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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 248/2000

R.A/C.P No. 31/2001

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SECTION OFFICER (Judl.)

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In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 248/2000 OF 199

Applicant(s) Sri Tikaram Jorishi,

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. J. I. Borbhuiya.
Mr. B. Sinha.Advocate for Respondent(s) Mr. B.S. Basumatary.
Addl. C.G.S.C.

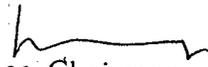
Notes of the Registry	Date	Order of the Tribunal
<p>This application in form and within time. F. of Rs. 50/- deposited vide (PO BD) No. 501959 Dated 7.8.2000</p> <p>By <i>[Signature]</i> 10/10/2000</p> <p>MS 10/10/2000</p> <p>Noti: Required filed.</p> <p>22/09/00 Notice prepared & sent to D/Sec for moving the Respondent No 1 to 4 vide DL No. 1980 to 1983 dtd 22/9/00</p> <p>22/09/00</p>	<p>20.10.00</p> <p>trd</p> <p>2.11.00</p>	<p>Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.</p> <p>Mr. B. Sinha, learned counsel for the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. for the respondents.</p> <p>Application is admitted. Issue usual notices to the respondents by registered post..Returnable by 2.11.2000. List on 2.11.2000 for further orders. In the meantime the respondents shall submit written statement.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p> <p>It has been stated by Mr B.S.Basumatary, learned Addl.C.G.S.C that the written statement has already been filed. Office to connect the same and place the matter for hearing on 14.11.2000.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
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① Service report are still awaited.
 ② ~~W/O~~ W/S has been filed.
 20
 1.11.2000

14.11.2000

Heard Mr B. Sinha, learned counsel for the applicant who has stated that the written statement filed by the respondents on 2.11.2000 has been received by him only today. Therefore, he requires some more time to go through the written statement and file rejoinder. Time allowed. List it for hearing on 29.11.00.


Vice-Chairman

13-11-2000
 W/O the statement has been filed by the respondents No. 1, 2, 3, last page 38-41.

nkm

13/11

29.11.2000

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.


Vice-Chairman

12/11/00
 Notice duly served on respondent No 1, 3 & 4, and R-No 2 is still awaited.

nkm

① W/S has been filed.
 ② No rejoinder has been filed.
 20
 28.11.2000

13/12/2000
 Copy of the Judgment has been sent to the D/Sec. for issuing the same to the applicant as well as to the Sr. C.S. for the Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~W.A.~~ No. .248. . . . of 2000

DATE OF DECISION 29.11.2000

Shri Tikaram Joshi PETITIONER(S)

Mr J.I. Borbhuiya and Mr B. Sinha ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others RESPONDENT(S)

Mr A. Deb Roy, Sr. 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 ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the judgment ? *NO*
4. Whether the judgment is to be circulated to the other Benches ? *yes*

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.248 of 2000

Dated of decision: This the 29th day of November 2000

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

Shri Tikaram Joshi,
Ex-DRM, in the office of the
Sub-Divisional Officer, Phone,
Shillong, Meghalaya.

.....Applicant

By Advocates Mr J.I. Borbhuya and
Mr B. Sinha.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, New Delhi.
2. The Chief General Manager, N.E. Telecom Circle, Shillong.
3. The Telecom District Manager, Meghalaya, Shillong.
4. The Sub-Divisional Officer, Phones, (East), Telecom Department, Shillong, Meghalaya.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The controversy raised in this application relates to absorption of retrenched staff on the strength of the Office Memorandum No.28017/2/92.Estt(D) dated 22.1.1993 issued by the Government of India, Ministry of Personnel, P.G. and Pensions (Department of Personnel and Training) pertaining to the retrenched staff- Estansion of the facility of alternative appointment of regular employees who have not completed three years of service.

2. The Government of India earlier formulated a policy in the years 1976 and 1978, according to which all retrenched temporary Central Government employees who were recruited through the employment exchange or through other recruiting agencies and have put in at least three years regular continuous service before retrenchment were eligible for redeployment in the same organisation or elsewhere. The applicant in this application has also sought for a direction from this Tribunal for consideration of his case in the light of the Government policy. The above policy was subsequently extended to those persons who have not completed three years of service vide O.M. dated 22.1.1993, which is reproduced below:

"The undersigned is directed to infer to Department of personnel (Administration OM No.42014/1/75-Estt(D) Ol.III dated the 27th March, 1976 and 29th June, 1978 according to which all retrenched temporary Central Government employees who were recruited through the employment exchange or through other recruiting agencies and have put in at least 3 years regular continuous service before retrenchment are eligible for redeployment in the same organisation or elsewhere.

The question of extending this facility to similar retrenched Central Govt. employees who have put in less than 3 years of regular continuous service was examined after consultation with the Staff side. It has been decided that the existing schemes contained in EPEAR OM dated 27.3.76 and 29.6.78 ibid would be extended to cover all temporary employees recruited regularly through the prescribed channels of recruitment such as Staff Selection Commission, Employment Exchange etc., including those who have not completed 3 years of regular continuous service at the time of retrenchment. The modified scheme would have retrospective effect from 1st January, 1992.

3. All the Ministries/Departments are requested to bring the above scheme to the notice of all concerned including these in the attached and subordinate offices for guidance and necessary action."

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The applicant was working as a daily rated Mazdoor under the respondent No.4, the Sub-Divisional Officer, Phones (East), Telecom Department, Shillong. The applicant stated that he was sponsored by the Employment Exchange vide Sponsored No.154/84/5196 dated 24.8.1984 and he was appointed Daily Rated Mazdoor in July 1984 under the establishment of respondent No.4. According to the applicant he worked in the establishment under respondent No.4 and rendered services of 1458 days since his appointment in 1984. The applicant stated that while working as a Daily Rated Mazdoor under the respondent No.4, he was stated to have been transferred to the establishment of the Sub-Divisional Officer, Telecom, Tura in November 1988. The applicant has specifically stated in the application that he neither received any such transfer order nor any transfer order was communicated to him. He was not aware of any such transfer order to Tura. He has also stated that he had suffered from serious illness since 1988, and was under constant medical treatment for nearly one year and ten months and for this reason he could not attend the office. For this purpose the applicant has annexed some of the medical certificates. The applicant, after recovery, moved the authority for his engagement as well as redeployment. The applicant also submitted a representation to the authority who in turn forwarded the same to the higher authority. He was, however, not allowed to join in the duty. The applicant also referred to the policy of the respondents for granting temporary status to the casual labourers who have been working since 1985, wherein the name of the applicant was also shown. It also appears that in some of the States a one time relaxation was provided for recruiting Daily Rated Mazdoors in the N.E. Telecom Circle. The applicant, after failing to get any remedy from the authority, moved this Tribunal by filing an

application which was numbered and registered as O.A.No.257 of 1997, which was disposed of directing the respondents to consider his representation, if any. The applicant again moved this Tribunal in O.A.No.300 of 1998. The Tribunal again directed the respondents to consider the representation of the applicant within the time specified. The respondents now by the impugned order dated 23.5.2000 disposed of the representation turning down the claim of the applicant for regularisation on the ground of long absence from duty.

