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3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 3/2/2000.....
R.A/C.P No.....
E.P/M.A No.....

1. Orders Sheet. OA-3/2/2000.....Pg. 1.....to 2.....
2. Judgment/Order dtd. 14/03/2001.....Pg. 1.....to 3..... *allowed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 3/2/2000.....Pg. 1.....to 39.....
5. E.P/M.P..... NIL.....Pg.....to.....
6. R.A/C.P..... NIL.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to 7.....
- ✓ 8. Rejoinder.....Pg. 1.....to 13.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendement Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI, 5 (FORM NO. 4)

ORDER SHEET.

(See Rule-42)

APPLICATION NO. 312/2000

Applicant(s) Sri R. Datta ad on.

Respondents(s) Union of India ad on.

Advocate for Applicant(s) Mr. B.K. Sharma

Mr. S. Sarma.

Advocate for Respondent(s) Mr. U.K. Gopwami

C.G.S.C.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

28.9.00

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

Heard Mr S.Sarma, learned counsel for the applicants and Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents.

Issue notice to show cause as to why this application shall not be admitted.

List on 14.11.2000 for show cause and admission. Meanwhile status quo as on today shall be maintained as regards the service of the applicants.

Vice-Chairman

pg

14.11.00

Mr. U.K.Nair, learned counsel is appearing on behalf of the applicant and Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondents.

Admit. Call for the records. Six weeks time is granted to the respondents for filing of written statement.

List on 1.1.2001 for written statement and further orders.

Vice-Chairman

trd

A-6-22

19/11

1/1/00 C.F.
for Rs. 5/- deposited
vide IT No. 50344
Dated 26.5.2000

Dr. Registrar.

28/9/2000

Notice not yet served

28/9/2000

Note:- Alca hia case

Pl. comply order

dttd. 28/9/2000

28/9/2000

4/10/00 Notice prepared
and sent to D/S for him
the respondents No 1 to 5
vide D/No 2098 to 2102/

dttd 5/10/2000

4/10/00

① Service report are still ~~not~~ awaited.

② Show cause has not been filed.

1.1.2001

Heard Mr S. Sarma, learned counsel for the applicant. Mr B.C. Pathak, learned Addl. C.G.S.C. has submitted that the respondents shall file the written statement during the course of the day. List the matter on 22.1.2001 to enable the applicant to file rejoinder, if any.

Vice-Chairman

nkm

22.1.2001 - No S.O. Adjourned to 24.1.2001.
Mr. Pathak 22.1.

Notice duly served on respondent No 1, 4 & 5, 2 & 3 is still awaited.

by 13.11.2000.

Notice duly served on R No 2. by 21/1/2001.

1-1-2000

24.1.01

Written statement has been filed. The case is ready for hearing.

List it for hearing on, 14.2.2001.

Vice-Chairman

Written statement has been filed by the respondents No. 1, 2, 3, 4, 5.

trd

14.2. Due to want of time, the case adjourned to 14.3.2001.

Mr. Pathak 14.2

14.3.01

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed in terms of the order. No order as to costs.

Ready for hearing.

Member

Vice-Chairman

pg

Copy of the order has been sent to the Dy Sec. for issuing the same to the L/Advocate for the parties.

HS

10/1/2001

4

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./K.X. No. . 312 of 2000.

DATE OF DECISION 14-3-2001

Smt Nokasangla Longkumer & Ors.

PETITIONER(S)

Sri S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE **MR K.K.SHARMA, ADMINISTRATIVE MEMBER.**

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 **Administrative Member.**

K. V. Sharma

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 312 of 2000.

Date of Order : This the 14th Day of March, 2001.

The Hon'ble Mr K.K.Sharma, Administrative Member.

1. Smt Nokasangla Longkumer,
2. Sri Pradip Roy,
3. Miss Revola Solo,
4. Sri Rabenthung Lotha,
5. Sri Aboni Borah and
6. Sri Yunam Dhanbir Singh. . . . Applicants.

All the applicants are presently working under the Executive Engineer (Civil) Telecom Division, Nagaland as casual worker.

By Advocate Sri S.Sarma.

- Versus -

1. 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-1.
3. The Chief Engineer (Civil),
N.E.Zone, Guwahati.
4. The Superintending Engineer (Civil),
Telecom Civil Circle, Shillong.
5. The Executive Engineer (Civil)
Telecom Civil Circle, Shillong. . . . Respondents.

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

O R D E R

K.K.SHARMA, ADMN.MEMBER,

This common application is filed by 6 applicants. In this application they have prayed for granting them temporary status and regularisation. All the applicants were appointed during the period from 1994 to 1997 and presently working under Executive Engineer, Civil Telecom Division, Nagaland as casual workers. They are claiming regularisation in view of the Supreme Court's rulings in Writ petition(C) No.1280/89

K.K.Sharma

contd..2

passed in Ram Gopal & Ors. Vs. Union of India & Ors. It is pleaded on behalf of the applicants that they are covered under the scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" formulated by the department of Telecommunication issued vide Memo No.269-10/89-STN dated 7.11.1989. It is also claimed that the applicants case is covered by a series of Judgments of this Tribunal rendered in O.A.107/98 dated 31.8.99.

2. Heard Mr S.Sarma, learned counsel for the applicants and Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents at length.

3. The respondents have filed written statement, wherein it has been mentioned that the applicants were not engaged as casual workers as they were engaged by some other agencies on contract basis they were not appointed directly under the respondents. Mr S.Sarma, learned counsel for the applicants strongly opposed the contention of the respondents. He relies on letter No.16(4)TCD-DMP/94/Pt-II/519 dated 26.8.99 written by the Executive Engineer(Civil), Telecom Civil Division, Dimapur to the Assistant Surveyor of Works(Admn.), Telecom Civil Circle, Shillong, wherein the six applicants have been described as Daily Rated Mazdoor. The description also shows that they are casual labourers. He has also placed on record another document bearing No.16(4)TCD-DMP/94/246 dated 24.6.99 whereby the arrears from 1.1.96 to 22.6.97 had been paid to the applicants who have been paid arrears at the revised rates applicable to casual labourers. He has submitted that the applicants are covered by the scheme of regularisation applicable to Casual Labourers and their status shown in the written statement as Contractual agent by some other agencies is not correct.

