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9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P.-233/2001 order sheet pg-1 **INDEX**

allowed date-27/09/2001

O.A/T.A No. 326/2000

R.A/C.P No.

E.P/M.A No. 233/2001

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2. Judgment/Order dtd. *28/05/2001* Pg. *1* to *3* *allowed*
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W.S submitted by the Respondents.

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI, 5 (FORM NO. 4)
ORDER SHEET. (See Rule-42)

APPLICATION NO. 326/2000

Applicant(s) Sri Beada Kamore Roy and ors.

Respondents(s) Union of India and ors.

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

Mr. S. Sarma

Advocate for Respondent(s) Addl. C.G. & L. Ms. U. Das

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

29.9.2000

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

Heard Mr B.K. Sharma, learned counsel
for the applicants. The application is admitted.
Call for the records. List for orders on 29.11.00

Issue notice as to why interim order
as prayed for shall not be granted. Returnable
by four weeks. List it on 3.11.00 for consider-
ation of interim order.

Vice-Chairman

nkm

3.11.00

Heard Mr.S. Sarma learned counsel for
the applicant and also Mr.A. Deb Roy for
the respondents. Steps have already been
taken. Office to take steps accordingly.
List on 14.12.00 to enable the respondents
to file ^{the written statement} affidavit.

Vice-Chairman

lm

MS
3/11/2000

M.S.B. Admitted to 10.1.2001,
m/s
A.O.S.

Application is in
form but not in time
Constitution Petition is
filed / Not filed C.F.
for Rs. 50/- deposited
No 1.3/B No. 503402
dated 28.9.2000

Dy. Registrar

Registration not
filed.

Steps are yet to be
received to issue
notices

Steps are yet to be
received to issue
notices

2/11/2000
Notice has been
sent to DIS for issuing the
condemnation No 1.3/B by Regd A/O
4th Ward W.D.D/NO 2641 to
42/ Addl 15/11/00

Notice duly served
on Respondent No 3
by Harpal on 15/11/00
b
15/11/00

10.1.2001

Two weeks time allowed
applicant for filing of rejoinder. I
25.1.01 for orders.

19-12-2000

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

nkm

25.1.01 Mr. M. Adhyanand to 7.2.2001.

M/o
A.K. Jy
25/11

7.2.01

List the matter for hearing
21.3.2001. In the meantime
respondents may file written statement
if any.

Vice-Ch

Vice-Chairman

W/S has been filed.

M/o
9.12.00

trd

No. Rejoinder has been
filed.

21.3.01

On the prayer of learned Sr.C.G.
Mr.A. Deb Roy, case is adjourned to
11.4.01 for hearing.

No Rejoinder has been
filed.

M/o
6.2.01

11.4.01

On the prayer of learned couns
for the applicant case is adjourned
to 2.5.01 for hearing.

Vice-Chairman

26.4.2001

lm

Rejoinder to the
W/S has been filed
by the Respondents.

25.4.01 Passava to 4.5.2001.




M/o
A.K. Jy
25.5

4.5.01

On the prayer of learned counsel
for the applicant case is adjourned to
18.5.01.

Vice-Chairman

lm

Notes of the Registry	Date	Order of the Tribunal
	18.5.01	Mr S.Sarma, learned counsel for the applicant is present. Mr B.C.Pathak, learned Addl.C.G.S.C prays for one week time. Prayer allowed. List on 28.5.01 for hearing. <div data-bbox="1108 571 1447 678" data-label="Text">  Member </div>
	28.5.01	Judgment delivered in open Court. Kept in separate sheets. Application is allowed. No order as to costs. <div data-bbox="1047 931 1370 1050" data-label="Text">  Vice-Chairman </div>
	13.11.2007.	This matter has ^{on remand} come from the Hon'ble High Court of Gauhati, Shillong Bench (Writ Petition (C) 32(SH) of 03, asking this Tribunal to re-examine the rival contentions and to give a clear findings as to whether the Applicants' claim is covered by 1989 Scheme and if so, as to whether, they are entitled to relief claimed by them. <div data-bbox="785 1782 1470 2128" data-label="Text"> <p>Issue Notice to the Applicants and the Respondents to come ready for hearing of this case on 13th December, 2007. Also send a copy of this order to the Applicants and the Respondents alongwith the notices.</p> </div> <div data-bbox="885 2141 1378 2194" data-label="Text"> <p>Call this mater on 13.12.2007.</p> </div> <div data-bbox="1124 2207 1424 2407" data-label="Text">  (M.R.Mohanty) Vice-Chairman </div>

12.6.2001

Copy of the Judgment has been sent to the Office for issuing the fine to the applicant as well as to the Addl. CGSC for the Respondent.

12.11.07

This OA is remanded by an order of 24.7.07 to hear the matter afresh. Submitted to order by

DI. 13.11.07.

Pl. issue notices to the Respondents also send order copies to the Applicants & Respondents.

LM

Notes of the Registry

Date

Order of the Tribunal

order dt-13/11/07
sent to D/Section.
for issuing to
respondents, applicants
and learned advocates
for both the parties.

23/11/07 - S.O.(G) 23/11/07

D/No 1510 to 1516
dt-26/11/07

① Service report
awaited

12.12.07

dt. 13.12.07.

Pt. Send order copies
to the Applicant and
to the Respondents.
Free copies of the order
be handed over to Mrs
B. Devi & Ms. U. Das, Addl.
Secy.

order dt-13/12/07 sent
to D/Section for
issuing to applicants
and to the respondents.

Other 2 (Two) copies
issuing to learned
advocates for both the
parties. D/No-1810 to 1816

14/12/07 dt-17/12/07.

13.12.2007

This matter has come on remand
from the High Court for re-consideration.

None appears for the Applicants nor
the Applicants are present. Ms.U.Das,
learned Addl. Standing counsel for the
Union of India with instruction from the
Respondents seeking adjournment of the
matter.

Call this matter on 25.01.2008 for
hearing.

Send copies of this order to the
Applicants and to all the Respondents to
come ready for hearing.

Free copies of this order may be
handed over to Mrs.B.Devi (associate of
Mr.S.Sarma, Advocate) and Ms. U.Das,
learned Addl. Standing counsel for the
Union of India.



