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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. 262/2000

R.A/C.P No.

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 262/2000 OF 199

Applicant(s) Sri Lakshmi Viswakarma.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. J. L. Sarkar.

Atts. S. Deka.

Advocate for Respondent(s)

C.G. S.C.

Notes of the Registry	Date	Order of the Tribunal
Application dated 16.8.2000 and within time S. F. of Rs. 50/- deposited vide IPO BD No. 497/23 Dated 8.9.2000 My J. L. Sarkar Atts. S. Deka Roy	19.9.2000	Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. Heard Mr. J.L. Sarkar, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents. Mr. Sarkar has submitted that there is some possibility of getting the relief departmentally and accordingly, he is not inclined to press this petition at this stage and prays for withdrawal of the petition with a liberty to move this Court again, if so advised. Accordingly, in the light of the prayer made by Mr. Sarkar, the prayer is allowed. The application is dismissed on withdrawal with a liberty to refile it if need be.
20.9.2000 copy of the order has been sent to the office for issuing the same to the Advocates of the parties.	mk	Vice-Chairman

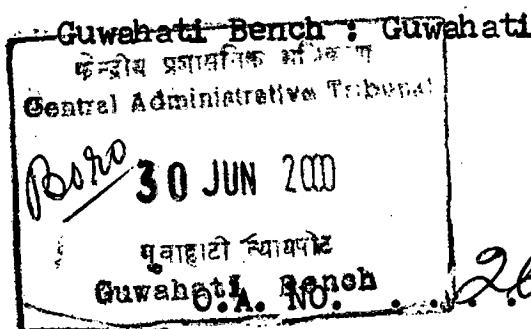
Notes of the Registry

Date

Order of the Tribunal

(V)

Before the Central Administrative Tribunal



Applicant
Date
19
Juna
Advocate
Filed by the
Applicant
19
Juna
Advocate
Date
19
Juna
Advocate

Sri Tilak Viswakarma

-Versus-

Union of India

I N D E X

Sl.No.	Annexure	Particulars	Page
1.	-	Application	
2.	-	Verification	
3.	A	Copy of the statement of the Attendance of the applicant .	
4.	B, B(I)	Copy of the certificate dt. 8.1.98 and letter dt. 21.10.94 issued by the Asstt. Engineer, Telecom Civil Divisional, Itanagar.	
5.	C, D	Copies of the letters dt.8.1.98 and dt. 25.4.2000.	
6.	E	Copy of the letter dt.18.4.2000.	
7.	F , G	Copies of the Representation dt. 7.1.98 and dt.25.4.2000.	

Filed by : Mrs. S. Dees.
Advocate.

Before the Central Administrative Tribunal

Guwahati Bench : Guwahati

O.A. No. 262/2000.

Filed by the Applicant
through : *Deben Ghosh*

Viswakarma

1. Sri Tilak Viswakarma
Son of Sri Atibal Viswakarma
resident of B. Sector
Itanagar, Arunachal Pradesh.

... Applicant.

-Versus-

1. Union of India
Through Secretary to the
Govt. of India,
Telecom Department,
New Delhi.

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

3. Executive Engineer,
Telecom Civil Division,
Itanagar - 791111.

4. Asstt. Engineer,
Telecom Civil Sub-Division - 1
Itanagar - 791111

... Respondents.

Contd. . . 2/-

Details of Application :

1. This application is made for granting temporary status and absorption as regular employee.

2. Jurisdiction :

The applicant declare that cause of action arose within the jurisdiction of this Tribunal.

3. Limitation :

That the present application has been filed within the prescribed period of limitation as per the C.A.T. Act, 1985.

4. Facts of the Case :

4.1. That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India. He belongs to the Other Backward Classes (O.B.C.).

4.2. That the applicant was appointed as casual employee in the office of the Asstt. Engineer, Telecom Civil Sub-Division Deptt. of Telecom, Itanagar w.e.f. 1.7.91. The applicant has been working continuous on casual basis without any break w.e.f. 1.7.91 to 1.8.94, and he earned temporary status by operation of law and thereafter working said to be on contract basis but the respondents did not formally grant temporary status to him and he was also not given the benefits to which temporary status employee is entitled. He worked as office peon w.e.f. 1.7.91 to 1.8.94 under Asstt. Engineer,

Telecom Civil Sub-Division, Itanagar, Arunachal Pradesh.