Ullhas

4. The parties have been heard at length and submissions have been considered. The applicants case is covered by this judgment of this Bench passed in O.A.107/98 and series dated 31.8.99. This Tribunal had directed in the aforementioned applications to examine the case of the each applicant. The applicants were also directed to file representation individually. Following the order of this Bench passed in O.A.107/98 a similar direction is issued in respect of these six applicants also. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order within a period of 3 months from the date of receipt of the representation.

5. The application is allowed as above. No order as to costs.

K.K.Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

Central Office

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গুৱাহাটী বেন্চ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case :

O.A.No. 212 of 2000.

BETWEEN

Shri R.Lotha & Drs.

VERSUS

Union of India & Drs.

INDEX

SL.No.	Particulars	Page No.
1.	Application	1 to
2.	Verification	
3.	Annexure-A	15
4.	Annexure-1	16
5.	Annexure-2	18
6.	Annexure-3	22
7.	Annexure-4	23
8.	Annexure-5	25
9.	Annexure-6	26
10.	Annexure-7	27
11.	Annexure-8	31
12.	Annexure-9	32

Filed by: *Uk Gossami, Advocate*

File No.: C/AW07ALOTHA

Filed by:
The Applicant
through
Vijal kr. Garen
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No. 212 '2000

BETWEEN

1. Smt Nokasangla Longkumer,
2. Sri Pradip Roy,
3. Miss Revola Solo.
4. Sri Rabenthung Lotha
5. Sri Aboni Borah.
6. Sri Yunam Dhanbir Singh.

All the applicants are presently working under the
Executive Engineer (Civil) Telecom Division, Nagaland as casual
worker.

..... Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Chief General Manager,
N.E.Telecom Circle,
Shillong-793001.
3. The Chief Engineer (Civil) ,
N.E Zone Guwahati.
4. The Superintending Engineer, (Civil)
Telecom Civil Circle Shillong.
5. The Executive Engineer, (Civil),
Telecom Civil Circle, Shillong.

..... Respondents.

R 28/11/2000
Guwahati Bench

10

PARTICULARS OF THE APPLICATION

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

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

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

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

4.2. That in the instant application, the applicants are casual workers working under the respondents in Nagaland. All the applicants have prayed for grant of temporary status and regularisation in the light of the scheme. Accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together

in a single application invoking rule 4(5)(a) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

4.3. That the casual labourers whose interests are being represented in the instant application were all appointed in various dates ranging from 1994 to 1997 onwards on casual basis. The applicants are at present drawing their regular wages under the respondents, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

For better appreciation of the factual position a list containing all the relevant service particulars is annexed herewith and marked as ANNEXURE-A.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as

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12

possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt. of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" and the same was communicated vide letter No. 269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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

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

4.6. That the respondents after issuance of the aforesaid scheme, issued further clarification from time to time of which mention may be made of letter No. 269-4/93-STN-II dated 17.12.93 by which it was stipulated that the benefits of the scheme should be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

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

4.7. That on the other hand casual workers of the Deptt. of

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13

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

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

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

4.8. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicants in the instant application more so when they are similarly circumstance with that of the casual workers to whom benefits have been granted and presently working in the Deptt. of Posts. As stated above Both the Deptts. are under the same Ministry i.e. the Ministry of Communication, and the scheme were pursuant to the Supreme Court's Judgment as mentioned above. There can not be any earthly reason as to why the applicants shall not be extended the same benefits as have been granted to the casual labourers working in the Dept. of Posts.

4.9. That the applicants state that the casual labourers working in the Deptt of Telecommunication are similarly situated

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28 SEP 2000
Guwahati 30/09/00

14

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

4.10. That the applicants state that the matter relating to filling up of Group-D posts came before the Regional Joint Consultancy Meeting held in Shillong on 28.11.95 under the Chairmanship of Shri V.P. Singh, Chief General Manager, N.E. Circle. In the aforesaid meeting including Chairman there were 6 competent officers and 11 union members from the staff side present to discuss the welfare of the Casual/Contractual Employees including regularisation of Group-D Employees. After a detailed discussion a decision was taken for one time relaxation of Group-D recruit-

Copy 1 to
R. L. Singh
28 SEP 1996

ment and to that effect both the sides office side as well as staff side decided to approach Directorate for the appropriate steps.

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

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

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

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

4.13. That the union of the applicants in view of the above discrimination in respect of the applicants reflected in Annexure-A working under the Respondent No.4 made several representations to the authority concerned. In one of the said representations the grievances of the applicants on whose behalf this application is made along with some others have been reflected. In the said representations apart from the other grievances it was pointed out that there are at least 50 vacancies and at

R. K. H. S.
28 SEP 2000

16
present the Deptt. concerned in the need of Group-D employees.

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

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

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

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

4.16. That the applicants beg to state that the action of the respondents towards the non implementation of the case of the applicants are with some ulterior motive only to deprive them from their legitimate claim of regularisation. The main crux of their representation was for regularisation and grant of temporary status and for consideration of their cases against the sanctioned 50 nos of posts for Gr D employees but in reply to the said representation, the respondents have not issued any

order as yet. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

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

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

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

A copy of the said order dated 31.8.99 passed in O.A. Nos 107 and other connected matters are

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26 SEP 1999

annexed as Annexure-9.

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

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

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

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

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

Central

28 SEP 7m

R. Letha

9

violative of Articles 14 and 16 of the Constitution of India.

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

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

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

केन्द्रीय प्रशासनिक बोर्ड
Central Administrative Board

8. RELIEF SOUGHT FOR:

28 SEP 2011

Under the facts and circumstances stated above the applicants most respectfully prayed that the instant application

2

be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be grant the following reliefs to the applicants:

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

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

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

8.4. Cost of the applicants.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants. The applicants further prays for an interim order direction the respondents not to disturb their services and to allow them to continue in their respective posts during the pendency of the case.

R. K. S. the
28 SEP 2000

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 2G 503401
2. Date : 26/9/2000
3. Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the INDEX.