(Gautam Ray)
Member (A)



(M.R.Mahanty)
Vice-Chairman

/bb/

OA 326/2000-6-


4

03.06.08

On the prayer of Miss U. Das, learned Addl. Standing counsel for the Respondents the case is adjourned to 13.06.2008 for hearing.

the case is ready.

Ms
12.6.08.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

pg

13.06.2008

None appears for the Applicant. On the request of Ms U. Das, learned Counsel appearing for the Respondents, call this matter on 17.06.2008.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

nkm

17.06.2008

Heard. Hearing concluded. Orders reserved.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

nkm

20.06.2008

Judgment pronounced in open court, kept in separate sheets. The Application is allowed in part. No costs.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

O.A.222/1997 All India Telecom Employees Union & Ors.

Vs. U.O.I & Ors.

O.A.326/2000 Binod Kr. Roy & Ors. Vs. U.O.I. & Ors.

O.A.189/2002 Sri B.K.Roy & Ors. Vs. U.O.I & Ors.

O.A.252/1997 All India Telecom Employees Union & Ors.

Vs. U.O.I & Ors.

25.01.2008

These cases have come back on remand from the High Court. Despite notices none has entered appearance for the Applicants. However, Miss U. Das, learned Addl. Standing counsel for Union of India, has entered appearance for the Respondents in this case, by filing Vakalatnama.

In the aforesaid premises, call this matter on 13.02.2008.

Send copies of this order to the Applicants in the address given in the respective Original Application, requiring them to come ready for final hearing on the date fixed/13.02.2008.

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

Pg

DL 25.1.08
Pl. send copies of
this order to the Appli-
cants.

24/1/08

order dt- 25/01/08

sent to D/Section
for issuing to applicants
by post.

31/1/08.

13.02.2008

This matter has come back on remand from the Hon'ble High Court. None appears for the Applicant nor the Applicant are present.

dt. 13.2.08

Pl. issue Notices to the Applicant.

h
14/2

Issue notice to the Applicant (in the address given in the O.A.) requiring them to appear and prosecute the present case.

Call this matter on 28.03.2008.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Lm

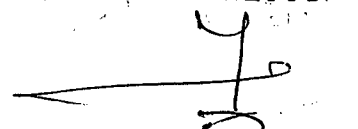
order dt. 13/02/08
send to D/Section
for issuing to
applicants by post.

28.03.2008

None appears for the Applicant nor the Applicant is present. On the request of Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents, call this matter on 29.04.2008.

Send copies of this order to the Applicants to come ready with their advocates to prosecute the matter.

Call this matter on 29.04.2008.


(M.R. Mohanty)
Vice-Chairman

lm

20.2.08
w/s submitted
by the Respondents.
Copy att signed.

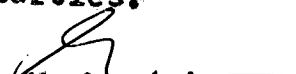
Pan

w/s filed.

27.3.08

10.4.2008 This case which was posted to 29.4.08, is now postponed/rescheduled to be listed on 3.6.08.

Send copies of this order to both parties.


Member (A)


Vice-Chairman

order copies issuing to
applicant by post.

order dt. 10/4/08 issuing
to both the parties.

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND,
MEGHALAYA, MANIPUR AND TRIPURA)

SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W. P. C. No 32(10)203 of 20

Civil Rule

under 7 Order 20

Appellant

Petitioner

Versus

Sri Binod Kumar Ray Bar

Respondent

Opposite-Party

For Appellant Mr. B. C. Bhuyan, Advt C. G. C.
Petitioner

For Respondent Mr. S. P. Malakar
Opposite-Party Mr. H. H. Abraham

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4



WP(C) NO. 32 (SH) 2003

BEFORE

THE HON'BLE MR JUSTICE A.P. SUBBA
THE HON'BLE MR JUSTICE B.D. AGARWAL

24.07.2007

This writ petition has been filed by the Union of India assailing the order dated 12.09.2002 passed by the learned Central Administrative Tribunal (in short CAT), Guwahati Bench, Guwahati in Original Application No. 189 of 2002. By the said order, the CAT has directed the Central Govt./BSNL to consider the re-instatement and granting of temporary status to the respondents.

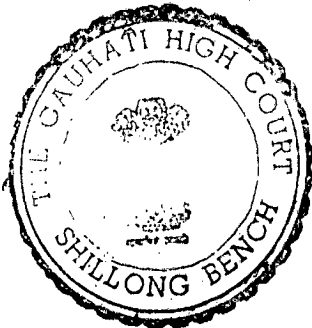


The respondents on his own and on behalf of twenty five other Casual Labourers had filed Original Writ Petition before the learned CAT for a direction to the BSNL to re-instate them and also for a direction of regularization of their services giving temporary status. The said applications were registered as OA No. 222/1997 and OA No. 252/1997. Both the applications were disposed of by a common order dated 20.09.1999 directing the respondents/UOI to examine the claim of the applicants for the purpose of regularization and giving them temporary status. This direction was given on the basis of certain concessions given by the learned CGC appearing for the concerned department.

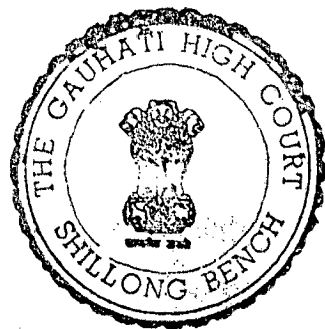
After the aforesaid order, the department examined the claims of the applicants and found that the services of the Casual Labourers were terminated/dis-continued w.e.f. 1.9.1987 and as such there was no scope for re-engaging them or regularizing their services. This order was also challenged before the learned CAT on two occasions in OA 326/2000 and OA 189/2002. In both the cases, the learned Vice Chairman of the CAT reiterated the earlier order/direction given in OA 222/1997.

We have heard Mr. SC Shyam, learned CGC for the petitioners and Sri SP Mahanta, learned counsel for the respondents.

Mr. SC Shyam, learned CGC submitted that the applications before CAT were filed for regularization of their services on the basis of a Scheme framed by the Telecommunication Department known as Casual Labourers (Grant of Temporary Status and Regularizations) Scheme, 1989. According to the learned CGC, the Scheme was floated vide letter No. 269-10/89-STN dated 7.11.1989 and the Scheme came into operation w.e.f. 1.10.1989. It is the submission of the learned CGC that since the services of the respondents were terminated long before the Scheme came into force, there was no scope of giving direction of re-instatement and giving temporary status to the respondents.



