necessary action, and
oblige.

Yours faithfully,

U. Kalita

(Upen Kalita.)

Mazdoor-cum-Messenger,
Yojana (Assamese.)
Nawjan Road, Guwahati-1.

1/5/2000
Certified to be true.
Mrs. U. Chakraborty
Advocate

To -

The Editor-cum- Sr. Correspondent,
Yojana(Assamese),
Uzanbazar, Guwahati-1.

Dated Guwahati, the 1st February, 1999.

Ref : Your letter No.YA/Estt./8/99/22.

Madam,

With reference to your honour's letter under reference I have the honour to state that my original documents in support of my qualification and date of birth have already been submitted to the Section Officer, Publication Division, New Delhi through you on 31.12.98 for necessary action as asked for vide his letter No.A.No.A-12034/6/67-Admn.11 dated 23.12.98. Further, I have no other document except the aforesaid documents, therefore, I request you kindly to take necessary action sympathetically and oblige.

Yours faithfully,

U. Kalita

(Upen Kalita.)

Mazdoor - cum- Messenger,

Yojana (Assamese.)

Nawjan Road, Uzanbazar,
Guwahati - 1.

11/5/2000
Certified to be true.
Mrs. U. Chakraborty,
Advocate,

Dated Guwahati, the 11th Feb.'99.

To

The Section Officer,
Publication Division,
Ministry of Information & Broadcasting,
Patiala House, New Delhi-110001.

(Through the Editor-cum-Sr. Correspondent, Yojana (Assamese),
Uzanbazar, Guwahati-1.)

Sub:- Submission of original copy of certificate of
qualification and date of birth etc.).

Ref:- Your letter F.No.A.12034/6/97-Admn-II dated
23.12.98 and also letter issued by Editor-cum-
Sr. Correspondent, Guwahati vide No.YA/Estt./8/99/22.

Sir,

I have the honour to state you that as asked for
by your honour vide letter under reference, I had
already submitted the aforesaid documents on 31.12.98
to the Editor-cum-Sr. Correspondent, Yojana (Assamese),
Guwahati. But for my personal use the same original
documents were again taken back by me from the Guwahati Office on
18.1.99. Now, as directed, I am submitting the said
Original documents to the Editor-cum-Sr. Correspondent,
Yojana (Assamese) at Guwahati.

This is for your kind information and needful
action.

Yours faithfully,

U. Kalita
(UPEN KALITA.) 11/2/99

Enclosures:

1. Original Matric Admit Card. Uzanbazar, Guwahati- 1.
2. Original Matric Pass Certificate.

Received
documents on
11.2.99

11.2.99 Editor,
YOJANA (Assamese)
Ministry of Information & Broadcasting,
Patiala House, New Delhi-110001.

Certified to be true
Mrs. U. Chakraborty
Advocate

To

The Editor-cum-Sr. Correspondent,
Yojana (Assamese),
Uzanbazar, Guwahati.

Dated 24.2.1999.

Ref:- No.YA/Estt./8/99/71, dtd.22.2.99.

Madam,

In obedience to your order under reference I have the honour to state you that I have already submitted my original certificate of qualification and Admit Card for date of birth with my application dated 11.2.99 to the Section Officer, Publication Division, Ministry of Information and Broadcasting, New Delhi as asked for vide his letter No.F.No.A.12034/6/97-Admn-11, dated 23.12.98 through your honour. There is no other record in my hand as asked for vide your order under reference. Regarding submission of my explanation in respect of Registration of my name in the Employment Exchange I may kindly be permitted to mention here that I do not remember that my date of birth was shown as 1.7.53 instead of 30.10.68. It may be mentioned inadvertently but in my declaration form correctly shown my date of birth as 30.10.68. Therefore, I request you kindly do not take into account of my Employment Exchange Registration and accept my valid qualification certificate and date of birth for which act of your kindness, I, as in duty bound, shall ever pray.

Yours faithfully,



(Sri Upen Kalita.)

Mazdoor-cum-Messenger
Yojana (Assamese)
Guwahati-1.

RECEIVED
YOJANA (Assamese)
Publication Division
Ministry of Information & Public Relations
No. 1, Road, Uzanbazar
Guwahati-781001

Received on
24.2.99
U. Chakraborty

1/5/2000
Certified to be true
Mrs. U. Chakraborty,
Advocate.

118
122

99

To

The Section Officer,
Publications Division,
Ministry of Information & Broadcasting,
Patiala House,
New Delhi.

THR! PROPER CH. NNEL.

Dated Guwahati, 30-7-99.

Sir,

As per your letter dated 23.12.1998 addressed to the Editor-cum-Senior Correspondent, Yojana Assamese, Guwahati and copy endorsed to me, for submission of my original certificate in support of my date of birth etc., I beg to state that I had submitted the original school certificate, Matric and the Admit Card etc. long before but the same are not yet returned to me.

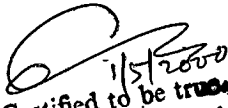
You are requested to kindly send those original certificates back to me as early as possible.

Yours faithfully,

U. Kalita

(Upen Kalita.)