3. I have heard Mr B. Sinha, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. Mr A. Deb Roy, referring to the written statement stated that the applicant remained absent from 1988, therefore, since he was not in employment his case could not be considered.

4. There is no dispute as to the rendering of service by the applicant under the respondents on and from July 1984 to November 1988. In one of the communications bearing No.E-38/TSM/238 dated 3.4.1998, Annexure 9 to the application, from the Senior Sub-Divisional Engineer (Administration) a list of eleven retrenched Mazdoors was submitted and it also mentioned that the applicant served for about 1457 days in the Office of the Sub-Divisional Engineer (East), Shillong. In the order dated 23.5.2000 it was also admitted that the applicant continuously worked from May 1985 to November 1988 for a total period of 1307 days. In the said order, however, the respondents stated that as per report given by the SDOP, Shillong vide his letter No.E-24/17 dated 28.1.1992 the applicant was transferred to SDOT, Tura in November 1988,

but the applicant failed to report for duty at Tura as Daily Rated Mazdoor and that the discontinuance of engagement was beyond the permissible limit. It was also stated that there was no provision in the recruitment rules for re-engagement/ or regularisation after such prolonged absence. It was also mentioned in the order that there was no provision in the rules for condonation of such long absence. Accordingly the applicant's representation was turned down.

5. The O.M. mentioned above pertains to re-engagement or regularisation of those persons who were retrenched. The Government policies are all relatable to retrenched employees. Assuming that the applicant was transferred to Tura in November 1988 and he failed to report at Tura as Daily Rated Mazdoor, even in that event the applicant would become a retrenched employee because the applicant's relation with the employer terminated the moment the applicant did not join his duty. Under Section 2(oo) of the Industrial Disputes Act, the expression 'retrenchment' means the termination by the employer of the services of a workman for any reason whatsoever, other than as a punishment inflicted by way of disciplinary action, but does not include voluntary retirement of a workman or retirement of the workman on reaching the age of superannuation etc. The word 'retrenchment' is of wider connotation which covers termination of services by the employer for whatsoever the reason. After the applicant refused to join at Tura, naturally, his name was struck off. On the own showing of the respondents the applicant was not dismissed or removed from service as a measure of disciplinary action. In the circumstances, the applicant can only be treated as a

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retrenched employee and therefore, the case of the applicant cannot be refused on the ground of limitation. A retrenched employee is a person whose service is cut down by the employer for whatsoever reason. In this context, it would be appropriate to recall the following observation of the Supreme Court in State Bank of India Vs. N. Sundara Money (1976) 1 SCC 822 at para 9 (826-27): "A breakdown of Section 2(oo) unmistakably expands the Semanties of retrenchment. 'Termination..... for any reason whatsoever' are the key words. Whatever the reason, every termination spells retrenchment. So the sole question is has the employee's service been terminated? Verbal apparel apart, the substance is decisive. A termination takes place where a term expires either by the active step of master or running out of the stipulated term. To protect the weak against strong this policy of comprehensive defination has been effectuated. Termination embraces not merely the act of termination by the employer, but the fact of termination howsoever produced" (Emphasis supplied). In Delhi Cloth and General Mills Co. Ltd. Vs. Shambhu Nath Mukerjee and others (AIR 1978 SC 8) the Supreme Court held that "Striking off the name of the workman from the rolls by the management is termination of his service. Such termination of service is retrenchment within the meaning of 2(oo) of the Act." L. Robert D'Souza Vs. The Executive Engineer, Southern Railway and another (AIR 1982 SC 854) is apposite in this connection wherein the Supreme Court opined that "It termination of a workman is brought about for any reason whatsoever it would be retrenchment except if the case falls within any of the excepted categories, i.e. (i) termination by way of punishment; (ii) voluntary retirement of the workman; (iii) retirement of the workman on reaching the age of superannuation.....

superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf or termination of the service of the service on ground of continued illhealth. Once the case does not fall in any of the excepted categories termination of service even if it be according to automatic discharge from service under agreement would nonetheless be retrenchment within the meaning of expression in S.2(oo). It must as a corollary follow that if the name of the workman is struck off the roll that itself would constitute retrenchment." Robert D'Souza was a gangman in Southern Railway. By the impugned letter he was informed that his services were demmed to have been terminated from 18.9.1974 from which date he was said to have been absented himself.

6. In this case the respondents did not produce any record as to how the respondents dealt with the absence of the applicant. In the written statement the respondents stated that the applicant abandoned the job of casual labourer in November 1988 by not joining the job under the SDOT/Tura and he ceased to be casual labourer in the records of the respondents. The grounds cited by the respondents does not fall in any of the excepted category cited in clause (a), (b), (bb) and (c) of Section 2(oo) of the Act. The applicant, therefore, is a "Retrenched Staff" for all intents and purposes of the Scheme who had completed above four years service under the respondents in November 1988. There was no justification in refusing the claim of the applicant on the ground of limitation as mentioned in the order of the General Manager dated 23.5.2000. The respondent authority, fell into grave error in repudiating the claim of the applicant by overlooking the relevant and lawful considerations. The relevant consideration under the Scheme was the length/duration of the services rendered by the applicant.....

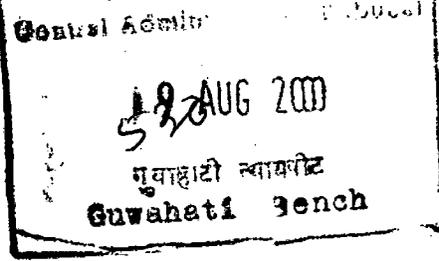
applicant and the fact of the matter that the applicant was a retrenched staff.

7. The respondents while turning down the representation of the applicant disregarded the letter and spirit of the policy laid down by the Government of India from time to time for redeployment and/or granting temporary status to those who were recruited and put in at least three years of regular service or less before retrenchment. The policy of the Central Government ⁱⁿ of this regard has its own meaning, formulated from time to time, to meet the Constitutional requirements, the ^{to} mandates of human rights, and the spirit of Article 7 of the International Covenant of Economic, Social and Cultural Rights 1966 which called upon all State parties to ensure fair wages and equal wages for equal work.

8. As alluded earlier, the applicant fulfilled the requirement mentioned in the Office Memorandum dated 27th March 1976, 29th June 1978 as well as the Memo dated 22nd January 1993, as a retrenched staff, who rendered continuous service over four years before retrenchment and therefore his case required a fair consideration under the Scheme. The Respondents in the circumstances flawed in its decision making process by rejecting the representation of the applicant vide the impugned order dated 23.5.2000. The same is, therefore, set aside. The respondents are accordingly directed to consider the case of the applicant for granting a temporary status afresh in the light of the observations made above with utmost dispatch ^{at the most} within a month from the date of receipt of a certified copy of this order.