Per contra, Mr. SP Mahanta, learned counsel for the respondents submitted that subsequent to the introduction of the Scheme in the year 1989, the department of Telecommunication again issued certain clarification vide Office Memorandum dated 17.12.1993 and by virtue of this circular, the benefit under the Scheme was also extended to the Casual Employees who were recruited and worked during the period of 31.3.1985 to 22.6.88. In other words, it was the submission of the learned counsel for the respondents that even though the respondents were retrenched in the year 1987, they were still entitled to be regularized on the basis of the aforesaid Office Memorandum dated 17.12.1993.



After going through the impugned order of the learned Tribunal and its previous orders, we find that the learned Tribunal did not consider the question whether the applicants claim is covered by the 1989 Scheme. The impugned order is solely based on the first order passed in OA 222/1997. It has already been noted earlier that the first order was passed on the basis of certain concessions made by the learned CGC without referring to the 1989 Scheme. As such, we are of the opinion that it would be just and appropriate to remand the matter with direction to the learned Members of the CAT to re-examine the rival contentions and give a clear finding as to whether the applicants claim is

Memorandum by Office or Advocate

Date

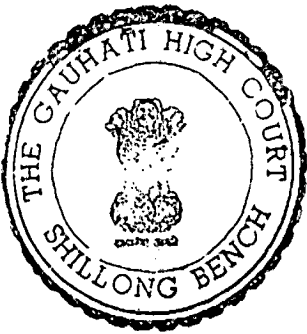
Office notes, reports, orders
with signature

covered by 1989 Scheme and if so whether they are entitled to the relief claimed by them.

In view of the above observations, the impugned order is set aside and the matter is remanded back to the learned CAT to hear the matter afresh and dispose of the same upon hearing the learned counsel for both the sides.

Writ petition stands disposed of accordingly.

Send the LC Records with a copy of the order.



Sd/- B. D. Agarwal
Judge

Sd/- A. P. Subba
Judge

True Copy

June 27/07
Superintendent (Judicial)
Gauhati High Court
Shillong Bench.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 326 of 2000 of

DATE OF DECISION... 28.5.01...

Sri Binod Kumar Roy & Ors.

PETITIONER(S)

Mr. B.K. Sharma, Mr. S. Sharma,

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
JUSTICE GUWAHATI BENCH

THE HON'BLE MR. D.N. CHOWDHURY, VICE-CHAIRMAN
O.A.No. of

THE HON'BLE

DATE OF DECISION.....

1. Whether Reporters of local papers may be allowed to see the judgment ? PETITIONER(S)

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 ? ADVOCATE FOR THE

Judgment delivered by Hon'ble VICE-CHAIRMAN

RESPONDENT(S)

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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Judgment?

ADVOCATE FOR THE

RESPONDENT(S)

Judgment delivered by Hon'ble

RESPONDENT(S)

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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Judgment?

ADVOCATE FOR THE

RESPONDENT(S)

Judgment delivered by Hon'ble

RESPONDENT(S)

ADVOCATE FOR THE
RESPONDENT(S)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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3. Whether their Lordships wish to see the fair copy of the
Judgment?

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.326 of 2000

Date of Order: This the 28th Day of May 2001

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

Sri Bined Kumar Roy

C/O.Prabir Dutta

Carrear Station, VST.

Telephone Exchange Shillong.

2. All India Telecom Employees Union
Line Staff and Group 'D'
N.E.Circle, Shillong.
Represented by Circle Secretary,
Shri Prabir Dutta.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma.

-Vs-

1. The Union of India,
represented by the Secretary to the
Ministry of Communication, New Delhi.
2. The Director General,
Department of Telecommunication
New Delhi.
3. The Chief General Manager,
N.E.Telecom Circle,
Shillong-793001. ... Respondents.

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

O R D E R.
D.N.CHOWDHURY, V.C.;

This is another round of litigation by the applicants assailing the action of the respondents for not giving them the benefit of the Casual Labourer (Grant of Temporary Status and Regularisation) Scheme. This application is espoused by the Applicant No.1 and the causes of 25 retrenched Casual Labourers mentioned in Annexure- A of the application, ~~retrenched casual labourers~~ who worked under the respondent. Earlier the applicants came before this Tribunal for providing them the benefit of the Temporary Status. This Tribunal by order dated 13.8.97 in O.A.Nos. 299 of 96 and 302 of 96 disposed these O.A. directing

contd/-

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the respondents to provide the applicants the same similar benefits ^{that was} ~~to~~ extended ^{to} the Casual Labourers worked in Postal Department. This Tribunal mentioned ^{to} the decisions rendered by the Apex Court in daily rated casual labourers employed under Postal Department Vs. Union of India & Ors. ~~reported in (1988) 122~~. The Apex Court directed the department to prepare a scheme for absorption of the Casual Labourers. The two applicant approached this Tribunal in O.A.No.222 of 97 and 252 of 97 seeking for direction from this Tribunal to reinstate them in service and also regularise their services as per the scheme. The Tribunal by judgment and order dated 20.9.99 directed the applicants to file a representations individually before the authority and the respondents shall scrutinize and examine each case on consultation with the records and thereafter pass a reasoned order. The applicant ~~1~~ submitted the representation and the respondents disposed the same, which is reproduced below:-

"In pursuance of the Judgment and order dated 20.9.99 in O.A.No.222/97 and 252/97 passed by the Hon'ble Central Administrative Tribunal Guwahati Bench, your representation dated 10-11-99 was considered in the light of the judgment on the basis of the available records. As per records you were engaged by AE (Cable) Shillong with effect from 8.7.1986 to 31-8-1987. Since your services were no longer required, your services were discontinued from 1-9-1987 as per DOT order No.270/6/84-STN dated 22.4.1987. There is no provision in the rules regarding re-engagement or regularisation after such a prolonged discontinuity and to condone such a long discontinuity. It is regretted that your prayer for appointment could not be entertained and hence the claim is rejected."