7
Copy of the statement of the Attendance
of the applicant is enclosed as
Annexure - A.

4.3. That the applicant begs to state that he has been working as office peon w.e.f. 1.8.94 on contract basis till to-day. The applicant further states that he also works in clerical job including typing etc, whenever required. It is stated that the applicant has been working w.e.f. 1.7.91 to 1.8.94 again after 1.8.94 under the respondents for the permanent nature of work and treated as DRM and paid as such.

Copy of the certificate dt. 8.1.98 and letter dt. 21.10.94 issued by the Asstt. Engineer, Telecom Civil Division, Itanagar, enclosed as Annexure B and B(I) respectively.

4.4. That the applicant begs to state that there are vacancies in the Deptt. of Telecom, and his service is also against existing post and the applicant has been working continuously for about 9 years. The officers of the Department are very sympathetic for granting temporary status but most unfortunately no formal communication granting temporary status has been issued. In this connection, Executive Engineer, Telecom Civil Division, Itanagar, wrote letter dt. 8.1.98 to the Superintendent's Engineer (C) Telecom Civil Circle, Shillong, for granting temporary status. Another letter was written to Chief Engineer, N. E. Circle Shillong on 25.5.2000 by the Executive Engineer.

Copies of the letter dt. 8.1.98 and 25.4.2000 are enclosed as Annexure C and D respectively.

4.5. That the applicant has not been given temporary status although the persons who are far junior to him have also been granted temporary status. That the applicant has approached the office and has come to know that his case is under consideration and he could collect the above correspondences. It is stated that the letter dt. 18.4.2000, issued by the Executive Engineer (C), Telecom Civil Division, Itanagar, in Sl. No. 7 the sanction post of office peon is mention as Nos. 6 and the working strength is shown as nil. Therefore the existing vacant post is 6. Further it is stated that the applicant is the only casual labour (D R M) working entire Telecom Civil Division, Itanagar under which there exist 5 Sub-Divisions.

Copy of the letter dt. 18.4.2000 is enclosed as Annexure - E.

4.6. That the applicant begs to state that he has filed representations before the concern authority for granting temporary status till date it has not been given to him.

Copies of the representation dt. 7.1.98 and dt. 25.4.2000 are enclosed as Annexure F and G respectively.

4.7. That the applicant has worked more than 240 days a year and total service is more than 8(eight) years. The applicant begs to state that this Hon'ble Tribunal has in a number of cases been pleased to pass orders for regularisation of the service of the Casual workers service for more than 240 days and for long period. The Hon'ble Apex Court has also in a number of cases upheld. The cause of regularisation of the service of all those who worked for long period continuously. In Surinder Singh & another -Vs-Engineer - in-Chief C.P.W.D. and others (1986) I. S.C.C. 639, the Supreme Court held that "The Central Government, the State Government and Public Sector Undertakings are expected to function like model and enlightened employees". In this case the Supreme Court held as under, " We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than Six months."

In Daily rated Casual Labour -vs- Union of India & Ors. (1988) S.C.C. 122, the Hon'ble Supreme Court held.

" The sense of belonging arises only when he feels that he will not be turned out of employment at the whim of the management. It is for that reason that as far as possible security of work should be assured to the employees so that they may contribute to the maximisation of production. It is again for this reason that managements and the Governmental agencies in particular should not allow workers to remain as casual labours or temporary employees for an unreasonable long period of time ".

4.8. That the applicant humbly submits that the present service is the only source of his livelihood with

the members of the family . Non-regularisation is violative of Article 21 of the Constitution of India.

5. Grounds with Legal Provision :

5.1. For that the applicant is entitled to temporary status under provisions of instruction Law.

5.2. For that the applicant deserves to be regularised in service for his working against regular vacancy for long period.

5.3. For that the name of the applicant has been sponsored through employment exchange and he was taken to job of perennial natures and deserves to be regularised in service.

5.4. For that he has worked for more than 240 days in a year and has worked for more than 8 (eight) years.

5.5. For that non-regularisation of service and non-conferring of temporary status is violative of Act 14 and 16 of the Constitution of India being arbitrary and whimsical.

5.6. For that the applicant's service deserves to be regularised because he has worked for long period against regular job.

5.7. For that the applicant is entitled to the reliefs under the directive principles of State Policy.

6. Details of Remedies Exhausted :

That the applicant states that he has no other alternative native and other efficacious remedy than to file this application.

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7. Matters not previously filed or pending with any other Court/Tribunal :

The applicant furtherly declares that he has not previously filed any application, writ petition or suit before any court or any other Tribunal nor any such application, writ petition or suit is pending before any Tribunal or Court.