9. The application is accordingly allowed. There shall, however, be no order as to costs in the facts and circumstances of the case.


(D. N. CHOWDHURY)
VICE-CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

Application Under Section 19 of the
Administrative Tribunal Act, 1955.

O.A. NO. 248 /2000

Shri Tikaram Joishi ... Applicant.

- Versus -

Union of India and Others... Respondents.

I N D E X

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Filed by : J. I. Borah,
Advocate.

.....

Tika Ram Joshi
Filed by Re Appoint
Thosa.
J. I. Bose
Adv.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

Original Application No. _____/2000

Shri Tikaram Joishi,
Son of Dhaneswar Joishi,
(Ex-DRM, in the office of the
Sub-Divisional Officer, Phone,
Shillong), P.O. Shillong,
District - East Khasi Hills,
Meghalaya.

..... Applicant.

- Versus -

1. The Union of India,
(Represented by the Secretary to
the Govt. of India, Ministry of
Communication, New Delhi).
2. The Chief General Manager,
N.E. Telecom Circle, Shillong.
3. The Telecom District Manager,
Meghalaya, Shillong.
4. The Sub-Divisional Officer,
Phones, (East), Telecom Deptt.,
Shillong, Meghalaya.

..... Respondents.

Contd..... P/2.

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DETAILS OF APPLICATION

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

Illegal retracement despite granting temporary status to the Applicant and in rejecting the claim of the applicant as per impugned letter vide No. E-38/Court Case/35/22 dated 23.5.2000 issued by the General Manager, Telecom District, Meghalaya SSA, Shillong-793 001.

2. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

The applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1:- That the applicant is a citizen of India and a permanent resident of Shillong, Meghalaya. Who was earlier working as the Daily Gate Majdoor under the Respondents. As such he is entitled to all the rights and privileges guaranteed to a citizen of India under the Constitution of India and other laws of the land.

Tika Ann Josa
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4.2:- That the applicant hails from a very poor family and somehow managed to pass Pre-University (Commerce) from NEHU. The applicant could not prosecute further studies due to extreme poverty in the family. He was accordingly looking for a job in public employment to earn his modost means of livelihood. The applicant accordingly registered himself in the Employment Exchange, Shillong, bearing Registration No.1396/84 dated 22.8.84.

A copy of the aforesaid Employment Exchange Identity Card issued to the applicant is annexed hereto and the same is marked as Annexure-1 of this application.

4.3:- That the applicant's candidature has been sponsored by the Employment Exchange vide Sponsored No.154/84/5196 dated 24.8.84 and accordingly in consideration of suitability and educational qualification besides being eligible he was appointed as the Daily rated Majdoor in the month of July, 1984, under the establishment of the Respondent No.4. The applicant continued to be worked under the kind disposal of the Respondents and in that way he has completed 1458 days since his appointment in the year 1984. The works particular in respect of the applicant was also maintained by the Respondents in the Master Roll Register.

A certificate works particulars in respect of the applicant is annexed hereto as Annexure-2 of this application.

4.4:- That the applicant states that the applicant while working as the DRM under the Respondent No.4 was stated to have been transferred to the establishment of the Sub-Divisional Officer, Telecom, Tura, in November, 1988. The applicant was neither received any such transfer order nor any such transfer order has been communicated to the applicant. The applicant did not know that he has been transferred to Tura. The Respondent kept the applicant in complete dark about his transfer to Tura. However, in the meantime, the applicant had been suffering from serious illness. He was suffering from Peptic Ulcer Syndrome and he was under treatment of Dr. C.R. Brahma for nearly 1(one) year and 10(ten) months. The applicant due to his illness could not remain present in the office and remained absent from duties for the aforesaid days as it was advised by the Physician. The applicant was thereafter advised by the concerned Physician to join in his duties after recovery from his illness and issued a fitness certificate in this regard.

A copy of the aforesaid Medical Certificate issued by Dr. C.M. Brahma is annexed hereto as Annexure-3 of this application.

4.5 :- That the applicant thereafter submitted an application before the Respondent No.3 through the Respondent No.4 alongwith Medical Certificate in order to join in his duties. The Respondent No.4 on receipt of it accordingly forwarded the application alongwith Medical Certificate submitted by the applicant to the Officer (ENGG) Administration for favour of his disposal. Unfortunately the Respondent failed to respond in this regard. As a result the applicant could not join in his duties for no fault of him.

A copy of the aforesaid application and forwarding letter issued by the Respondent No.4 are annexed hereto as Annexures-4 & 5 of this application.

4.6 :- That it may be mentioned here that from the Medical Certificate it clearly reflects that the applicant was undergoing medical treatment under the care and supervision of Dr. C.M. Brahma and the certificate dated 11.3.90 has disclosed that the applicant has been suffering for a long period of nearly 2(two) years for which he failed to discharge his official duties. Taking the advantage the Respondents without passing any order had snatch away the livelihood of the applicant.

4.7 :- That the applicant states that the fact of his working for about 1458 days is borne out from the works particular in respect of the applicant maintained

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by the Respondent authority. As per the Rules the applicant deserves regularisation of his service. It is a matter of regret the case of the applicant has been overlooked by the Respondents and did not allow the applicant to resume his duties.

4.8 :- That the applicant states that the applicant had worked for a considerable period of more than 3(three) years and under the Rules the applicant is entitled to regularisation of his service. This position is crystal clear and the Respondents knowing it fully well has taken a very adamant decision and did not allow the applicant to join in his duty. In this connection it may be mentioned here that the Ministry of Personnel vide office Memorandum dated 22.1.93 was pleased to direct all the Departments for re-deployment of the employees who had been refrenched from since after putting at least 3(three) years continuous regular service. The case of the applicant also comes under the perview of the aforesaid memorandum dated 22.1.93 and entitled to be reinstated in service in accordance with the Govt. Circular.

A copy of the aforesaid office Memorandum vide No. 28017/2/92-Estt.(P) issued by the Ministry of Personnel is annexed hereto as Annexure-6 of this application.

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4.9 :- That, in the meantime the Respondent No.3 has written to Respondent No.4 on 30.9.93 for grant of Temporary status to the Casual Labourers working since 1985. The applicant who appears in the list at serial No.156 submitted by the Respondent No.3 to the Respondent No.4. Under the such circumstances also the applicant is entitled to resume his duties as DRM.

A copy of the aforesaid letter dated 30.9.93 including a list are annexed herewith as Annexures-7A & 7B of this application.

4.10 :- That, in the meantime the Respondent No.2 has issued instruction vide letter dated 25.6.96 to the effect that the Director of Telecom, New Delhi vide letter No. 269-5/96/Stn-II dated 10.4.96 has given one time relaxation to N.E. Telecom Circle, Shillong to recruit 400 DRM's and on the basis of it, the Respondent No.2 has distributed 400 DRM's to be recruited as under :-

<u>Name of the SSA</u>		<u>No. of DRM's</u>
1. Meghalaya SSA	...	45
2. Tripura SSA	...	45
3. Nagaland SSA	...	50
4. Manipur SSA	...	60
5. Arunachal Pradesh SSA	...	80
6. Mizoram SSA	...	120

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It may be mentioned here that recruitment of DRMs should be done as per existing Rules. The distribution as communicated above is inclusive of requisition placed by non-recruiting units.