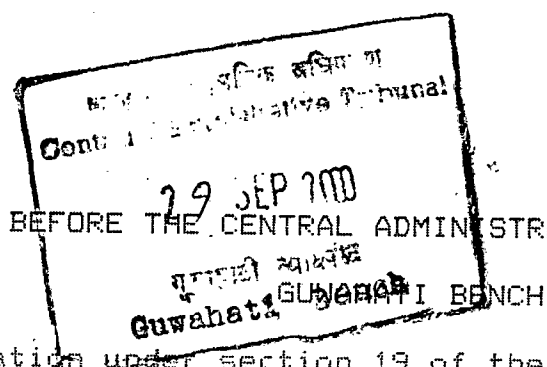
The applicant stated that the aforesaid order is arbitrary and discrimination.

contd/-

We have heard by the learned counsel for the parties, at length. The impugned order dated 29th May 2000 is unsustainable on the face of the scheme and the instructions issued from time to time that the applicants served under the respondents as Casual Labourers for more than 240 days in year with artificial break. There is no dispute that those who rendered their services more than 240 days of continuous service as Casual Labourers is to be designated as Temporary Status. As per the Policy Guideline set out in the scheme of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication 1989 is still in vogue and applicable to the Casual Labourers recruited. The scheme was extended from time to time. Admittedly the Telecom Circle released for the N.E. Telecom Circle 400 DRMs including 45 DRMs against regular post was sanctioned for recruitment. Admittedly the applicants are retrenched and they are entitled for consideration granting of temporary status and thereafter for their regularisation as Group D under the Scheme.

In the coaspectus, the respondents are directed to consider their cases. They are thus ordered to examine and scrutinize each case individually and to consider their case on merit for granting them temporary status as per law and thereafter consider their cases for absorption against the available vacancies or against the future vacancies as per unit seniority. The respondents are directed to complete the exercise as early as possible preferably within 3 months from the date of receipt of the order. The application is thus allowed. There shall however, be no order as to costs.


(D.N. CHOWDHURY)
VICE-CHAIRMAN



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

Title of the case :

O.A.No. 328 of 2000.

BETWEEN

Shri Binod Kumar Roy & Ors.

VERSUS

Union of India & Ors.

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Filed by :

File No.:C:\WS7\BINOD

19
Filed my
for
Shri Binod Kumar Roy

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No.'2000

BETWEEN

1. Sri Binod Kumar Roy,
C/O Prabir Dutta,
Carrear Station, VST.
Telephone Exchange Shillong.
2. All India Telecom Employees Union
Line Staff and Group-"D"
N.E.Circle, Shillong.
represented by, Circle Secretary,
Shri Prabir Dutta. Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Director General,
Department of Telecommunication.
New Delhi.
3. The Chief General Manager,
N.E.Telecom Circle,
Shillong-793001.
..... Respondents.

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PARTICULARS OF THE APPLICATION

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

This application is directed against the order vide No NE/LA/Disposal of O.A 222/97 , 252/97/2000/23 dated 29.5.2000 , issued by the Chief General Manager, N.E.Telecom Circle, Shilong, illegally disposing of the individual representations filed by the applicants pursuant to the judgment and order dated 20.9.99 passed in O.A Nos 222 and 252 of 1997.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

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

4.2. That in the instant application, the Applicant No.2 is the Divisional Secretary of All India Telecom Employees Union, Line Staff and group-D, Nagaland, Divisional Branch and he represents the interests of casual workers more particularly reflect-

ed in the Annexure-A to this Original Application. Applicant No.1 is one of the casual labourers as listed in the Annexure-A is also similarly situated like that of the other applicants on whose behalf the instant application has been filed by the applicant No.2. Accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together in a single application invoking rule 4(5)(b) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

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

4.3. That the casual labourers whose interests are being represented in the instant application were all appointed in various dates ranging from 1984 to 1991 onwards on casual basis and to that effect the respondents have placed their indents to the local Employment Exchange. The names of the applicants have been sponsored by the local Employment Exchange for such casual employment and during their service tenure had been drawing their wages under ACG-17 and pay slip under Muster Roll Register, which will show that they were casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

For better appreciation of the factual position the services particulars reflected in the Annexure-A may be referred to. The service of the applicants have been discontinued after about three years of their continuous service without resorting to the departmental rules.

Since their aforesaid casual employments as reflected in Annexure-A is not in dispute hence the applicants crave leave

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of the Hon'ble Tribunal to produce all the relevant documents pertaining to their appointment at the time of hearing of the case.

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 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 Judgment and the above mentioned scheme is annexed herewith and marked

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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 in view of the fact that they have completed more than 240 days of continuous service. 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 as stated above the respondents after 2-3 years of continuous service rendered by the applicants have discontinued their services. However, for such discontinuation the respondents have not followed the due procedure. The services of the applicants have been discontinued with verbal orders without any reason and also without prior notice. It is further stated that the respondents have discontinued their service during the pendency of the case before the Hon'ble Apex Court. The respondents should have been engaged them as and when the vacancy arose, but the respondents kept on engaging the outsiders illegally. As per the guidelines issued by the Govt of India Ministry of Personnel, dated 27.3.76 and 29.6.78 the retrenched employees like that of the applicants should get the priority at the time of new recruitment. In fact the respondents have recruited many casual workers after the disengagement of the applicant without considering their case.

A copy of the said O.M. Dated 27.3.76 with O.M. dated 29.6.78 is annexed herewith and marked as ANNEXURE-3.

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The applicants crave leave of the Hon'ble Tribunal to produce various letters showing such engagement at the time of hearing of the case.

4.7. That the respondents after issuance of the aforesaid scheme, (Annexure-2), 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.

4.8. That the applicant No 2 in view of the aforesaid discrimination made several representations to the authority concerned but no action has been taken in the matter. In fact the respondents have not even chosen to reply the said representation. As per the Verdict of the Hon'ble Apex Court the cases of the applicants are required to be considered for grant of temporary status as all the applicants have completed more than 240 days of service in a particular year.

4.9. That the applicants beg to state that the stipulated time for grant of temporary status as per the scheme has now further been extended up to 10.9.93 pursuant to a judgment of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in OA No.750/94. Pursuant to the said judgment delivered by the Ernakulam Bench, Govt of India, Ministry of Communication issued letter No.66-52/92-SPD-I dated 1.11.95 by which the benefits of conferring temporary status to the casual labourers have been extended up to the recruitees up to the 10.9.93.

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A copy of the aforesaid letter dated 1.11.95 as annexed herewith and marked as ANNEXURE-4.

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.

4.10. 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.

4.11. 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 was taken for one time relaxation of Group-D recruitment and to that effect both the sides office side as well as staff side decided to approach Directorate for the appropriate steps.