8. . Reliefs Sought for :

Under the facts and circumstances of the case the applicant prays for the following relief.

8.1. The applicant should be given temporary status from the date after completion of 240 days and be given the benefits of temporary status with arrears from retrospective effect.

8.2. The service of the applicant should be regularised.

8.3. Till regularisation the applicant should be paid emoluments the the minimum of the scale with allowances with retrospective effect with arrears.

8.4. Any other reliefs the Hon'ble Tribunal may be pleased to grant.

8.5. Cost of the case.

9. Interim Reliefs Prayed for :

During the pendency of this application the applicant
prays for the following relief.

9.1. The applicant shall be given pay at the minimum of the scale and allowances of group D Staff.

9.2. The applicant shall not be ousted from job.

11. Particulars of Postal Order :

i) I.P.O. No. : OG 497173 D.8.5.2007
ii) Date of Issue : Guwahati.
iii) Issued from : G.P.O. Guwahati.
iv) Payable at : Guwahati.

VERIFICATION

I, Tilak Biswakarma, son of Sri Atibal Biswakarma, aged about 26 years, resident of B. Sector, Itanagar, Arunachal Pradesh, do hereby verify that the statement made in paragraphs

1, 4, 6, 7, 8, 9, 10, 11 are true to my knowledge and those in paragraphs 2, 3 and 5 are true to my information which I believe to be true and the rest are my humble submiddion before this Hon'ble Tribunal and I have not suppressed any material facts.

And, I sign this verification on this 30th day of June, 2000, at Guwahati.

Biswakarma

Date : 30.6.2000

Signature

Place : Guwahati.

Year	Month	Attendance in month.	Total Attendance each year.	Remarks
991	July	- 25 days.	150 days.	
	August	- 25 days.		
	September	- 25 days.		
	October	- 25 days.		
	November	- 25 days.		
	December	- 25 days.		
992	January	- 25 days.	317 days.	
	February	- 29 days.		
	March	- 24 days.		
	April	- 30 days.		
	May	- 31 days.		
	June	- 28 days.		
	July	- 23 days.		
	August	- 26 days.		
	September	- 26 days.		
	October	- 23 days.		
	November	- 26 days.		
	December	- 26 days.		
993	January	- 17 days.	242 days.	
	February	- 26 days.		
	March	- 26 days.		
	April	- 23 days.		
	May	- 27 days.		
	June	- 26 days.		
	July	- 23 days.		
	August	- 27 days.		
	September	- 27 days.		
	October	- 27 days.		
994	January	- 23 days.	169 days.	
	February	- 25 days.		
	March	- 23 days.		
	April	- 22 days.		
	May	- 26 days.		
	June	- 22 days.		
	July	- 28 days.		
			878 days.	

TO WHOM IT MAY CONCERN

This is to certify that Sri Tilak Biswakarma, son of Sri Atibal Biswakarma, Village Kolabil Mornoi, P.S. Bihpuria, P.O. Bor Alengi Satra, District Lakhimpur, Assam, is working under this Sub-Division, since August 1994 as an Office Peon on Contract Basis. He also performing the clerical works including typing in a nice way. I found him as a sincere, energetic worker with good health.

He bears a good moral character.

I wish him every success in his life.

23/9/94
Assistant Engineer(c),
Telecom Civil Sub-Division,
Assistant Engineer (D)
Telecom Civil Sub-Division
ITANAGAR-791 11

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE ASSISTANT ENGINEER, TELECOM CIVIL SUB-DIVISION
ITANAGAR

NO: TCSD-ITN/70/M.R./ 451 Dated 21-10-94

To,

The Executive Engineer,
Telecom Civil Division,
Shillong.

Sub:-

Request for Regularisation as Office Peon from
DRM in respect Sri Tilak Biswakarma.

It is for your kind information that, Telecom Civil Sub-Division Itanagar where one sanction post was available for the post of office peon. But after promotion of the previous office peon on 3-1-91 that post has not been filled up. One DRM Sri Tilak Biswakarma is performing the office peon duty since 01-07-1991 till today.

Therefore I am requesting you, if possible than, the DRM Sri Tilak Biswakarma may kindly be regularised as a office peon.

In this regards representation received from Sri Tilak Biswakarma is enclosed herewith for favour of your kind needfull action in the matter please.

~~Enclosed~~
Encl:- One application
received from T. Biswakarma.

Assistant Engineer,
Telecom Civil Sub-Division,
Itanagar.