A copy of the aforesaid letter vide No. EST/BE-583/27 dated 25.6.96 is annexed hereto as Annexure-8 of this application.

4.11 :- That since the Respondents in the mean time was processing the cases of retrenched Mazdoor who worked in between 1.3.85 to 22.6.88, for grant of temporary status in order to make a final list for the same and accordingly the Senior Sub-Divisional Engineer (Admn.), Shillong vide letter dated 3.4.98 has submitted a list of retrenched Mazdoor for arranging and processing their cases for grant of temporary status. The applicant has been placed at serial No.10 in the aforesaid list so prepared by the Respondents.

A copy of the aforesaid letter vide No.E-38/TSM/238 dated 3.4.98 is annexed hereto as Annexure-9 of this application.

4.12 :- That the applicant states that the Respondents had arbitrarily retrenched the applicant from service without passing any order and to that effect did not communicate such order, if any, passed in as much as the Respondents also did not communicate any transfer order to the applicant. In other words, it may be said that the respondents had swept out the applicant from service in colourable exercise of power behind

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his back and did not allow him to resume his duties. The applicant finding no other alternative had repeatedly approached before the Respondents and in this way they took long time to decide and did not take any initiative measure to sort out the case of the applicant. The applicant accordingly filed an application registered as O.A. No.257/97 before this Hon'ble Tribunal. This Hon'ble Tribunal accordingly as per order dated 21.11.97 was pleased to dispose of the said application with a direction to the respondents to dispose of the representation so filed by the applicant.

A copy of the aforesaid order dated 21.11.97 passed in O.A. No.257/97 is annexed hereto as Annexure-10 of this application.

4.13 :- That the order dated 21.11.97 passed in O.A. No.257/97 was duly communicated to the Respondents for favour of necessary action. The respondents did not take any action on it and failed to dispose of the representation of the applicant. Every time the applicant was assured that they would look into the matter. The applicant having no other remedy has again approached this Hon'ble Tribunal by filing an application vide O.A. No.300/98 and this Hon'ble Tribunal as per order dated 29.9.98 was pleased to dispose of the same with a direction to the Respondent No.3 to dispose of the representation filed by the applicant. It was also mentioned in the aforesaid

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order that the applicant if aggrieved may approach this Hon'ble Tribunal again.

A copy of the aforesaid order dated 29.9.98 passed in O.A. No.300/98 is annexed hereto as Annexure-11 of this application.

4.14 :- That, the aforesaid order dated 29.9.98 passed in O.A. No.300/98 was duly submitted before the respondents. The respondents again adopted different attitude with the applicant and did not dispose of the representation submitted by the applicant flouting the direction passed by this Hon'ble Tribunal. However, of late the respondent No.3 as per letter dated 23.5.2000 was pleased to reject the claim of the applicant for reinstatement/regularisation of his service in stating that the discontinuance of service in respect of the applicant is beyond permissible limit and there is no provision in recruitment rules regarding rearrangement/regularisation after such a prolonged absence. Hence, the instant application.

A copy of the aforesaid impugned letter vide No. E-38/Court-Case/35/22 dated 23.5.2000 is annexed hereto as Annexure-12 of this application.

4.15 :- That the applicant states that the applicant whose name has been enlisted for grant of temporary status, is accordingly entitled to be

Tika Ram Jori
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accommodated and regularisation of his service pursuant to Office Memorandum dated 22.1.93 (Annexure-6) and letter dated 3.4.98 (Annexure-9). The respondents have taken different attitude in respect of the applicant and arbitrarily rejected the legitimate claim of the applicant. The applicant since rendered more than 3(three) years of continuous service under the Respondents is accordingly entitled to be accommodated and/or re-instanced/rearranged in service in accordance with the Rules.

4.16 :- That the applicant humbly submits that the fact of his working for 1458 days is borne-out by the statement so prepared by the respondents. But it regretted that the applicant was not allowed to resume in duty at the instances of the respondents. The respondents had snatched away the livelihood of the applicant which are not in accordance with the law.

4.17 :- That the applicant humbly submits that the Respondents in no time had communicated any transfer order/letter to the applicant in as much as the respondents did not pass any order in respect of ~~temporary~~ termination of service of the applicant. It is crystal clear from the letter dated 23.5.2000 (Annexure-11) that the respondents did not allow the applicant to resume in his duty due^{to}/his prolonged absence in service which are also not tenable in law.

Tika Ram

4.18 :- That the representation made by the applicant and the respondents since have rejected the same, the applicant has no other alternative remedy also the remedy sought for, if granted, would be just, proper and adequate.

4.19 :- That in view of the facts and circumstances stated above, it is a fit case where Your Honour would be pleased to direct the Respondents to accommodate the applicant in service by re-arranging/reinstating in service and regularise the same with all service benefits available to him in accordance with the rules, otherwise your applicant will suffer irreparable loss and injuries.

4.10 :- That this application is made bonafide to secure the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 :- For that the action of the respondents in not allowing the applicant to resume his duty in other words ousting the applicant from service without making any communications in this regard in colourable exercise of powers.

5.2 :- For that there is clear violation of prescribed procedure and rules as regards the genuineness of the claim, the same must have been settled out way back in the year 1993.

5.3 :- For that the applicant has fulfilled the condition of working for 240 days as well as the applicant has completed more than 3(three) years of service whose name also been enlisted for grant of temporary status, is entitled to be permanently absorbed and regularised in pursuance to the office Memorandum vide No. 28017/2/92-Estt.(P) dated 22.1.93.

5.4 :- For that the respondents vide letter No. E-38/TSM/238 dated 3.4.98 has enlisted the name of the applicant for grant of temporary status as a dropped out case. At the same time it has been urged to send all particulars by the recruiting unit for grant of temporary status.

5.5 :- For that the applicant was not allowed to resume in duty by the respondents after recovery from his illness. On the other hand the respondents only accepted the Medical Certificate which has been forwarded to the higher authority for its disposal vide letter dated 18.9.90 (Annexure-5) and did not process out the same resulting into miscarriage of justice.

5.6 :- For that no proceeding had been drawn-up against the applicant for long absence from duties and without drawing any departmental proceeding as well as without affording any reasonable opportunity to show-cause the applicant was whimsically ousted from service.

Tika Ram Joshi
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5.7 :- For that it reveals from the impugned letter vide No. E-38/Court-Case/35/22 dated 23.5.2000 (Annexure-11) it ~~x~~ reveals that the respondents could not condone long absence in duties in respect of the applicant and accordingly could not re-arrange/regularise the service of the applicant and ousted the applicant from service without ~~it~~ drawing any formal proceeding in this regard.

5.8 :- For that the impugned action on the part of the respondents being without any sanction of law is illegal, arbitrary and malafide on the face of it.