R he the

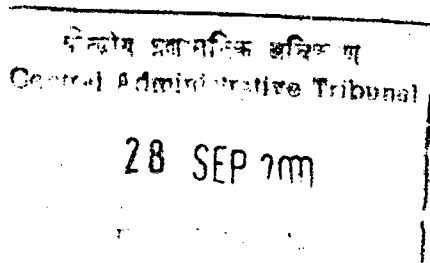
VERIFICATION

I, Shri Rabenthung Lotha, s/o L. lotha, aged about 32 years, at present working as Casual Worker under A.E (Civil) Telecom Civil Sub Division. Nagaland, do hereby verify and state that the statements made in paragraphs 4'1, 4'2, 4'5, 4'6, 4'8, 4'9, 4'12, 4'16 & 4'19 true to my knowledge and those made in paragraphs 4'3, 4'4, 4'7, 4'10, 4'11, 4'13, 4'14, 4'17 & 4'18 true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other 5 applicants to sign this verification on their behalf.

And I sign this verification on this the .27 th day of Sept ,2000.

Rabenthung Lotha

Signature.



ANNEXURE -1 (STATEMENT FOR CASUAL LABOUR ~~CONTRACT LABOUR~~)

Telecom Civil Division, Dimapur.

S/ No	Name & Address	Father's name.	Office which attached.	Employment exchange Regd. No. & Date.	Present status	Date of Birth	SC/ST/OBC	Educational Qualification	Actual date of engagement.	No. of working days.
1	Smt. Noksangla Longkumer Near Walford, Dimapur, Nagaland.	Longri Longkumer	E.E(Civil)TCD-DMP.	W/2053/97 dt.25/5/97	Casual labour	28/05/1964	S/T	Matriculate	25/04/1994	1055 days.
2	Sri Pradip Roy, Netaji Colony, Dimapur, Nagaland.	Jatin Roy.	E.E(Civil)TCD-DMP.	1703/97 dt. 21/07/97	Casual labour	02/03/1972	S/C	Class-IX passed.	27/04/1994	1067 days.
3	Miss. Ravele Solo Walford Area, Dimapur, Nagaland.	Kelhoukhrie Solo.	E.E(Civil)TCD-DMP	W/1525/95 dt.7/03/95	Casual labour	28/01/1976	S/T	P.U. passed	24/07/1996	470 days.
4	Sri Rabenthung Lotha Half Nagarjan, Dimapur, Nagaland.	Lavangthung Lotha	A.E(Civil)TCSD-I/DMP	347/96 dt.16/09/96	Casual labour	9/8/63	S/T	Matriculate	21/03/1997	318 days.
5	Aboni Borah, Assai Bari Gaon, Chowalang, Jorhat, Assam.	Lock Nath Borah	A.E(Civil)TCSD-Kohima	379/97 dt.25/07/97	Casual labour	01/01/1973	S/T	Matriculate	1/1/95	860 days.
6	Y. Dhanbir Singh, C/o Th. Shoratchandra, PIN : 797112.	Y. Tomba Singh.	A.E(Civil)TCSD/Kohima	TH/435/83 dt.27/05/86	Casual labour	1/2/71	OBC	B.Sc(Hons)	20/01/1997	325 days.

ANNEXURE-1..

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

In the Supreme Court of India
Civil Original Jurisdiction

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers

who have been continuously working for more than one year in the posts and Telegraphs Department".

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

ANNEXURE-2.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist.Madras/
Calcutta.
Heads of all other Administrative Units.

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

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

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

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

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

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

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

SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information.
MCG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

-20-

b

ANNEXURE

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

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

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

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

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

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

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

Temporary Status.

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

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

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

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

-21-

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

i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr.D officials including DA, HRA, and CCA.

ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.

iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.

iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

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

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

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

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

@ @ @

ANNEXURE-..3.

EXTRACT.

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

NO.66-52/92-SPB/I

dated 1.11.95.

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

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

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

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

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM. N.E.CIRCLE,
SHILLONG - 793 001.

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

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

Members present in the Meeting:

Official Side

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

Staff side

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

Others

1. Shri B.K.Chakraborty, SE(C)
2. Shri Sanjay Kumar, E.E. (C), SH2
3. Shri R.P.Sharma, A.D.T (Bldg.)

Observers.

1. Shri Surajit Chakraborty/SH.
2. Shri N.L. Sha, Wtanagar.
3. Shri S.R.Sharma, Imphal.
4. Shri Tridip Das, Shillong.

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

REVIEW OF OLD ITEMS:

Item No.1

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

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

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

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

14-4/94
SE/SC/
FD(111)

CONSTRUCTION OF OFFICE ACCOMDN. & QUARTERS (Imphal)

Office building at Imphal, Site plan & structural plan have been submitted to C.E. Office where estimate is being taken up. *Possible*

XVIERJCM-NM
(New Pointy Control)

1/95
/AMP.

RECTT. OF STORTS MAN IN GROUP 'C' AND 'D' POSTS
IN N.E. CIRCLE:
This may be discussed in LJCM, Manipur.

Closed.

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

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

Closed.

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

ABNORMAL EMBARKING OF BY-POST QUARTERS FOR E-10B
EXCHANGE/SHILLONG
D.G.M(A) will look into it.

32-11/95
AD.(E)

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

33-11/95.
Propl-CTTC

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

Next date of Meeting?

(G.N.CHYNE)
- AGM(A),
Secretary,
Regional JCM, N.E. Telecom,
Shillong-1.

TWF/RJCM MEETING/95. Dt. 27.02.96.
Copy to:

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

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

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

Shillong, the 25 June/96

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

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

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

(G.N. Chyng)
Asstt. General Manager (A)
for Chief General Manager Telecom.
H.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 S.M.M.(SFR), Shillong.
12. The S.G.M.(Task Force), Guwahati.
13. The S.E.(Civil), Shillong.
14. The S.E.(Elect), Shillong.
15. The S.E.(Telecom), Shillong.
16. The S.E.(Telecom), Shillong.
17. The S.E.(Telecom), Shillong.

(G.N. Chyng)
for Chief General Manager Telecom.
Shillong - 793001

-26-

N. F. T. E.

ANNEXURE-6

All India Telecom Employees' Union Line Staff & Gr-D
NAGALAND DIVISIONAL BRANCH
C/O TELEPHONE EXCHANGE
DIMAPUR - 797 112

Ref. No. 111 D. Div. / D.P. / 97-98 / 84

Date 03/02/98

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

Subj:- Request for making the following retrenched casual labours into regular casual labours in sanction on DRM Post.


Sir,

With due honour, I beg to state that few retrenched casual labours under Nagaland Divisional still are out of job, while some sanctioned post of D.R.M are still vacant. These retrenched casual labours were engaged in between 31.03.85 to 22.06.88 by the unit officers under this Nagaland S.D.A and retrenched them without giving notice etc.