21/10/94

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE EXECUTIVE ENGINEER(C):: TELECOM CIVIL DIVISION ::
ITANAGAR-791 111:

NO: 5(3)/TCD-ITN/ 13

Dated the 8 / 01 / 98.

To,

The Superintending Engineer(c),
Telecom Civil Circle,
Shillong- 793 003.

Sub:- Grant of Temporary status in respect of Casual Labour working as Office Peon - case of Shri Tilak Biswakarma.

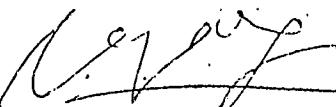
Ref:- CE(C), GHY's No. 1(40)94/CE-NEZ/GH/1239 dt. 5.11.97.

An application dated 7th January 1998 received from Shri Tilak Biswakarma, Office Peon on contract basis which is self explanatory is enclosed herewith.

He worked on Casual basis from 1.7.91 to 1.8.94 and contract basis after 1.8.94 in the office of the Assistant Engineer(c), Itanagar. He is performing the duties of an Office Peon alongwith diary, dispatch, typing, record keeping etc. when ever required. His performance is satisfactory and is duly recommended for the grant of temporary status as office peon.

This is for your kind information and necessary action please.

Encl:- 1. Application.
2. CE(C)'s reference letter.


Executive Engineer(c),
Telecom Civil Division,
Itanagar - 791 111.

DEPARTMENT OF TELECOM SERVICES
OFFICE OF THE EXECUTIVE ENGINEER(C): TELECOM CIVIL DIVISION:
ITANAGAR-791 111::

NO: 5(3)/TCD-ITN/ 85

Dated: 25/04/2000

To,

(Through post office)

The Chief Engineer(c),
Telecom N. E. Circle,
Shillong.

Referred to:

Sub:- Regularisation in respect of Casual Labour working as an office peon- case of Shri Tilak Biswakarma.

Pls refer to An application dated 25th April 2000 received from Sri Tilak Biswakarma, Office Peon on contract Basis which is self explanatory is enclosed herewith.

He worked on Casual Basis from 1.7.91 to 1.8.94 and contract basis after 1.8.94 in the O/O The Asstt. Engineer(c) Telecom Civil Sub-Division, Itanagar. At present he is working in Telecom Civil Division, Itanagar. He is performing the duties of an Office Peon alongwith diary, dispatch, typing, Computer typing, record keeping etc. when ever required. His performance is satisfactory and is duly recommended for the regularisation as an office peon.

This is for your kind information and necessary action please.

Enclo:- Application. My thanks for your kind information and my prayer for your kind action.

Thanking You,

Executive Engineer(c),
Telecom Civil Division,
Itanagar.

Copy to:-

1. The Superintending Engineer(c), Telecom Civil Circle, Shillong for information and necessary action please.

4/25/4
Executive Engineer(c),
Telecom Civil Division,
Itanagar.

DEPARTMENT OF TELECOM SERVICES
OFFICE OF THE EXECUTIVE ENGINEER(C): TELECOM CIVIL DIVISION:
ITANAGAR-791 111::

NO: 16(1)/tar - 207/49

Dated: 18/04/2000.

To,

The Superintending Engineer(c),
Telecom Civil Circle,
Shillong.

Sub:- Down-sizing of Government Machinery- information reg.
Ref:- C.E. letter No. 1(1)99/CE-ASM/GH/2806 dtd. 17/4/2000.

The information required vide above letter is
submitted as follows-

1. Name of Office : Executive Engineer, Telecom Civil Division, Itanagar.
2. Main functions : Constn. of Telecom Buildings, Staff Quarters and other infrastructures for Department of Telecom Services.
3. Since when in existence : 29-11-94.
4. No. of Regional /Field offices : 5(five), Telecom Civil Sub-Division Offices.
5. Staff employed/ Category/Group wise : As per enclosed proforma.
6. Annual Expenditure: Rs. 2,52,55,171.00(Capital works).

18/4
Executive Engineer(c),
Telecom Civil Division,
Itanagar.

Copy to:-

1. The Chief Engineer(c), Telecom N.E. Zone, Guwahati.

Executive Engineer(c),
Telecom Civil Division,
Itanagar.

PROFORMA 'A'

20

STATEMENT OF STAFF EMPLOYED/CATEGORY/GROUP WISE

Sl.No.	Category.	Sanctioned Strength.	Working Strength	Vacant Post.
1.	Executive Engineer(c).	1	1	Nil.
2.	Asstt. Engineer(c).	5	5	Nil.
3.	Junior Engineer(c).	11	8	3
4.	Asstt. Surveyor of Works(c).	1	1	Nil.
5.	Accounts Officer.	1	Nil.	1
6.	TOA Gr-I/II,	10	5	5
7.	Office Peon.	6	Nil.	6
8.	Motor Driver.	1	1	Nil.