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A copy of Minutes of the aforesaid Regional Joint Consultancy Meeting dated 28.11.95 is annexed as ANNEXURE-5.

4.12. 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-6.

4.13. 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-6 letter.

4.14. That the Applicant No.1 in view of the above discrimination in respect of the applicants reflected in Annexure-A working under the Respondent No.4 made several representations to the authority concerned. In one of the said representations the grievances of the applicants on whose behalf this application is made along with some others have been reflected. In the said representations apart from the other grievances it was pointed out that there are at least 50 vacancies and at present the Deptt.concerned in the need of Group-D employees.

A copy of one of the representation dated 25.8.97 is annexed as ANNEXURE-7.

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4.15. That the applicants beg to state that making a similar prayer a group of casual workers working under Assam Circle had approached this Hon'ble Tribunal by way of filing OA No.299/96 and 302/96 and this Hon'ble Tribunal pleased to allow the aforesaid 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-8.

4.16. That the applicants beg to state that on receipt of the representation the Telecom District Manger Shillong issued a letter dated 30.6.97 intimating that it was not possible to re-engaged the applicants as per existing Rules. The aforesaid letter dated 30.6.97 has further been clarified another letter dated 3.9.97 by the same authority.

The applicants crave leave of this Hon'ble Tribunal to produce the aforesaid two letters at the time of hearing of this case.

4.17. That the applicants beg to state that finally the Chief General Manager N.E. Telecom Circle issued a letter intimating the applicants i.e. applicant No. 2 that the matter is under consideration.

A copy of the said letter dated 29.8.97 is annexed herewith as Annexure-9.

4.18. That the applicants beg to state that the respondent on 28.8.97 issued a letter to the employment officer of all district of Meghalaya asking for candidates for filling up 45 posts of Daily Rated Mazdoors (DRM) which are lying vacant. In fact the respondents should have engaged the applicants in the said vacant posts in view of the fact that they are retrenched casual employees.

A copy of the said letter dated 28.8.97 is annexed

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herewith as Annexure-10.

4.19. That the applicants beg to state that inspite of repeated requests made by the applicants the respondents have not taken any steps for their re-engagement and having no other alternative the applicants were constrained to move the Hon'ble Tribunal by way of filing Original Application No. 222/97 and 252/97. The Hon'ble Tribunal while admitting the said OA was pleased to grant the interim prayer by issuing directions to the respondents not to fill up atleast 26 posts of Daily Rated Mazdoors.

A copy of the interim order dated 26.9.97 is annexed herewith as Annexure-11.

4.20 That the applicants beg to state that after admission of the aforesaid OAs, the respondents have filed a written statement controverting the statements made by the applicants. The Hon'ble Tribunal after hearing the parties and after careful consideration of records was pleased to pass a judgment and order dated 20.9.99 directing the respondents to examine the matter and to consider their cases.

A copy of the said judgment and order dated 20.9.99 is annexed herewith as Annexure-12.

4.21 That the applicants beg to state that pursuant to the said order each applicants submitted a representations to the authority concerned for consideration of their cases in the light of the judgment and order passed by the Hon'ble Tribunal. All the applicants submitted similar representations enclosing the available records with a prayer to consider their cases for re-employment.

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A copy of one of such representations dated 10.11.99 is annexed herewith as Annexure-13.

4.22 That the applicants beg to state that the respondents there after issued orders vide No. NE/LA/disposal of OA 222/97, 252/97/2000/23 dated 29.5.2000 to each applicants rejecting their representations. In the said order the ground of rejection has been mentioned. The only ground of rejection of the representation is that there is no such Rule for re-engagement/regularisation after such a prolonged discontinuity of their services and there is no Rule for condonation of such long discontinuity.

A copy of one of such orders dated 29.5.2000 is annexed herewith as Annexure-14.

4.23: That the applicants beg to state that the applicants after receipt of the aforesaid order dated 29.5.00 made a representation to the Chief General Manager N.E. Circle for consideration of the case and for modification of the aforesaid order dated 29.5.00 but till date nothing has been done by the respondents.

A copy of the said representation dated 3.8.00 is annexed herewith and marked as ANNEXURE-15.

4.24 That the applicants beg to state that after discontinuation of their services they made several requests to the authority concerned for consideration of their cases and acting on such requests the respondents have also intimated the applicants that the matter is under examination. In view of the aforesaid factual position the stand taken by the respondents in the impugned order is per-se illegal and liable to be set aside and quashed

4.25 That the applicants beg to state that as per the judgment of

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the Hon'ble Apex Court their cases are required to be considered for grant of temporary status, taking into consideration their continuous 240 days of service in a year. It is needless to say here that each applicants has completed more than 240 days of continuous service. In view of the aforesaid fact the issuance of impugned order dated 29.5.2000 is baseless and same depicts total non-application of mind by the respondents. Even the cases of the applicants are required to be consider pursuant to the scheme as well as its subsequent clarifications issued from time to time making the scheme more and more flexible.

The applicants crave of this Hon'ble Tribunal to produce the aforesaid orders clarifying the scheme at the time of hearing of this application.

4.26 That the applicants beg to stat that as per the Government of India Office Memorandums dated 27.3.76 and 29.6.78 their cases are required to be considered for re-engagement as and when the vacancy arises. In the present case as soon as the vacancy arose, the applicant No. 2 espousing the cause of all the applicants made a representation for such consideration but instead of considering their cases, the respondents have resorted to engage outsiders from the open market ignoring the case of the applicants. Hence the respondents now cannot take the plea as has been taken in the impugned order dated 29.5.2000, more so in view of the fact that the applicants fulfilled the required qualification mentioned in the Apex Court judgment as well as the scheme. Again the Government of India's Office Memorandum mentioned above have not specified any such date for such consideration of re-employment. The only consideration is the vacancy when arose and as soon as the vacancy arises the case of retrenched employees should be considered. Hence the ground of rejection mentioned in

the impugned order dated 29.5.2000 is baseless and contradictory.

4.27 That the applicants beg to state that the respondents have not maintained any combined seniority list of the retrenched casual employees for which the entire controversy has arisen had there been combined seniority list of all the retrenched casual employees including the applicants the controversy would not have been arisen. In any case the grounds stated by the respondents in the impugned order is not sustainable and same are liable to be set aside and quashed.