Now, these retrenched casual labours, should be brought back to the job in the vacant sanctioned D.R.M post and regularise them accordingly. A list of the retrenched casual labour is enclosed here with for your ready reference and early action. In view of the shortage of line staff and for rapid development work, these retrenched casual labour should be absorbed immediately.

We therefore request you to take prompt action so that, they may be absorbed and regularised their service without further loss of time.

Thanking you in anticipation,

Yours faithfully


(H. Boddhi Singh)
Divisional Secy, L/S & Group-D
Adm. Secy.

Staff & Grp D

Nagaland Div. Secy

Dimapur

Copy to:

1. The C.G.M. / N.E. Circle, Shillong for information and necessary action please.
2. The Circle Secy, L/S & Group-D N.E. Circle, Shillong for information and necessary correspondence for completion please.
3. The Branch Secy, / Dimapur Branch for information.

(H. Boddhi Singh)
Divisional Secy, L/S & Group-D
Dimapur.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J.(V.C.)

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

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

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

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

Allen m

to the casual labourers who had rendered 210 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the Department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. These cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.92 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.2.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in D.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman

[Handwritten signature]

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

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

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

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

Sd/- Vice Chairman.

ANNEXURE-3

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

Dated 1.9.99.

To

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

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

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

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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.
Date of decision : This the 31 st day of August 1999.

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

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

1. D.A. No.107/1998
Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.
.....
2. D.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.
.....
3. D.A.No. 114/1998
All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.
.....
4. D.A.No.118/1998
Shri Bhuban Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....
5. D.A.No.120/1998
Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.
.....
6. D.A.No.131/1998

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All India Telecom Employees Union and another... Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.
By Advocate Mr. B.C. Patha, Addl.C.G.S.C.

.....

7. O.A.No.135/98

All India Telecom Employees Union
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and
Mr.U.K.Nair.

- versus -

The Union of India and others. .. Respondents.,
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

.....

8. O.A.No.136/1998

All India Telecom Employees Union,
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

.....

9. O.A.No.141/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- versus -

The Union of India and others Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

.....

10. O.A. No.142/1998

All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakkar

- versus -

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

.....

11. O.A. No.145/1998

Shri Dhani Ram Deka and 10 others. Applicants
By Advocate Mr.I.Hussain.

- versus -

The Union of India and others. Respondents.
By Advocate Mr.A, Deb Roy, Sr. C.G.S.C.

.....

12. O.A.No. 192/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By Advocates Mr.B.K. Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

-versus-

The Union of India and others..... Respondents
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

.....

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13. P.A.N. 222/1998

All India Telecom Employees Union,
Line Staff and Group-D and another vs. Applicants
By advocates Mr. P. B. Chatterjee and Mr. P. S. Chatterjee.
Respondent
The Union of India and others vs. Respondents
By Advocate M. B. Chatterjee, Addl. S. G. C. C. C.

14. P.A.N. 222/1998

All India Telecom Employees Union,
Line Staff and Group-D and another vs. Applicants
By advocates Mr. P. B. Chatterjee and Mr. P. S. Chatterjee,
Mr. K. K. Chatterjee and Mr. P. K. Chatterjee.
Respondent
The Union of India and others vs. Respondents
By Advocate M. B. Chatterjee, Addl. S. G. C. C. C.

15. P.A.N. 222/1998

All India Telecom Employees Union,
Line Staff and Group-D and another vs. Applicants
By advocates Mr. P. B. Chatterjee and Mr. P. S. Chatterjee,
and Mr. K. K. Chatterjee.
Respondent
The Union of India and others vs. Respondents
By Advocate M. B. Chatterjee, Addl. S. G. C. C. C.

ORDER

REASONING

All the above applicants involve questions of law and facts. Therefore, as per provisions of all the above applications by a common order

2. The All India Telecom Employees Union, a registered union of the telecommunication Department, has taken up the cases of the members of the said union. Out of the applicants were submitted by the Union, namely Group-D Staff and Group-D Employees and some of the applicants were filed by the casual employees individually. These applications were filed on the ground employees engaged in the telecommunication Department came to know that the services of the casual employees under the contract were likely to be terminated with effect from 1.5.1999. The applicants in the applications, say that the

After

responsibility of extending and implementing the benefits of benefit relating the provisions of the said scheme to grant them their statutory benefits as had been granted to the employees under the Department of Posts and Telegraphs and the benefits of the scheme, namely Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual workers concerned. In O.A., however, in O.A. No. 202/1992 there is a prayer against the order of termination. In O.A. No. 11/1993, the prayer is against the cancellation of the temporary status after granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the application of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual workers have been continuing their service in different offices of the Department of Telecommunication under Assam Circle and M.C. Circle. The Divisional Officer, Ministry of Communications, Assam, who is known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No. 259-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefit under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA benefits, by letter dated 17.12.1993. The Government of India decided that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 01.3.1985 to 22.6.1989. Moreover, in the Department of Posts, the casual labourers who were engaged on 22.11.89 were granted the benefits of temporary status in satisfying the eligibility criteria. The benefits

for

were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. Nos 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Like Staff and Group-D. The casual employees not being regular Government servant are not eligible to become

members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakkar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counser for the applicants also submits that the respondents can not put any cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued directin for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

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

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scritinise and examine each case in consulta-

tion with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

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31 ✓ 1 JAN 2001
IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH GUWAHATI

OA NO 312/2000

Shri R.Lotha & Others.....Applicants

Vs.

Union of India & Others.....Respondents

(Written statement filed by the respondents No 1,2,3,4 and 5).

The written statements of the respondents No 1,2,3,4 and 5 are as follows.