5.9 :- For that there has been clear violation of Article 14, 16, 19 and 21 of the Constitution of India besides being violation of Principles of natural justice and administrative fairplay.

5.10 :- For that in any view of the matter the impugned action of the respondents are otherwise bad in law and as such these are liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :-

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

Contd.... P/15.

Tilka Ram

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

The applicant declares that the applicant has earlier filed an application vide O.A. No.300/98 which has been disposed of as per order dated 29.9.98 giving liberty to the applicant to approach this Hon'ble Tribunal if he is aggrieved. The applicant being aggrieved has accordingly files the instant application. The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is pending before any Court of Law or any other authority or any other bench of this Hon'ble Tribunal.

8. RELIEFS SOUGHT FOR :-

Under the circumstances stated above, the applicant prays that this application be admitted, records be called for and issue notices to the respondents to show cause as to why the reliefs sought for in this application shall not be granted and upon hearing the parties and on perusal of records be pleased to grant the following reliefs :-

8.1 :- To direct the Respondents to re-instate the applicant in service further as the DRM and/or accommodate the applicant in any post of like nature with all service benefits available to him in accordance with the Rules.

Tika Ram 29

8.2 :- To direct the respondents to regularise the service of the applicant being casual worker under the Respondents since 1984 in pursuance to the existing rules besides being completed more than 3(three) years of continuous service as the DRM under the Respondents.

8.3 :- To direct the respondents to grant temporary status to the applicant in pursuance to the letter dated 20.9.93 (Annexure-7A) and letter vide No.E-38/TSM/238 dated 3.4.98 (Annexure-9).

8.4 :- To direct the respondents to release and make payment ~~to the~~ of arrear salaries and allowances to the applicant since December, 1988.

8.5 :- Cost of the application.

8.6 :- Any other relief/reliefs to which the applicant is entitled to.

9. INTERIM ORDER PRAYED FOR :-

Under the circumstances the applicant prays for an interim order by way of a direction that it shall not be a bar to the authority to consider the case of the applicant during pendency of this application before this Hon'ble Tribunal.

10. This application is filed through Advocates.

11. PARTICULAR OF THE I.P.O.

- i) I.P.O. NO. : 502459.
- ii) Date : 7/8/24.
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :- As stated in the Index.

V E R I F I C A T I O N

I, Shri Tikaram Joishi, Son of Dhaneswar Joishi, Ex-DRM, Office of the Sub-Divisional Officer, Phones, Shillong aged about 34 years, do hereby ~~verify~~ solemnly affirm and verify that the statements made in 1 to 3, 4.1 to 4.2, 4.4, 4.6 to 4.8 and 4.15 of the accompanying application are true to my knowledge and those made in paragraphs 4.3, 4.5, 4.9 to 4.14 are matters of records as derived therefrom and the resta are submissions before this Hon'ble Tribunal.

And I sign this verification this
day of Aug, 2000 at Guwahati.

Tika Ram Joshi
S I G N A T U R E.

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Annexure-1.

Assam Schedule LXIII Form No.1

Revised No.SF.2/84/19, dated 24th Sept, 1984.

GOVERNMENT OF MEGHALAYA
DEPARTMENT OF LABOUR

Seal)

X 10A

IDENTITY CARD.

EMPLOYMENT EXCHANGE- Guwahati.

Next Renewal Due : - : - : -

22.8.87

Name - Tiha Ram Joshi

Category -

Date of Registration - 27.8.84

Registration - 1396/86

N.C.O. - X 02 10

Occupation -

Note - If any information furnished by the applicant
turnt out to be false subsequently his/her
Registration in liable to be cancelled.

Please read structions on records.

Sd/Illegible,

Signature of the Issuing Authority.

.....

CERTIFICATE

This is to certify that Shri Tika Ram Joshi, S/O Shri Dhaneswar Joshi (LT) CTO compound Shillong worked as DRM in this Sub-division during the year 1984 to 1988 . His Employment Exchange No. 1396/84 dated 22-8-84 sponsored No. 154/84/5196 dated 24-8-84. The works particulars as per Muster Roll Registrar are given bellow :-

<u>Year</u>	<u>Month</u>	<u>No. of days</u>	<u>M/R No.</u>
1984	7/84	31	18/268
"	11/84	30	23/266
"	12/84	31	6/267
1985	1/85	31	14/267
"	2/85	28	23/267
"	5/85	31	19/269
"	6/85	30	1/270
"	7/85	31	8/270
"	8/85	31	15/270
"	9/85	30	22/270
"	10/85	31	4/274
"	11/85	31	11/274
"	12/85	31	18/274
1986	1/86	31	25/274
"	2/86	28	7/275
"	3/86	29	14/275
"	4/86	30	24/275
"	5/86	31	9/277
"	6/86	30	19/277
"	7/86	31	8/281
"	8/86	31	18/281
"	9/86	30	- -

contd...

<u>Year</u>	<u>Month</u>	<u>Nb. of days</u>	<u>M/R No.</u>
1986	10/86	31	16/283
"	11/86	30	4/284
"	12/86	31	15/284
1987	1/87	31	2/287
"	2/87	28	11/287
"	3/87	30	23/287
"	4/87	30	7/291
"	5/87	31	16/291
"	6/87	30	19/291
"	7/87	31	9/292
"	8/87	31	18/292
"	9/87	30	19/292
"	10/87	31	2/296
"	11/87	30	10/296
"	12/87	31	16/296
1988	1/88	31	1/297
"	2/88	29	10/297
"	3/88	30	17/297
"	4/88	30	28/297
"	5/88	31	9/301
"	6/88	30	16/301
"	7/88	31	24/301
"	8/88	31	14/302
"	9/88	30	22/302
"	10/88	31	5/304
"	11/88	30	13/304

Total 1458 days

Dated : 27-11-97
Place : Shillong

Sd/- Illegible
S.D.O. Phones (East)
Telephone Exch. Bldg.
Shillong- 793001.

Annexure-3

Dr. E.M. Brahma
 MBBS, (Cal) DTD (Delhi)
 TDD (Wales)
 Regd. No. 2575 (AMC)
 Addl. DHS Meghalaya (Rtd)
 Chesh Specialist &
 General Practitioner
 A.M.A. State Bank Group
 And
 N.E.E.P.C.O.

Residence
 Temple Road
 Lower Lachaufere
 Shillong- 793001.
 Phone- 22353.

This is to certify that Sri Tika Ram Jaishi was suffering from peptic ulcer syndrome with effect from 20th November, 88. He was advised treatment at rest since then. He has now recovered and found fit to join duties with immediate effect.

Sd/ Illegible,
 Dr. C.M. Bhrahma

...

Clinic Timings.

M/s Lamore Pharmacy
 Jail Road
 3 P.M. to 5 P.M.

M/S Choudhury Phy.
 Police Bazar,
 12.30. to 3 P.M.

M/s Economic Medical Hall
 Police Bazar,
 9 A.M. to 11. A.M.

....