4.28 That the applicants beg to state that all of them were initially sponsored by the local employment exchange for their initial appointment and hence the respondents ought not to have issued the letter dated 28.8.97 calling again names of casual mazdoors for the post of Daily Rated Mazdoors. The action on the part of the respondents and their attitude in issuing the aforesaid orders dated 29.5.2000 and 28.8.97 is illegal and arbitrary in nature.

4.29 That the applicants beg to state that till date the respondents have not yet filled up the aforesaid 45 posts of DRM in view of the interference of the Hon'ble Tribunal. However, now the respondents are taking active steps for filling up of these posts by outsiders without considering that cases of the applicants. In view of the aforesaid factual position the applicants pray for an interim order directing the respondents not to fill up atleast 25 posts till disposal of this application. In case the posts are filled up the entire application will be in fructious and applicants will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of benefit of the scheme to the casual labourers whom the applicants union represent in the

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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 judgment extending certain benefits to a certain set of employees, the said benefits are required to be similarly situated employee without requiring them to approach the court again and again. The Central Govt. should set an example of a model employer by extending the said benefit to the applicants.

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

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

5.5 For that the grounds state din the impugned order dated 29.5.2000 is baseless taking into consideration the Apex Court judgments as well as the scheme prepared pursuant to that said judgment and hence same is not sustainable in the eye of law.

5.6 For that the respondents ought not to have issued the order dated 28.8.97 asking for names of candidates from the employment exchange in view of the fact that the applicants fulfilled all the required qualifications mentioned in the O.M. issued by the Government of India for re-employment of retrenched casual workers. Hence the said order dated 28.8.97 as well as 29.5.2000 is liable to be set aside and quashed.

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5.7 For that the respondents ought to have prepared combined seniority list of all the retrenched employees and having not done so they have violated the guidelines issued by the ministry concerned from time to time and hence the entire action is liable to be set aside and quashed.

5.8 For that there being number of vacancy presently exists in the department under the Group D establishment the respondents ought not to have resorted to alternative way of employment calling names from the employment exchange ignoring the case of the applicants. The respondents ought to have given top priority in the case

5.8. 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.

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8. RELIEF SOUGHT FOR:

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

8.1. To set aside the Impugned order dated 29.5.00 and to cancel the order dated 28.8.97 .

8.2. To direct the respondents to extend the benefits of the said scheme as well as the D.Ms to the members of the applicants and to reengage them in the posts mentioned in the order dated 28.8.97 or any posts lying vacant and to regularise their service.

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 FRAYED 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 and to keep at least 25 posts of DRM mentioned in the order dated 28.8.97.

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11. PARTICULARS OF I.P.O.:

1. I.P.O. No.

: 24, 503402

26/9/2k

GHY. 16



2. Date :

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.



VERIFICATION

I, Shri Prabir Dutta , son of late M.M.Dutta , aged about 51 years, Circle Secretary, All India Telecom Employees Union Line Staff and Group-"D" N.E.Circle, Shillong, do hereby verify and state that the statements made in paragraphs 1,2,3, 4.1 to 4.3, 4.5 to 4.8, 4.10, 4.13, 4.15 to 4.16, 4.24 to 4.29 and 5 to 12 are true to my knowledge and those made in paragraphs 4.4, 4.6, 4.9, 4.11,4.12 .4.14, and 4.17,to 4.23, are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the applicant No.1 and other applicants listed in the Annexure-A to the O.A , to sign this verification on their behalf.

And I sign this verification on this the 29 th day of sept ,2000.


Signature.

LIST OF RETRENCHED CASUAL LABOUR.

ANNEXURE - A

<u>Sl. No</u>	<u>Name of the Casual Labour</u>	<u>Father's Name</u>	<u>Date of Entry</u>	<u>Worked in the office</u>	<u>Mode of Payment</u>	<u>Signature</u>
(1)	Sri MonoJ Sen	= Late Mahesh Sen	= 1-1-1983	= A.E.P (Mily), SH.	= M/R	
(2)	Sri Binode Kumar Roy✓	= Sri Madan Roy	= 15-11-1985	= G.M.T, Shillong and	= A.C.G-17 &	
(3)	Sri Narayan Dey.✓	= " Gurucharan Dey	= 1-9-1986	= A.E.Cable Const, SH.	= M/R, & ACG-17	
(4)	Sri Ganesh Roy✓	= " Newalal Roy	= 1-1-1987	= A.E.Cable Const, SH.	= M/R.	
(5)	" Jeetendar Singh✓	= " Mahendra Singh	= 1-4-1986	= A.E.Cable Const. SH.	= M/R.	
(6)	" Shiblal Joshi	= " Mahadeu Prasad	= 8-2-1990	= D.E, E-10-B Exge, SH.	= A.C.G-17.	
(7)	" Dinesh Paswan✓	= " ^{Joshi} Balchan Paswan	= 1-9-1986	= A.E.Cable. Const, SH.	= M/R.	
(8)	" RamJanam Roy	= " Tapeswar Roy	= 1-9-1986	= XXXX -DO-	= M/R.	
(9)	" Ganesh Paswan✓	= " Balchan Paswan	= 1-9-1986	= -DO-	= M/R.	
(10)	" Pritam Chetri✓	= " Juray Chetri	= 1-12-1984	= D.E, E-10-B Exge, A.E.P(M)	= M/R	
(11)	" Ajeet Kumar Patar✓	= " Hahiram Patar	= 1-1-1991	= D.E, E-10-B Exge, SH.	= A.C.G-17.	
(12)	" Yogindar Yadav✓	= " Brij Bihari Yadav	= 1-9-1986.	= A.E.Cable. Const, SH.	= M/R.	
(13)	" Pronotesh Roy✓	= " Makhan Lal Roy	= 24-7-1987.	= A.E.P (Mily). SH.	= M/R.	
(14)	" Lakhindar Roy✓	= " Bulaki Roy	= 1-9-1986.	= A.E.Cable. Const, SH	= M/R, A.C.G-17	
(15)	2 Rajendra Roy✓	= " Chattu Roy	= 1-9-1986.	= A.E.Cable. Const, SH	= M/R.	
(16)	" Ganesh Singh✓	= " Faujdar Singh	= 1-12-1986.	= A.E, TRKS Exge, SH	= A.C.G-17.	
(17)	" Mahesh Ray✓	= " Bilat Ray	= 1-2-1986.	= A.E.Cable, Const. SH	= M/R.	
(18)	2 Arun Roy✓	= " Munilal Roy	= 1-9-1986.	= AECable, Const, SH	= M/R.	
(19)	" Kanchak Chakraborty✓	= " Lt. Koushik Chak-	= 1-1-1991.	= D.E, E-10-B Exge, SH	= A.C.G-17.	
(20)	" Satyanarayan Roy	= -raborty.				
(21)	" Suk Bahadur Gurung	= " Mushafir Roy	= 1-9-1986.	= A.E.Cable Const, SH	= M/R.	
(22)	" Damber Bahadur Gurung	= " L.K.Gurung	= 1-9-1986.	= A.E.Cable Const, SH	= M/R.	
(23)	" A.R.Talukdar✓	= " D.B.Gurung	= 1-9-1986.	= A.E.P (Mily), SH.	= M/R.	
(24)	" Raju Sharma✓	= " A.Gaffur	= 1-6-1986.	= A.E.Cable. Const, SH	= M/R.	
(25)	" Mahadeb Thapa✓	= " Harilal Sharma	= 1-11-1986.	= A.E.Cable. Const, SH	= M/R.	
(26)		= " Man Bahadur Thapa	= 1-7-1985.	= A.E.P.(Mily), SH.	= M/R.	