1. That the copies of the OA No 312/2000 herein after 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 beg to state that the action of the respondents for grant of Temporary status and regularisation as per the scheme and directions of the Hon'ble Supreme Court of India.
4. That with regard to the statement made in paragraph 2 and 3 of the application the respondents beg to state that the applicants are not a civil servants holding a sanctioned civil post governed by CCS (CCA) Rules 1965 and as such they cannot file this application in this Hon'ble Tribunal. That the policy regarding engagement of casual workers in Central Govt offices keeping in view the judgement of Hon'ble Supreme Court of India delivered on 17th Jan 1986 in writ petition filed by Shri Surindra Singh and Others Vs. Union of India and it has been decided to lay down guide lines of recruitment of casual workers on daily wage basis. Persons on daily wages should not be recruited for work of regular nature. The recruitment of daily wages may be made only for work which is of casual or seasonal or intermittent nature or for work which is not of fulltime nature for which regular post cannot be created. The nature of work is of casual and intermittent nature which ought to be completed in limited prescribed period. Their term expired after the prescribed period.
5. That with regard to the statement made in paragraph 4.1 of the application the respondents have nothing to comment.
6. That with regard to the statement made in paragraph 4.2 of the application the respondents beg to state that the applicants are not civil servants holding a sanctioned civil posts governed by CCS (CCA) Rules 1965 and as such cannot file this application in the Hon'ble Tribunal.

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Filed by
Decided
Addl. GS C-48
CAT, Guwahati
11/1/2001

7. That with regard to the statement made in paragraph 4.3 of the application the respondents beg to state that payment of wages was done to the agencies on contract basis. They are not drawing wages directly from the respondents. The statement made by the applicant in this paragraph is not correct.
8. That with regard to the statement made in paragraph 4.4 of the application the respondents beg to state that as per directive of the Hon'ble Supreme Court of India, the Telecom Department prepared a scheme and was implimented.
9. That with regard to the statement made in paragraph 4.5 and 4.6 of the application the respondents beg to state that the applicants are not entitled to the benefit described in the scheme. As per DoTs letter No. 269-4/93 STN-II dated 17th December 1993 it is clearly mentioned that all those casual mazdoors who were engaged by the circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circles where they initially engaged, and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said scheme, but the applicants were engaged as casual labours in the year 1994, 1996 & 1997 and presently after July 1998 onward on contract basis through agency. Hence the claim of the applicants is liable to be dismissed. (DoTs letter No. 269-4/93 STN-II dated 17th Dec' 1993 is annexed here as R-1)
10. That with regard to the statement made in paragraph 4.7, 4.8 & 4.9 of the application the respondents beg to state that the judgement of the Ernakulam bench of the Hon'ble Tribunal does not reflect anything in favour of the applicants as the judgement is for Postal Department. The copy of the said Judgement is not for the Department of Telecommunications and hence production of copy is not reasonable and though Postal and Telecom lies in the same Ministry, the benefits getting by Telecom Department, Postal Department is not getting same benefit. Hence the claim is liable to be dismissed.
11. That with regard to the statement made in paragraph 4.10 of the application the respondents beg to state that Regional Joint Consultancy Meeting between Staff and Office side is the internal matter. This cannot be focussed in the Court and more over this does not reflect anything in favour of the applicants.
12. That with regard to the statement made in paragraph 4.11 of the application the respondents have nothing to comment.
13. That with regard to the statement made in paragraph 4.12 of the application the respondents beg to state that in view of the said scheme as well as the verdict of the Hon'ble Supreme Court of India the applicants are not entitled to get any benefit and moreover at present the applicants are working on contract basis through agency. The claim of the applicants are illegal and as such the application is liable to be dismissed.
14. That with regard to the statement made in paragraph 4.13 of the application the respondents beg to state that the Union can represent the cases of regular staff only. As per ruling on membership right of the union to represent casual labour has not been conceded. Hence the Division Secretary L/S and Group- D Dimapur has no right to represent the cause/grievences of the casual labourers.

15. That with regard to the statement made in paragraph 4.14 of the application the respondents have nothing to comment.
16. That with regard to the statement made in paragraph 4.15 of the application the respondents beg to state that the judgement of the Hon'ble Tribunal Bench relates to Department of Posts. It is not binding to the Department of Telecommunications.
17. That with regard to the statement made in paragraph 4.16 of the application the respondents beg to state all the applicants do not fulfill the required qualification as per the said scheme.
18. That with regard to the statement made in paragraph 4.17 of the application the respondents beg to state that applicants knowing the rules of the Postal department is not the same with the Department of Telecom they are claiming the benefits to mislead the Hon'ble Tribunal. Hence the claim is liable to be dismissed.
19. That with regard to the statement made in paragraph 3.18 of the application the respondents beg to state that as per the Judgement and order passed in OA. No. 107 the Hon'ble Tribunal directed to scrutiny and examine case in consultation with records and merit of case whether the applicants are entitled for the benefit of the scheme and according to the respondents have implimented the direction. The claim of the applicants is not correct. Moreover at present the applicants are working on contract basis through agency. The applicants at present not engaged by the Department. Hence the application is liable to be dismissed with cost.
20. That with regard to the statement made in paragraph 4.19 of the application the respondents beg to state that the applicants are working on contract basis through agency. There is no question of disengagement them from their service. Contract basis labourer through agency have no right for claiming for their regularization. Hence the application is liable to be dismissed.
21. That with regard to the statement made in paragraph 5.1 to 5.5 of the application the respondents beg to state that on 27th day of Sept'2000 the day of filing the OA all the applicants working as casual labourer on contractual basis under agency. Payment being done to the agency for the labourer being employed through agency. The grounds prayed for is not maintainable as well as facts and as such the application is liable to be dismissed with cost.
22. That with regard to the statement made in paragraph 6 and 7 of the application the respondents have nothing to comment.
23. That with regard to the statement made in paragraph 8.1 to 8.5 of the application regarding relief sought for the respondents beg to state that the applicants are not at all entitled to any of the relief sought and as such the application is liable to be dismissed with cost.
24. That with regard to the statement made in paragraph 9 of the application the respondents beg to state that in view of the circumstances no interim order is warranted as prayed for.

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25. That with regard to the statement made in paragraph 10,11,12 of the application the respondents have nothing to comment.
26. That the respondents beg to state that the applicants are not entitled to any of the relief's sought for in this scheme as they are not having no requisite qualification for those scheme claimed by the applicant and as such the application is liable to be dismissed with cost.
27. That the respondents submit that in fact there is no merit in this case and as such the application is liable to be dismissed with cost.

VERIFICATION

I, Shri C.Murmu, Vigilance Officer, o/o the Chief General Manager, North Eastern Telecom Circle, Shillong – 793 001 as authorized 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^{29th}..... day of^{Dec}..... 2000.