5

Annexure-4

To

The Telecom District Manager,
O/O T.N.N. Shillong.

(Through proper channel)

Sub: Absent on medical treatment.

Sir,

With due respect I beg to lay down before you some lines. That Sir, I was working as D.R.M. under Sub-Division Officer(Phones) Shillong w.e.f. July, 1984 to 1988-1072 days. And sir in 1989, I was transferred to Tura. But unfortunately I was in bed due to peptic ulcer syndrome and I was under treatment under Dr. C.M. Brahma for 2 years. After proper treatment, I was advised to join my duty along with medical certificate. I have submitted the application to S.D.O. Phones Shillong to join my duty. But no response received from S.D.O. (Phones) and again I have given second reminder but still no reply I have received so far.

Therefore I pray to you to be kind enough and kindly intervene the matter personally and consider my case as early as possible.

Thanking you,

Yours faithfully,

(Tika Ram Joshi)

Copy to :

- 1. The S.D.O. (Phones, Shillong)
- 2. D.E.T. (O) Shillong
- 3. Circle Secretary
- 4. Spare Copy.

.....

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96
Annexure-5

Department of Telecommunication.

In the Office of the SDOP/ Shillong .

To

The Officer (Engg) Admn.
O/O D U GMT/Shillong.

No.E-24/160

dtd. 18.5.90

Sub: Consideration for joining report as
Temporary stated under SDOP/Shillong.

An application alongwith medical Certificate
receipt from Sri Tikaram Joshi DRM is forwarded
herewith for favour of disposal.

The said DRM were transferred to SDOT/Tura in
No.88 for this Sub-Divn.

Sd/ Illegible
Sub-Divisional Officer
Shillong

.....

NO. 28017/2/92. Estt(D)
Government of India, Ministry
of Personnel, P.G. & Pensions
(Department of Personnel & Training).

New Delhi, the 22nd January '93.

OFFICE MEMORANDUM

Subject :- Retrenched Staff-Extension of the facility
of alternative appointment to regular
employees who have not completed 3 years of
service

(The undersigned is directed to infer to ~~Empower~~
Department of personnel (Administration OM No. 42014/1/
75-Estt(D) 01.III dated the 27th March, 1976 and 29th
June, 1978 according to which all retrenched temporary
Central Government employees who were recruited through
the employment exchange or through other recruiting
agencies and have put in at ~~at~~ least 3 years regular
continuous service before retrenchment are eligible for
redeployment, in the same organisation or elsewhere.

The question of extending this facility to similar
retrenched temporary Central Govt. employees who have put
in less than 3 years of regular continuous service was
examined after consultation with the Staff side. It has
been decided that the existing schemes contained in
EPEAR OM dated 27.3.76 and 29.6.78 ibid would be
extended to cover all temporary employees recruited

Contd..../-

regularly through the prescribed channels of recruitment such as Staff Selection Commission, Employment Exchange etc., including those who have not completed 3 years of regular continuous service at the time of retrenchment. The modified scheme would have retrospective effect from 1st January, 1992.

3. All the Ministries/Departments are requested to bring the above scheme to the notice of all concerned including these in the attached and subordinate offices for guidance and necessary action.)

sd/-
(Y.G. PARANDE)
DIRECTOR.

To

All Ministries/Departments of the Govt. of India.

DEPARTMENT OF TELECOMMUNICATIONS

From TDM/Shillong.

To

The CGMT, Shillong.

Letter No. Ty.

Dated, Shillong 20.9.93.

Sub: Grant of Ty. Statics to

Ref: Your letter No. ST/S-27/Labour/TE/Corr
dated Shillong the 26.8.92.

Kindly refer to your letter cited above.

The required information as required vide
your letter mentioned above is forwarding herewith
in the enclosed proforma for favour of your kind
disposal please.

Sd/-

Asstt. Director (Admn)
O/O the T.D.M. Shillong

....

Shri S.K.Das	-	1.10.84
Sri Subrota Dey	-	1.11.85
Shri S.C.Dey	-	-
Shri Ram Bahadur	-	1.4.84
Shri Hukum S. Gurung	-	1.4.85
Miss Sadhana Das	-	1.2.88
Sri D.B. Gurung	-	1.4.85
Sri D.N. Singh	-	1.4.85
Sri Pranatosh Roy	-	25.7.87
Sri Tikaram Joshi	-	July'84.

.....

DEPARTMENT OF TELECOMUNICATION
OFFICE OF THE CHIEF GENERAL MANAGER TELECOMUNICATION
N.E.CIRCLE SHILLONG.

No. EST/BE-583/27 Dated at Shillong, the June/96

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

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

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

sd/Illegible,

(G.N.Chyne)

Asstt.General Manager(A)

for Chief General Manager, Telecom
N.E.Circle, Shillong.

Copy for information and necessary action to :

1-6. The Telecom, District Manager
Shillong/Dimapur/Imphal/Agartala/Itanagar/Aizawl.

They are requested to ensure that the over all

representation of persons belong to weaker section of the society, who are recruited as DRM, does not go below the prescribed percentage in accordance with the Govt. of India instruction issued from time to time.

7. The D.E., C.T.S.D., Guwahati.
8. The D.E., C.T.T.C., Shillong.
- 9-10. The A.D.T. (HRD)/A.D.T. (T), C.O., Shillong.
11. The G.M.M. (ETR), Shillong.
12. The C.G.M. (Task Force), Guwahati.
13. The S.E. (Civil), Shillong.
14. The E.E. (Elect), Shillong.
15. The D.E. Instruction,
16. All C/S of
-

sd/Illegible,
for Chief General Manager, Telecom
Shillong,-

.....

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM, DISTRICT MANAGER :: MEGHALAYA,
MEGHALAYA :: SHILLONG-1.

NO. E-38/TSM/238 Dated, at Shillong the 3rd April, 1998.

To

The Secretary, LJCM (Staff side),
Auto Manual Exchange,
Shillong-1.

In modification to this office letter of Even No. dated 4.12.97 it is to intimate that the aforesaid letter may be read as _____

SUB :- Granting of DRM to TSM those who worked
between 1.3.85 to 22.6.88.

The following list of retrenched Mazdoor has been submitted. This may please be studied for any droppe out cases. If any such cases the particulars of Master Roll with other details may please be arranged to forward by their recruiting/Mastering officer for making a final list for processing the cases. The Master Roll particulars and other details of the following are also wanted which may please be arranged to forward through their Controlling/Mastering Officer.

Your reply may be sent with a fortnight.