Messenger,
Yojana (Assamese.)
Uzanbazar, Guwahati-1.


Certified to be true
Mrs. U. Chakraborty.
Advocate.

Full

No. A-12034/6/97-Adm II
PUBLICATIONS DIVISION
MINISTRY OF INFORMATION & BROADCASTING
PATIALA HOUSE, NEW DELHI-1.

Dated: 11/11/98

To
Chief Medical Officer
Cuttack

SUBJECT:- MEDICAL EXAMINATION FOR PHYSICAL FITNESS
FOR GOVERNMENT SERVICE.

Sir,

I am to state that Shri/Smt./Kum. Upen Kalita
has been appointed to
who is a candidate for the post of Messenger-cum-Majdoor
on ad hoc basis
in the scale of Rs. 2550-50-2660-60-3200 in this
Division is required to be medically examined by the
Medical Officer. He is, therefore, being advised to call
on you for his medical examination for physical fitness
for Government service. It is requested that Shri/Smt./
Kum. Upen Kalita may kindly be
medically examined and report in respect of his/her
physical fitness in the attached form forwarded to this
Division at an early date.

Yours faithfully,

St/2

Section Officer

No. A-12034/6/97-Adm II
Copy to:- St. 11/11/98

Shri Upen Kalita, Messenger-cum-Majdoor (ad hoc)
He should
present himself before the Chief Medical Officer for
medical examination immediately.

Sh. V. Acharya
Section Officer

11/11/98
Certified to be true.
Mrs. U. Chakraborty.
Advocate.

144
- 120 -

FORM OF MEDICAL REPORT

I do hereby certify that I have examined Shri/Smt/
Kum. Upen Kailia a candidate for employment in the Publications
Division, Ministry of I & B, and has any disease (communicable
or otherwise) constitutional or

I do not consider that a disqualification for employment in
the office of the Publications Division, Ministry of I & B,
Patiala House, New Delhi.

His age is according to his own statement year 30 years and by
appearance about 30 yrs.

Left Thumb and finger impression :

Fourth Small Finger : Third Finger :
Second Finger : First Finger : Thumb :
Signature :

Taken before : Dr. (Mrs.) Sharmah

Name of Officer : Illigible

Designation of officer on (date) :

Name of Officer : Shri Upen Kalita

Case or Race : Hindu

Residence : Gandhi Basti, Guwahati - 781 003.

Father's name & residence : Shri Leteru Kalita, Bazpara, Mongaldai

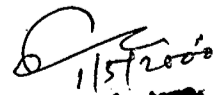
Date of birth by Christian era as
nearly as can be ascertained : 30/10/1968

Exact height by measurement : 161 cm.

Personal mark for identification : Black mole on the left cheek

Signature of Officer : Sd/-

Signature of the Head of Office : Sd/-


Certified to be true
Mrs. U. Chakraborty.
Advocate.

FORM OF MEDICAL REPORT

I do hereby certify that I have examined Shri/mt./
Kum. Upen Kalita a candidate for
 employment in the Publications Division, Ministry of I & B,
 and discover that he/she has any disease (communicable or
 otherwise) constitutional affection, or

I do not consider that a disqualification for employment in
 the office of the Publications Division, Ministry of I & B,
 Patiala House, New Delhi.

His age is according to his/her own statement years 30
 Months 10 and by appearance about 30 years.

Left Thumb and finger impression :

Fourth Small Finger :

Third Finger :

Second Finger :

First Finger :

Thumb :

Signature :-

U. Kalita

Taken before :-

Dr. (Mrs) M. S. Sanyal

Name of Officer :-

Designation of officer on (date) :-

Name of Officer :-

Shri Upen Kalita

Case or Race :-

HINDU

Residence :-

Ganesh Badi - City - 3

Father's name & residence :-

Shri Late Mr. Kalita, Bazar, Nongstien

Date of birth by Christian era as
 nearly as can be ascertained :-

30/10/1902

Exact height by measurement :-

161 cm.

Personal mark for identification :-

Black mark on the cheek.

Signature of Officer :-

Signature of the Head of Office :-

11/5/2000
 Certified to be true.
 Mrs. U. Chakraborty
 Advocate.

Yojana, Publications Division,
Ministry of Information & Broadcasting,
Naujan Road, Uzanbazar, Guwahati-1.

122-
ms

No.YA/Esstt/8/2000/7

Dated:5.1.2000

To

Shri Upen Kalita,
Mazdoor-cum-Messenger (Daily wage)
Yojana (Assamese) Unit
Uzanbazar, Guwahati-1.

Reference - Letter No.YA/Esstt/8/99/447 dated 17.11.99 and
Letter No.YA/Esstt/8/99/446 dated 17.11.99.

With reference to the letter Nos cited above regarding submission of documents you have not submit the same till to-day. Moreover, you have not signed in the daily wage bills for the months of October, November & December, 1999.

You are hereby directed to submit required documents and sign in the wage bills within 7th January, 2000.

(Signature)

(R. Talukdar)
Editor, Yojana (Assamese)
Uzanbazar, Guwahati-1.