29/11/20
DECLARANT

Dated New Delhi, 17 Dec. 1998

All Heads of Telecom. Circles/Metro Telecom. Distt.
All Heads of other Administrative Offices,
All Heads of Mtee. Regions/Project Circles.

Subject :

Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 engaged in Circles after 30.3.85 and upto 22.06.88.

Sir,

I am directed to refer to this office order No. 269-4/93-JIN dated 25th June, 1993, where in orders were issued to extend the temporary status to all these Casual Mazdoors who were engaged by the Project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who were still continuing for much work where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those Casual Mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such work in the Circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said Scheme.

3. The engagement of Casual Mazdoors after 30.3.85, in violation of the instructions of the Head Quarter, has been viewed very seriously & it is decided that all past cases wherein recruitments have been made in violation of instructions of the Head Quarter dtd. 30.3.85 should also be analysed and disciplinary action be initiated defaulting Officers.

4. It has also been decided that engagement of any Casual Mazdoors after the issue of this order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned Class II Officers and amount paid to such Casual Mazdoors towards wages should be recovered from the person who has recruited/engaged Casual labour in violation of these instructions.

Attested.

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Advocate.

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ANNEXURE - 3 (Contd.)

5. It is further stated that the services of all the Casual Mazdoors who have rendered at least 240 days (206 days in the case of Administrative Offices observing 5 days a week) of service in a year on the date of issue of these orders, should be terminated after following the conditions as laid down in I.D. Act. 1947 under Section 25.F. G & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3811/93-PA-I dt dated 1.12.93.

Hindi version follows.

Yours Faithfully,

(S.K. DHAWAN)
ASSISTANT DIRECTOR GENERAL (STN)

Copy to :

1. All the staff members of Department JCM
2. All Recognised Unions/Associations
3. Budget/TE-I/TE-II/ana/CVC/PAT/HCS/SR sections of the Telecom Communication.
4. SPB-I Section, Department of Posts, New Delhi .

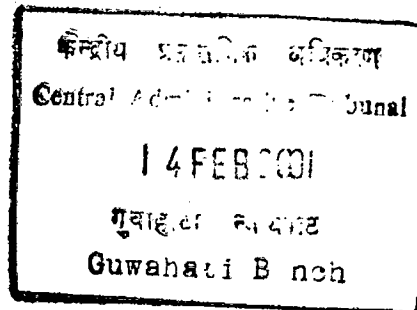
No REOTI-3/10/Part-II Dated at Guwahati, 4.1.94.
Copy forwarded for information, guidance and necessary action to :-

- 1-2. The AMTs Guwahati/Dibrugarh .
3. The TDM, Guwahati.
9. The TDEs BGN/DR/SC/TZ/JRT/BOG
- 10-14 The STTs BOH/DR/SC/TZ/JRT
15. The O.S.C.T.O. Guwahati .
16. The A.E. I/C CFSD, Guwahati .
17. The Principal CFIC, Guwahati.
18. The RAN, Guwahati.
19. The A.D. (Staff) C.O. Guwahati .
- 20-21. The Concerned Circle Secretaries of service Unions..

(K.S.K. Prasad Sarma)
Asstt. Director Telecom (E&R)
O/O CGMT, Ulubari.
Guwahati - 781 007 .

Attested.

Advocate.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 312 of 2000

Shri R.Lotha & Ors.

..... Applicants.

Versus

Union of India & Ors.

..... Respondents.

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS.

1. That the applicants have received the copy of the written statement filed by the respondents and have gone through the same. They have understood the contents of the written statement. Save and except, the statements which are not specifically admitted herein below, rests may be treated as total denial by the applicants.

2. That with regard to the statement made in paragraph 1 and 2 of the written statement the applicants be to offer no comment on it.

3. That with regard to the statement made in paragraph 3 of the written statement the applicants while denying the contentions made therein beg to state that the respondents have acted contrary to the direction issued by the Hon'ble Supreme Court (Annexure-1 to the OA). The operative part of the said judgement and order dated 17.4.1998 (Annexure-1 to the OA) passed by the Hon'ble Supreme Court in writ petition (C) No.1280/89 and Other connected matters are quoted below for ready reference.

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

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for more than one year in the posts and Telegraphs Department".

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

4. That with regard to the statement made in paragraph 4 of the written statement while denying the statements made therein the applicants beg to state that the Hon'ble Tribunal has got jurisdiction to entertain the present application. It is further stated that the judgement of the Hon'ble Supreme Court cited by the respondents lays down the criteria for granting of

temporary status and subsequent regularisation by preparing schemes. The case of the present applicants are covered by the scheme of 1989 (Annexure-2 to the OA) as well as its subsequent clarifications such as order dated 1.9.99 (Annexure-8 to the OA). The respondents have misunderstood the facts of the case as well as the wordings of the scheme as well as its subsequent clarifications. The statement regarding creation of regular post does not exist in the present case because the main prayer made by the applicants are regarding granting of temporary status. In fact in the present case there are 400 vacant as well as sanctioned posts are in existence, reference of which is contained in Annexure-5 letter dated 25.7.96 to the OA.

5. That with regard to the statement made in paragraph 5 of the written statement the applicants offer no comment on it.

6. That with regard to the statement made in paragraph 6 of the written statement the applicants while denying the same beg to reiterate and reaffirm the statement made above as well as in the OA and beg to state that the Hon'ble Tribunal has got jurisdiction to adjudicate the present application.

7. That with regard to the statement made in paragraph 7 of the written statement the applicants while reiterating the statement made in the OA beg to state that all the applicants were initially recruited as casual workers and they have been holding various posts under the respondents. The fact narrated by the respondents in their written statement regarding contractual appointment of the applicants through agencies are not correct at all. To that effect the order dated 26.8.99 issued by the Executive Engineer, Telecom Civil Division, Dimapur may be

referred to wherein proforma of some of the applicants have been furnished to the Asstt. Surveyor of Works (Admn) Telecom Civil Circle, Shillong. Apart from that under the service jurisprudence there can not be employment on contract basis that too under Central Govt. organisation like Telecommunication Deptt.

A copy of the order dated 26.8.99 enclosing the proforma are annexed herewith and marked as Annexure-RJ-1(Colly).

The applicants further beg to state that from the aforesaid proforma up to June 1999 it is clear that the applicants have completed more than 240 days each year.