Contd..../-

- -

List of

1) Palnath Marak	- Since Aug.'86	= 218 = SDE/WNM.
2) Joballson Sangma	= " 1.5.87	= 3671 = GMM/ETR/SH.
3) Gopal Hajong.	= " 1.12.87	= 3254 = -do-
4) B.R.Das Gupta	= " 1.4.86	= 1500 = -do-
5) Sankar Prasad Rai	= " 1.6.86	= 2119 = E.E.(Civil) SH.
6) Radha Kanta Deb	= " 1.3.88	= 2936 - D.E.Sat.Pro Shillong.
7) Pradeep Neog.	= " Jan.'81	= 171 - GGMT/SH.
8) Binod Kr.Roy.	= " 1.11.85	= 432 - SDE(Cable)/ SH.
9) William Myrthong.	= " Jan.'87	= 225 - SDE(West)/ SH.
10) Tikaram Jaishi.	= " July'84.	= 1457 = SDE(East)/ SH.
11) Sadhana Das.	= " 1.2.88	= 826 = TDM Office.

This office letter dated 4.12.97 may be treated as cancelled.

sd/-Illegible,
Sr.Sub-Divisional Engineer(Adm-
o/o the Telecom.District Manager,
Meghalaya,Shillong-793001.

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1095

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

J.A.NO. 287/97.

Shri T.Trishi. Applicant.

-Vs-

Union of India & Ors. Respondents.

Mr.B.Malakar. Advocate for the Applicant.

Mr. CGSC....Advocate for the Respondents.

Office Note

Date

Court Orders.

21.11.97

This application has been filed by the applicant praying for appropriate direction to the respondents to appoint him in the post of Daily Rated Mazdoor in the Telecommunication Department.

The case of the applicant is that he was serving as Daily Rated Mazdoor for about four years since 1984. Thereafter, as far back as in 1989 he was removed from service. However, according to the applicant, the authority assured him that his case would be considered. But the same was not done.

Heard Mr.B.Malakar, learned counsel of the applicant as well as

Contd..../-

Mr. G. Sarma, learned Addl. CGSC Mr. Malakar submits that for the ends of justice the case of the applicant ought to have been considered. Mr. G. Sarma, however, refutes the claim. Mr. Sarma further submits that the applicant was removed from service about 8 years back and now he has filed this present application. I find no merit in this application. ~~I find no merit in this~~ At this stage Mr. Malakar submits that a representation was filed by the applicant, but the same has not been disposed of. The respondents may consider the representation of the applicant.

The application is accordingly disposed of. No order as to costs.

sd/-K
Vice-Chairman.

Certified to be true copy.
sd/-Illegible,
Section Officer(J),
Central Administrative Tribunal,
Guwahati Bench, Guwahati.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.3008 of 1998

Date of decision ; This the 29th day of September,1999

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

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

Shri Tikaram Jaishi

Ex-DRM, Office of the SDO, Phones,

Shillong.Applicant.

By Advocate Mr.B.Malakar

-Vs-

1. The Union of India, Represented by the
General Manager, N.E.Telecom Circle,
Shillong.

2. The Telecom District Manager,
Shillong.

3. The S.D.O.,Phones,
Telecom Deptt.,
Shillong.

.....Respondents.

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

ORDER

Baruah, J. (V.C.)

The grievance of the applicant is that he was engaged as a casual labourer in the year 1985. He continued in service for more than three years with certain breaks.He fell ill.Thereafter he was not allowed to resume his duty.The applicant submitted a representation before the authority to allow him to join his duty. However, his representation was not disposed of

- 2 -

Being aggrieved the applicant approached this Tribunal by filing original application No.257 of 1997. This Tribunal disposed of the said application by order dated 21.11.1997 directing the respondents to dispose of the representation. In spite of that the representation was not disposed of. Hence the present application. ✓

2. We have heard Mr. B. Malakar, learned Counsel for the applicant and Mr. B. C. Pathak, learned Addl. C. G. S. C. Mr. Pathak has no explanation regarding the non-disposal of the representation as per the direction of this Tribunal. We are surprised at the attitude of the respondents in flouting the order of this Tribunal. Therefore, with pain, again we have to send the matter with direction to the respondents, particularly respondent No. 2 to dispose of the representation filed by the applicant within two weeks from the date of receipt of this order. If the applicant is still aggrieved he may approach this Tribunal.

3. The application is accordingly disposed of. No order as to costs.

SD/VICE CHAIRMAN

SD/ MEMBER(A)

.....

certified to be true copy
9/11/24
Adv

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19
Annexure-12

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM DISTRICT
MEGHALAYA SSA
SHILLONG.

No.E-38/Court-Case/35/22

Dated at Shillong 23rd
May, 2000.

To

12
Sri Tikaram Joshi
C/O Dhaneswar Joshi
CTO Complex, Shillong.

Sub: Your representation dated 1.11.99 in accordance with the judgement and order dated 20.9.99 in OA.No. 300/98 dated 25.11.99 passed by the Hon'ble Central Administrative Tribunal Bench, Guwahati.

In pursuance of the judgement and order dated 20.9.99 in OA. No.300/98 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, your representation dated 1.11.99 was considered in the light of the judgement on basis of the available records. As per records you were engaged by SDOP Shillong with effect from July'84 for 30 days and November 1984 to February'85 for 85 days. After a gap of two months you were continuously engaged from May'85 to November'88 for a total of 1307 days. As per report given by the SDOP Shillong vide his letter No.E-24/17 dated 28.1.92 you were transferred to SDOT Tura in November'88 but you failed to report to Tura as DRM. The duration of discontinuance of engagement is beyond permissible limit. There is no provision in the recruitment rules regarding re-engagement/or regularisation after such a prolonged absence. Also there is no provision

1307
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certified to be true
copy
8/2/24
Adv
NW 88
contd.

in the rules for condonation of such a long absence. It is regretted that your prayer for re-engagement/ or regularisation could not be entertained and hence the claim is rejected.

This is for your kind information in response to your representation dated 1.11.99.

Sd/ Illegible,

(S. S. Sundaram)

General Manager Telecom Dist.

Meghalaya SSA

Shillong -1.

Copy to :

1. The Registrar, Central Administrative Tribunal, Guwahati Bench Bhangagarh , Guwahati-7 with reference to the judgement and order dated 20.9.99 in OA No.300/98 dtd.25.11.99 for information.
2. The Chief General Manager, North East Telecom Circle , Shillong for information along with Copy of Minutes.

Sd/Illegible,

(S.S.Sundaram)

General Manager Telecom Dist.

Meghalaya SSA

Shillong- 1.

.....

2 NOV 2000

Shri Tikaram Joishi

Applicants

Vs.

Union of India and Others

Respondents

(Written Statements filed by Respondents No 1,2,3 and 4).