~~A 18 (4)~~
Executive Engineer(c),
Telecom Civil Division,
Itanagar.

To,

The Superintending Engineer(c),
Telecom Civil Circle,
Shillong.

(Through proper channel)

Dated the 7th January 1998.

Sub:- Prayer for Regularisation in the post of Office Peon.

Sir,

Most respectfully I beg to draw your kind attention towards the following few lines for favour of your kind information and necessary action please.

1. I have been working as a Casual Office Peon in O/O The Assistant Engineer(c), Telecom Civil Sub-Division, Itanagar since 1.7.91 to 1.8.94 and subsequently from 2.8.94 to till date on contract basis.

2. That Sir, I come from a poor family and I have to look after all my family members. On the other hand, my father is a poor peasant in the village and there is no income from other sources also. Due to my poverty I could not even able to take more education also.

Therefore, in your honour I request you, to kindly consider my case sympathetically and if possible regularise me as an office peon. Further detailed particulars of mine are enclosed in a separate sheet.

For this act of kindness I shall remain ever grateful to you.

Thanking you Sir.

Your's faithfully,

T.Biswakarma
1.1.98
(TILAK BISWAKARMA)
O/O The Asstt. Engineer(c),
Telecom Civil Sub-Division,
Itanagar.

DETAILED PARTICULARS

1. Name : SRI TILAK BISWAKARMA.
2. Father's name : Sri Atibal Biswakarma.
3. Date of birth : 30-11-71.
4. Caste : O.B.C. (Other Backward Classes).
5. Educational Qualification : Matriculation.
6. Other qualification : Type writting Diploma in English.
7. Employment Reg. No. : 769/91 dtd. 12.8.91 & 340/97 dtd. 16.4.97.
8. Permanent address : Vill : Kolabil Mornoi.
P.O : Bor Alengi Satra.
P.S : Bihpuria.
Dist : Lakhimpur (Assam).
9. Date of Engagement : 1.7.91.
10. Office in which attached : O/O The Assistant Engineer(c),
Telecom Civil Sub-Division,
Itanagar- 791 111 (A.P.).

To,

The Chief Engineer(c),
N.E. Telecom Circle,
Shillong.

(Through proper chennal).

Sub:- Prayer for regularising my Service to the Department.

Respected Sir,

With deepest respect and great honour to your kindself, I wish to lay down a few lines for your kind and favourable decission-

1. That Sir, I was recruited as Office Peon in Casual Status in the O/O The Assistant Engineer(c), Telecom Civil Sub-Division, Itanagar since 1-7-91. I served the department in same status till 01/8/94.
2. That Sir, after 1/8/94 I am serving the department as office peon on contract Basis.
3. Sir, I come from a poor family and I have to look after all my family members. On the other hand, my father is a poor peasant in the village and there is no income from other sources also. Due to my poverty I could not even able to take more education also.
4. That Sir, It is learned that some office peon has been regularised by your kindself at Assam or may be in North East also.

Therefore, I pray earnestly to your honour to regularise my service as an office peon which I served from 1/7/91 to 1/8/94 as Casual Status.

I am submitting all documentary evidances in support of my prayer for your kind perusal.

Thanking you, Sir.

Yours faithfully,

(Biswakarma)
25/4/2000

(Tilak Biswakarma)
Office Peon.
Telecom Civil Division,
G/ Itanagar-791 111.

Bio-data

1. Name : Sri Tilak Biswakarma.
2. Date of birth : 30-11-71.
3. Date of engagement : 1-7-91.
4. Educational Qualification: Matriculation.
5. Other qualification : Typewritting in Enlish.
6. Employment Regn. No. : 340/97 dtd. 16-4-97.
7. Caste : O.B.C.
8. Nationality : India.
9. Office to which attached. : From 01-07-91 to 30/9/98.
0/O The Assistant Engineer(c),
Telecom Civil Sub-Division,
Itanagar.

From 1-10-98 to till date-
0/O The Executive Engineer(c),
Telecom Civil Division,
Itanagar.
10. Present address : B' Sector, Itanagar.
11. Permanent address : Vill: Kolabil Mornoi.
P.O : Bor alengi Satra.
P.S : Bihpuria.
Dist: Lakhimpur.
Assam.