8. That with regard to the statement made in paragraph 8 of the written statement the applicants beg to state that in fact pursuant to Annexure-1 judgement of the Hon'ble Supreme Court the Annexure-2 scheme dated 7.11.89 was prepared and the respondents have admitted the fact that the same was implemented. However, the benefit of such implementation has not been extended to the present applicants for the reasons best known to the respondents. The benefit of the said scheme has been granted to all the similarly situated employees like that of the present applicants, ignoring their claim. In fact many of the employees working under the Manipur Division have been granted with temporary status who are situated like that of the present applicants.

9. That with regard to the statement made in paragraph 9 of the written statement the applicants while denying the contention made therein beg to state that as per 17.12.93's letter no ban has been imposed. Persons even today are being engaged by the Deptt. It is noteworthy to mention here that after

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issuance of the aforesaid order dated 17.12.93 nos. of clarifications have been issued by the DGT of which mention may be made of order dated 1.9.99 (Annexure-8 to the OA).

It is not true that the applicants are presently working on contract basis w.e.f. July 1998. The applicants further state that they have been performing duties on casual basis and the respondents are also treating them as casual worker. In fact under the recruitment policy of Telecom Dept. there is no provision for contractual appointment even through agencies.

A copy of the letter dated 24.6.99 is annexed herewith and marked as Annexure-RJ-2.

The applicants crave leave of this Hon'ble Tribunal to produce some of the pay slips (ACG-17) at the time of hearing of the case.

10. That with regard to the statement made in paragraph 10 of the written statement the applicants while denying the contention made therein reiterates and reaffirm the statements made above.

11. That with regard to the statement made in paragraph 11 and 12 of the written statement the applicants denies the correctness of the same and beg to state that from Annexure-4 letter dated 28.11.95 it is clear that both the staff side as well as respondents have agreed to sanctioned posts to the N.E Circle and same was implemented vide Annexure-5 letter dated 25.6.96.

12. That with regard to the statement made in paragraph 13 of the written statement the applicants beg to state that admittedly they have completed 240 days of work on casual basis and hence they are entitled to get the benefit of the scheme as

well as its subsequent clarification.

13. That with regard to the statement made in paragraph 14 of the written statement the applicants state that even an unrecognised union can represent the interest of the members and hence the statements made by the respondents are not correct.

14. That with regard to the statement made in paragraph 15 of the written statement the applicants offer no comment on it.

15. That with regard to the statement made in paragraph 16, 17 and 18 of the written statement the applicants reiterate and reaffirm the statement made above as well as in the OA.

16. That with regard to the statement made in paragraph 19 of the written statement the applicants deny the correctness of the same and beg to state that the applicants are presently working as casual workers not on contractual basis as stated, and hence they are entitled to all the reliefs as prayed for in the OA.

17. That with regard to the statement made in paragraph 20, 21 and 22 of the written statement the applicants deny the correctness of the same beg to state that all of them are working as casual worker under the respondents on Daily Rate basis under the respondents. As stated above appointments under the Central Govt. Deptts. against any posts (permanent/temporary) can be made only by two ways (a) on permanent basis through selection and (b) temporary appointment on casual or adhoc basis. There is no such rule for appointment on contract basis under any service law, and hence the respondents are put to the strictest proof thereof.

18. That with regard to the statement made in paragraph

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23, 24, 25, 26 and 27 of the written statement the applicants reiterate and reaffirm the statement made above and beg to state that the statements made by the respondents are misleading and ill founded.

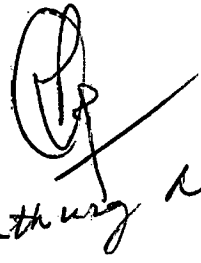
In view of the above facts and circumstances the applicants pray before the Hon'ble Tribunal to grant the reliefs mentioned in the OA with all consequential benefits.

VERIFICATION

I, Shri Rabenthung Lotha , s/o L.lotha, aged about 32 years, at present working as Casual Worker under A.E (Civil) Telecom Civil Sub Division. Nagaland, do hereby verify and state that the statements made in paragraphs 1, 2, 5 _____ true to my knowledge and those made in paragraphs 3, 4, 6, 7, 8, 9, 10 to 18 _____ true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other 5 applicants to sign this verification on their behalf.

And I sign this verification on this the 13 th day of FEB ,2001.

Signature.


Rabenthung Lotha.

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE EXECUTIVE ENGINEER : TELECOM CIVIL DIVISION,
DIMA PUR.

No. 16(4) TCD-DMP/94/Pt-II/519

26
Dated : 17/08/99.

To,

The Asstt. Surveyor of works (Admn),
Telecom Civil Circle,
Shillong.

Sub:- Details particulars of D.R.M. engaged.

With reference to your letter No. 16(6)98/TCC/SH/900
dt. 28.6.99. I forward herewith 6(six) persons those who are
engaged by this this office with their proforma duly filled
up as directed by you in respect of DRMs engaged ^{from 23.6.88} upto 1.8.98 to
1.8.98. This is for your information and necessary action please.

Enclo : As above.

Executive Engineer (Civil),
Telecom Civil Division,
Dimapur.

Copy to :-

1. The Chief Engineer (C), N.E. Zone, Guwahati
for favour of kind information and necessary
action please.
2. The Divisional Engineer (Admn), O/o the C.G.M.T.
Shillong with reference to his letter No. E-38/
Ty. status/241 dt. 18th June '99 for favour of
kind information and necessary action please.

Executive Engineer (Civil),
Telecom Civil Division,
Dimapur.

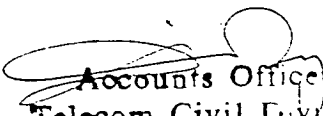
O/c
gfw

ANNEXURE - I.