The written statements of the Respondents No 1,2,3 and 4 as follows :

1. That the copies of the OA No 248/2000 hereinafter referred to as application have been served on the respondents and the respondents after going through the said application have understood the contents thereof.
2. That the statements made in the application save and except those which are specifically admitted and denied by the respondents.
3. That with regard to the statement made in paragraph 1 of the application the answering respondents state that the applicant was transferred under SDOT/Tura in Nov'88 but he abandoned the job of casual labourer at his own, by not joining under SDOT/Tura, and therefore there was no retrenchment as alleged. The application was rejected as the duration of discontinuance of engagement is about 12 years which is beyond permissible limit. There is no provision in the recruitment rules regarding re-engagement/or regularisation after such a prolonged discontinuance.
4. That with regard to the statement made in paragraph 2 and 3 of the application the respondents beg to state that the applicant abandoned the job of casual labourer in 1988 and he ceased to be a casual labourer in the records of the respondents and the applicant maintained no relation thereafter by any way or manner. Hence the applicant is barred by time limitation and same is liable to be dismissed with cost. Moreover the applicant is not a civil servant holding a sanctioned civil post governed by CCS(CCA), Rules 1965 and as such he cannot file this application in this Hon'ble Tribunal.
5. That with regard to the statement made in paragraph 4.1 of the application the respondents beg to state that earlier though the applicant was working as Daily Rated Mazdoor, he abandoned the job of DRM by not joining at Tura, at his own by which he has lost his entitlement for regularisation of his service.
6. That with regard to the statement made in paragraph 4.2 of the application, the respondents have no comments. Here it is to mention that the applicant has mentioned that he registered himself in the Employment Exchange - Shillong bearing Registration No 1396/84 dated 22.8.84 but the applicant has annexed at Annexure-1 the Employment Exchange card which reads as Employment Exchange-Guwahati bearing the Registration No 1396/86 and date of Registration is 27.8.84 which shows that the applicant tried to mislead this Hon'ble Tribunal with a false claim.
7. That with regard to the statement made in paragraph 4.3 of the application, the respondents beg to state that as per Annexure 1 submitted by the applicant the Employment Exchange card belongs to Assam i.e. Guwahati and date of registration is

Filed by
Sri D. Murmu
through RES ADT.
Bhaban Singh Bhangui
Asst. CGSC, CAT.

27.8.84. He joined as the Daily Rated Mazdoor in the month of July 1984. The claim of the applicant as sponsored by the Employment Exchange is a false claim.

8. That with regard to the statement made in paragraph 4.4 of the application the respondents beg to state that the statement is false. The applicant was aware of his transfer to Tura. In his representation as in Annexure 4 annexed by the applicant, he has clearly mentioned that he was transferred to Tura. The respondents further submit that the medical certificate is undated and evidentially it has no value in the eyes of law.
9. That with regard to the statement made in paragraph 4.5 of the application, the respondents beg to state that the applicant did not submit the application before the SDOT/Tura under whom he was transferred. The applicant abandoned the job of casual labourer of his own by not joining under SDOT/Tura.
10. That with regard to the statement made in paragraph 4.6 of the application the respondents beg to state that the medical certificate as in Annexure 3 of his application, is undated and not attested to be true copy and the statement in this paragraph is false and evidentially it has no value in the eyes of law.
11. That with regard to the statement made in paragraph 4.7 of the application the respondents beg to state that his service could not be regularised because the applicant abandoned the work of casual labourer in 1988 and he ceased to be a casual labourer in the records of the respondents and there is no provision in the recruitment rules regarding regularisation after such a prolonged absence.
12. That with regard to the statement made in paragraph 4.8 of the application the respondents beg to state that the applicant abandoned the job of casual labourer at his own by not joining under SDOT/Tura. The respondents further submitted that the applicant was not retrenched as a temporary Central Govt Employee. He was not at all granted temporary status. The order as in Annexure 6 of his application, does not reflect anything in favour of the applicant relating to his regularisation or granting temporary status in the Department.
13. That with regard to the statement made in paragraph 4.9 of the application the respondents beg to state that the records as in Annexure 7A and 7B of this application, does not reflect anything in favour of the applicant relating to his regularisation. The respondents further submit that the applicant is time barred. The applicant absented himself from service since Nov'88 and never turned up to join as casual labourer under SDOT/Tura. For the reason as stated, the applicant has no right to claim any benefit under any provision of law.
14. That with regard to the statement made in paragraph 4.10 of the application, the respondents beg to state that Annexure 8 does not reflect anything in favour of the applicant to his regularisation or granting temporary status. The applicant is barred time. For this reason he has no right to claim any benefit.
15. That with regard to the statement made in 4.11 of the application, the respondents beg to state that the muster roll particulars and other details was called from their controlling/mastering official. Annexure 9 of this applicant does not reflect anything in favour of the applicant relating to his regularisation or granting temporary status.
16. That with regard to the statement made in paragraph 4.12 of the application the respondents beg to state that the respondents did not retrench the applicant. The respondents further submit that the applicant absented himself from service since 1988

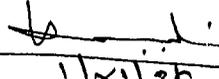
and never turned up to join under SDOT/Tura. The statement in this paragraph is not correct and is false.

17. That with regard to the statement made in paragraph 4.13 and 4.14 of the application the respondents beg to state that the respondents have disposed of the representation as in Annexure 12 of his application.
18. That with regard to the statement made in paragraph 4.15 of the application the respondents beg to state that the Annexure 6 and 9 of his application does not reflect anything in favour of the applicant relating to his regularisation. The applicant has no right to claim any benefit under any provision of law.
19. That with regard to the statement made in paragraph 4.16 of the application the respondents beg to state that the applicant abandoned the job of casual labourer in Nov 1988 by not joining the job under SDOT/Tura.
20. That with regard to the statement made in paragraph 4.17 of the application the respondents beg to state that in Annexure 4 it is clearly mentioned by the applicant that himself he was transferred to Tura. Also in Annexure 5 of his application, SDOT(SH) has mentioned that the applicant was transferred to SDOT/Tura. The respondents further submit that the statement is false.
21. That with regard to the statement made in paragraph 4.18 and 4.19 of the application the respondents beg to state that the application is time barred. The applicant abandoned the job as casual labour long before at his own. For the reason stated the applicant has no right to claim any benefit under provision of law.
22. That with regard to the statement made in paragraph 5.1 to 5.10 of the application the respondents beg to state that none of the ground is maintainable in law as well as in facts and as such the application is liable to be dismissed.
23. That with regard to the statement made in paragraph 6 and 7 of the application the respondents have no comments.
24. That with regard to the statement made in paragraph 8.1 to 8.6 regarding the relief sought for, the respondents beg to state that the applicant is not entitled to any of the relief sought for and as such the application is liable to be dismissed.
25. That with regard to the statement made in paragraph 9 and 10 of the application the respondents have no comments.
26. That the respondents beg to state that the applicant has no locus standi to file the application as he is no longer engaged in the Department and as such the application is liable to be dismissed.
27. That the respondents state that in fact, there is no merit in this case and as such the application is liable to be dismissed with cost.

In the premises, it is therefore, prayed that your lordship will be pleased to hear the parties, peruse the records and after hearing the parties further be pleased to dismiss the application with cost and/or further be pleased to pass such further order or orders as your lordship may deem fit and proper.

VERIFICATION

I, Shri C. Murmu Vigilance Officer, o/o the Chief General Manager, North Eastern Telecom Circle, Shillong - 793 001 as authorised do hereby solemnly declare that the statements made above in the Petition are true to my knowledge, belief and information and I sign the verification on this^{1st}..... day of^{Nov}..... 2000.


11/11/20
DECLARANT