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Ganesh Datta

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

By the said Judgment this Court said :

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

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posts and Telegraphs Department".

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

Telecom Commission

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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.
MOG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

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ANNEXURE

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

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989"
2. This scheme will come in force with effect from 1.10.89. onwards.
3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.
4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed 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 any where within the recruitment unit/territorial circles on the basis of availability of work.

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

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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.

@@@

PART II

Particulars of the vacancy proposed to be utilised

1. Name of the post/service in which a vacancy is located
2. Pay scale of the post/specific grade of service
3. Classification of the post/grade of service ...
4. Whether recruitment rules have been framed for appointment to the post/service in question
5. Whether recruitment rules for the post/service have the approval of the UPSC; if so, particulars of the Commission's letter conveying their approval
6. Whether as per the recruitment rules the vacancy is to be filled by direct recruitment or transfer
7. If primary mode of recruitment is not direct recruitment or transfer, what are the circumstances in which the direct recruitment or transfer is being resorted to?
8. Duties attached to the post held by the Surplus Staff
9. Qualifications prescribed for the appointment to the post/service:

	Essential	Desirable
(a) Educational qualifications		
(b) Technical qualifications		
(c) Experience, if any		
10. If the proposal for adjustment of surplus staff is being made in relaxation of the mode of recruitment prescribed in the recruitment rules
 - (a) indicate the particulars of the order of relaxation made by the competent authority
 - (b) whether the approval of UPSC to such relaxation of rules (if required) has been obtained; if so, particulars thereof ...
11. Whether the vacancy falls on a point reserved for Scheduled Castes or Scheduled Tribes ...

12. Location of the vacancy
13. (a) Whether any employee is already appointed against this vacancy on *ad hoc* basis, if so, the particulars of the *ad hoc* appointee, indicating the date of his appointment, educational/technical qualifications... ..
- (b) Whether he belongs to a Scheduled Caste or Scheduled Tribe, and whether his services will be terminated/adjusted elsewhere consequent on the absorption of surplus employee, as proposed
14. Particulars of the Confidential Rolls forwarded

Place:

*Signature of the Controlling
Officer or any other officer
authorised to send
the requisition*

Date:

V

Redeployment facilities to retrenched regular temporary employees

The temporary Groups 'C' and 'D' Central Government employees who are retrenched after having put in at least six months services are entitled to Priority III for the purposes of redeployment through the Employment Exchanges. It has been brought to the notice of the Department of Personnel and Administrative Reforms that the registration of names of the retrenched temporary Government employees under Priority III, has not been of much avail to them in securing alternative Government jobs. Keeping in view the fact that some of the temporary employees have been or are being retrenched from the various Government offices after serving for a long period, it has been felt that some further concession should be given to them in providing redeployment/absorption facilities in order to mitigate their hardship.

2. The matter has been examined in consultation with the Ministry of Labour (Director-General of Employment and Training) and the following decisions have been taken:—

- (i) All retrenched temporary Central Government employees who were recruited through the Employment Exchange and have put in at least three years regular continuous service before retrenchment should be eligible for redeployment through a Special Cell.

NOTE.—For this purpose, the retrenched temporary employees who were recruited in relaxation of the Employment Exchange procedure under the existing instructions, e.g., appointments of dependants of deceased employees on compassionate grounds, will be deemed to have been appointed initially through the Employment Exchange.

(ii) Until all such retrenched employees are so redeployed no direct recruitment will be resorted to by the non-participating attached and subordinate offices of the Ministries/Departments to Group 'C' and Group 'D' posts filled through the Employment Exchange. Suitable instructions may accordingly be issued by the Ministries/Departments to their attached and subordinate offices.

(iii) Ministries/Departments should first explore the possibility of redeploying the employees retrenched by them in suitable Group 'C' and Group 'D' posts in subordinate and non-participating offices under them. For this purpose they should first obtain clearance in accordance with the existing instructions from the Department of Personnel and Administrative Reforms regarding the non-availability of suitable persons in the 'Surplus Cell', before action is taken by them to sponsor the retrenched employees for posts in the Subordinate and non-participating attached offices.

(iv) For appointment to Group 'C' and Group 'D' posts the retrenched employees would be eligible for age concession by being allowed to deduct the length of continuous service rendered by them before retrenchment plus a relaxation in age up to the maximum of three years.

(v) The names of employees retrenched from Group 'C' posts who cannot be redeployed in the manner indicated above should be referred to the Special Department of Personnel and Administrative Reforms. Similarly the names of the surplus employees retrenched from Group 'D' posts should be sent to the Cell already functioning under the DG, P & T. The Special Cell in the Department of Personnel and Administrative Reforms or the Cell under the DG, P & T, as the case may be, will thereafter take action for redeployment of these people in other subordinate and non-participating attached offices.

3. The retrenched temporary employees will not be eligible for any pay and allowances during their waiting period nor will they be entitled to the concession/benefits admissible to surplus persons taken over by the Central (Surplus Staff) Cell in the Department of Personnel and Administrative Reforms.