Copy to The Deputy Director (Admn.II) for information.

(R. Talukdar)

1/5/2000
Certified to be true.
Mrs. S. Chakraborty.
Advocate.

123
44

To,

The Editor,
Yojana (Assamese)
Publications Division,
Ministry of Information and Broadcasting,
Naujan Road, Uzanbazar,
Guwahati-1.

Dated, Guwahati, the 6th January, 2000.

Ref :-

Your letter No. YA/Estt./3/2000/7 dtd.
5.1.2000.

Respected Madam,

I have the honour to state you the following
few lines for favour of your kind consideration and neces-
sary action.

That Madam, I already submitted all the documents
as asked by the section officer(ADM II) through your honour
and the same have been returned to me after doing the need-
ful. Now all the documents have been handed over to the
learned Advocate in connection with a case filed in the
Hon'ble Gauhati High Court being W.P.(C) 6147/99.

That Madam, originally I was Daily wager there-
after I have been promoted to the post of Mazdoor-cum-
Messenger as an Adhoc employee. Thereafter I have been
reverted to the post of Daily wager. The matter has been
challed in the Hon'ble Gauhati High Court. As the matter
is under sub-judice I can not do anything further.

Under the circumstances I request you kindly to
withdraw the letter under reference and make necessary
arrangement for payment of my salaries with effect from
October, 1999 onwards as an Adhoc employee and for this act
of your kindness, I, as in duty bound, shall ever pray.

Yours faithfully,

U. Kalita

(Upen Kalita)
Mazdoor-cum-Messenger(Adhoc)

1.5.2000
Certified to be true
Mrs. U. Chakraborty.
Advocate.

Received on
5.1.2000 at
4-20 PM
Editor,
YOJANA (Assamese)
Publications Division,
Ministry of Information and Broadcasting,
Naujan Road, Uzanbazar,
Guwahati-781001

To,
The Director,

Date : 1.3.96

The Government of India,
Ministry of Information & Broadcasting,
Publication Division,
New Delhi - 110 001.

(Through proper channel)

Sub : Regularisation in the post of Mazdoor-cum-Messenger in
Yojana (Assamese)

Sir,

This has a reference to your No. G-18013/5/90 Admn.II(Vol.III) dated August 11, 1995 regarding regularisation of my services as a daily wage labourer. I am very much grateful to you for your kind order allowing me to work on all working days and I have completed the stipulated period of 206 days as daily wager on Dec. 31, 1995. I have thus become eligible for grant of Temporary status in the Division and therefore, request you kindly to issue necessary orders granting me the temporary status in your Division at an early date in terms of your letter No. E-18013/5/90/Admn.II(Vol.III) dated 11th August, 1995.

In this connection I would also like to state that the post of Mazdoor-cum-Messenger lying vacant in the office of Yojana (Assamese), Guwahati since 1987. Apart from working as a daily wager, I also fulfil requirements of the said post and possess the educational qualification to make me eligible for the post. (Copy of the certificate enclosed). I shall be grateful if you regularise my services against this vacancy consequently on granting of temporary status to me.

As you will also appreciate Sir, with the meagre income as a daily wager I am not in a position to meet the both ends of my family and they are practically half-starved. Since there is a clear vacancy in the Office of Yojana (Assamese), I would, therefore, fervently pray you to consider my position and appoint me on a regular basis in the post of Messenger-cum-Mazdoor. For this act of your kindness I shall remain ever grateful to you.

Thanking you,

Yours faithfully,

Shri Upendra Kalita

(UPEN KALITA)

Yojana (Assamese)
Nawjan Road, Uzanbazar,
Guwahati-1.

Forwarded for
necessary action.

1.3.96

For M.A. (Assamese)
D. J. Chakraborty
Min. of Info. & Pub.
Guwahati

Certified to be true
Mrs. U. Chakraborty
Advocate

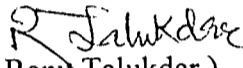
Govt. of India,
Yojana, Publications Division,
Ministry of Information and Broadcasting,
Naujan Road, Ujanbazar, Guwahati-781001.

oYA/Esstt/8/99/447

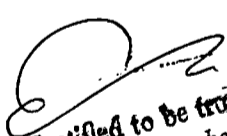
Dated Guwahati the 17th November, 1999.

The following documents furnished by Shri Upen Kalita to the Hqrs. are returned to him herewith in original. He is directed to receive the documents with a dated acknowledgment.

1. Admit Card No. 182132 (without photograph) in respect of Shri Upen Kalita for admission to the high School Leaving Certificate Examination, 1996 issued by the Board of Secondary Education, Assam, Guwahati.
2. Transfer/Leaving certificate Sl.No. 424 issued by Head Master, Chandrapur High School, Dist. Kamrup, Assam.


(Ranu Talukdar),
Editor-Cum-Sr. Correspondent,
Yojana (Assamese),
Naujan Road, Ujanbazar,
Guwahati-781001.

To
Shri Upen Kalita,
Daily wage,
Yojana (Assamese) Unit,
Ujanbazar, Guwahati-1.


Certified to be true
Mrs. U. Chakraborty,
Advocate,