Department of Telecommunications
Office of the Executive Engineer :: Telecom Civil Division, Dimapur. (Nagaland)
(Statement for Casual Labour)

S/No. Name & Address.	Total No. of days & month 1994.	Total No. of days & month 1995.	Total No. of days & months 1996.	Total No. of days & months 1997.	Total No. of days & months 1998.	Total No. of days & months 1999.
1. Smt Noksangla Near Walford, Dimapur.	April....6 days May 25 " June 24 " July 26 " August 25 " Sept 23 " Oct 24 " Nov 22 " Dec 23 " <u>197 "</u>	Jan'95..21 days Feb 20 " March 22 " April 20 " May 20 " June 21 " July 20 " August 21 " Sept 21 " Oct 20 " Nov 21 " Dec 20 " <u>Total= 247 "</u>	Jan'96..22 Feb 20 March 19 April 20 May 20 June 21 July 22 August 20 Sept 21 Oct'96 18 Nov'96 19 Dec'96 18 <u>Total =241days</u>	Jan'97..20 Feb'97 20 March 18 April 20 May 21 June 21 July 22 Aug 20 Sept 22 Oct 20 Nov 18 Dec 21 <u>Total 243</u>	Jan'98..19days Feb 20-" March 21 April 17 May 19 June 22 July 22 Aug 22 Sept 21 Oct 19 Nov 20 Dec 22 <u>Total= 244 days</u>	Jan'99..20 days Feb.....22 " March 21 April 21 May 22 June 21 <u>Total = 127 days</u>

Total = 197+247+241+243+244+127+
= 1299 days.


Accounts Officer
Telecom Civil Division
Dimapur

ANNEXURE - 'A'

64

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE EXECUTIVE ENGINEER::TELECOM CIVIL DIVISION, DIMAPUR : NAGALAND.

(Details particulars of month wise working days mention below.)

S/No.	Name & Address	Total No. of days & Month 1994.	Total No. of days & Month 1995.	Total No. of days & month 1996.	Total No. of days & month 1997.	Total No. of days & month 1998.
1.	Mr Pradip Roy, Netaji Colony, Dimapur.	April '94 - 4 days May 25 " June 24 " July 26 " Aug 25 " Sept 26 " Oct 24 " Nov 22 " Dec 26 " Total = 196 days.	Jan '95 - 21 days Feb - 20 " March - 22 " April - 18 " May - 22 " June - 24 " July - 21 " Aug - 21 " Sept - 21 " Oct - 20 " Nov - 21 " Dec - 20 " Total = 248 Days.	Jan '96 - 22 days Feb - 21 " March - 21 " April - 22 " May - 21 " June - 20 " July - 22 " Aug - 20 " Sept - 21 " Oct - 20 " Nov - 20 " Dec - 21 " Total = 251 days.	Jan '97 - 19 days Feb - 21 " March - 18 " April - 20 " May - 21 " June - 21 " July - 22 " Aug - 20 " Sept - 22 " Oct - 20 " Nov - 19 " Dec - 22 " Total = 245 days.	Jan '98 - 19 days Feb - 20 " March - 22 " April - 17 " May - 22 " June - 22 " July - 22 " Aug - 22 " Sep - 21 " Oct - 19 " Nov - 20 " Dec - 24 " Total = 250 days.

Total No. of days & month 1999.
Jan '99 - 20 days
Feb - 24 "
March - 24 "
April - 21 "
May - 26 "
June - 24 "
Total = 139 days

Total No. of days for the years.
1994. - 196 days
1995. - 248 days
1996. - 251 days
1997. - 245 days
1998. - 250 days
1999. - 139 days

Total = 1329 days

ckd

[Signature]
Accounts Officer
Telecom Civil Division
Dimapur

ANNEXURE - 'A'

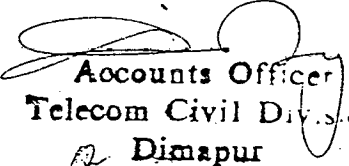
DEPARTMENT OF TELECOMMUNICATIONS,
OFFICE OF THE EXECUTIVE ENGINEER::TELECOM CIVIL DIVISION,DIMAPUR :NAGALAND.

(Dats Particulars of month wise working days mention below :-)

S/No.	Name & Address.	Total No. of days & Month 1996.	Total No. of days & Month 1997.	Total No. of days & Month 1998.	Total No. of days & Month 1999.
1.	Miss Ravole Sola Near Walford, Dimapur.	July '96' 5 days Aug '96' 20 days Sept '96' 21 days Oct '96' 20 days Nov '96' 19 days Dec '96' 19 days <u>Total = 104 days.</u>	Jan '97' 22 days Feb '97' 20 " March '97' 18 " April '97' 20 " May '97' 21 " June '97' 21 " July '97' 22 " Aug '97' 20 " Sept '97' 20 " Oct '97' 20 " Nov '97' 19 " Dec '97' 21 " <u>Total = 244 Days.</u>	Jan '98' 19 days, Feb '98' 20 days March '98' 15 days April '98' 17 days May '98' 20 days June '98' 22 days July '98' 22 days Aug '98' 22 days Sept '98' 21 days Oct '98' 19 days Nov '98' 20 days Dec '98' 22 days <u>Total = 239 Days.</u>	Jan '99' 20 days Feb '99' 22 days March '99' 18 days April '99' 2 days May '99' 2 days June '99' 19 eays <u>Total = 120 Days</u>

Total No. of
days for the
years.

1996 = 104 days
 1997 = 244 days
 1998 = 239 days
 1999 = 120 days
Total = 707 days.


 Accounts Officer
 Telecom Civil Div., or
 Dimapur

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE EXECUTIVE ENGINEER :: TELECOM CIVIL DIVISION,
DIMAPUR.

No.16(4)TCD-DMP/94/246

Dated : 24/06/99.

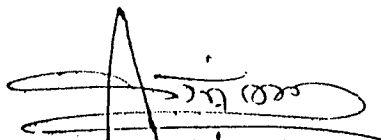
Sanction memo for arrear for revised rates of Casual labours/Part time casual labour w.e.f. 1-1-96 to 22-06-97, vide letter No.269-11/98-STN-11 dtd.15/09/98 of Govt.of India, Department of Telecommunications, Sanchar Bhawan STN-11 Section, New Delhi.

S/No.	Name of Casual labour & designation.	Amount.	Signature.
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1.	Dhanbi Singh, Clerk	Rs.1694.00	
2.	Ravole Solo, Clerk	Rs.5099.00	
3.	Pradip Roy, Peon	Rs.9024.00	
4.	Noksangla Longkumer, Typist	Rs.8381.00	
5.	Aboni Borah, Driver/peon	Rs.8287.00	

Total = Rs.32,485.00 ✓

(Rupees thirty two thousand four hundred eightyfive) only.


24.6.99
Executive Engineer(Civil),
Telecom Civil Division,
Dimapur.

Copy to:- 1) Accounts officer, TCD.
Dimapur.
2) Cashier, c/o EL TCD.
Dimapur.