4. The appointment of retrenched temporary employees in Group 'C' and Group 'D' posts in subordinate/non-participating attached offices

will be considered as fresh appointment and their pay on such appointment will also be fixed under the normal rules.

[G.I., D.P. & A.R., O.M. No. 42914/1/75-Estt. (D), dated the 27th March, 1976 and 29th June, 1978.]

The question of extending this facility to similar retrenched temporary Central Government employees who have put in less than 3 years of regular continuous service was examined after consultation with the Staff Side. It has been decided that the existing scheme contained in DP & AR, OM, dated 27-3-1976 and 29-6-1978, would be extended to cover all temporary employees recruited regularly through the prescribed channels of recruitment such as Staff Selection Commission, Employment Exchange, etc., including those who have not completed 3 years of regular continuous service at the time of retrenchment. The modified scheme would have retrospective effect from 1st January, 1992.

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

[G.I., Dept. of Per. & Trg., O.M. No. 28017/7/92-Estt. (D), dated the 22nd January, 1993.]

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 judgment of the CAT Earnakulam Bench delivered on 13.3.95 in O.A. No 750/94 .

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

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

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 L.R.Dutta, Leader, Staff (st)
2. Shri H.Chakraborty, Secy. Staff (st)
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 G.Lyngdoh.
10. Shri H.R.Lyngdoh.
11. Shri H. Buddhi Singh.

Others

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

Observers.

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

REVIEW OF OLD ITEMS:

Item No.1

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

I.B. AC 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. *Positive*

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 to TSM. *Not yet done*

14-4/94
SE/SC/
D.F.A

CONSTRUCTION OF OFFICE ACCOMDN. & QUARTERS: *Done*
The office building at Imphal, Site plan & structure plan have been submitted to C.E. Office where work is being taken up.

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XVIERJCM-MM
(New Points Contd)

1/95
EMP.

RECTT. OF STOPS IN 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
RYNJAHI BY TASK FORCE (PROJECT):

This may be discussed in the Standing Committee.
Moreover, it is confirmed that the quarters was
allotted to project officials doing project works
in the circle and necessary deduction as per rules
will be made soon. Matter may be referred to standing
Committee.

Closed.

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

ADDITIONAL BENCHMARKING OF BY-POST QUARTERS FOR E-10B
EXCHANGE/SHILLONG:

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

32-11/95
AD.(E)

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

33-11/95.
Prepl-CTTC

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

Next date of Meeting?

(G.N.CHYNE)

- AGM(A),

Secretary,

Regional JCM, N.E. Telecom,
Shillong-1.

TWF/JCM/MEETING/95. Dt. 27.02.96.

Copy to:

1. All Telecom District Managers/STTs in N.E. Telecom Circle.
2. The Regional JCM Members;
3. The St. PAs to CGMT and DGM (Dev) in Circle Office, Shillong.
4. The NE, 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.

- 38 - ANNEXURE-6

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

Shillong, the 25 June/96

In pursuance of DPT/Dev Delhi's letter No.269-5/96-
Genert 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:

Name of the SSA	No. of DRMs.
1. Meghalaya SSA	45 ✓
2. Tripura SSA	45
3. Nagaland SSA	50
4. Manipur SSA	60
5. Arunachal Pradesh SSA	00
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 1/4-1991.

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

For information and necessary action to :-

- 1-3. 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.
4. The D.E., C.T.S.D., Guwahati.
5. The D.P., C.T.T.C., Shillong.
- 6-10. The A.D.T. (HRD)/A.D.T. (T), C.O., Shillong.
11. The S.M.H. (HR), Shillong.
12. The S.C.M. (Task Force), Guwahati.
13. The S.E. (Civil), Shillong.
14. The S.E. (Elect), Shillong.
15. The D.E. (Telecom), C.O./SH
16. D.E. (Telecom) / Shillong
17. The S.E. (Telecom), Shillong

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



N F T E

All India Telecom Employees' Union

LINE STAFF & GROUP D

N. E. CIRCLE : SHILLONG

ANNEXURE- 47

6H-206488

Circular No (20)

No. NEC/LS/Org/Memorandum/97.

Dated, Shillong, the 25th August '97

REMINDER

TO,
Sree, N.K.Srivastava
Chief General Manager Telecom,
N.E.Circle, Shillong -1.

Subject:- Re-Employment of Retrenched/Surplus/Contractual
Labour in New Sanctioned post of 400 D.R.Ms in
N.E.Circle.

Reference:- (1) Our Letter No. NEC/LS/Org/Memorandum/97
dated, Shillong 6.6.97.

Sir,

This Circle union once again desires to draw your kind attention on the subject mentioned above and with reference to our letter No. NEC/LS/Org/Memorandum/97, dated, Shillong 6.6.97 with a (Copy enclosed) for your ready reference.

(2) In this connection this Circle union like to mention that while in other circle retrenched casual labourer were mostly absorbed as per supreme court judgement, dated, 17/4/90, writ petition (c) No. 1248 of 1989, while in N.E.Circle 288 No. retrenched casual labour were enlisted in the year of 1991, which further increased by this time in 1997 could not be absorbed for want of vacancy and this issue was thoroughly discussed in earlier R.J.C.M Meetings, Vide Item No. 14 (New), dated 6/2/91, Item No. 36 (old) dated, 7/5/91, Item No. 14/10/91, dated -8/10/91, Item No. 38-5-91, dated 9th /1/92 and Item No. 32-11/95, dated 28/10/95 and again it was tabled in the R.J.C.M Meeting for approaching the D.O.T for providing Special Sanction of post as a " ONE TIME RELAXATION FOR THE ABSORPTION " of these retrenched/Surplus/Contractual Labourers in N.E.Circle.

(3) Again, this Circle union urge upon You to instruct all T.D.Ms to fill up the 400 total D.R.M vacant posts, in N.E. Circle which was sanctioned by D.O.T/ND No. 269-5/96-STN-11, dated 10/4/96 and the C.O.M.T, NO.EST/B-583/27, dated, June/96 as special " ONE TIME RELAXATION " by the Retrenched/Surplus/Contractual Labourers as per the seniority of Combined Seniority list maintained in accordance with the D.O/ND letter No. 269-5/96-STN-11, dated 17/10/87. It may be mentioned here that there will be no difficulty in maintaining the COMMUNAL roster of recruitment as S.T, S.C, O.B.C & O.C people are available in sufficient number among the retrenched casual labour.

(4) Due to abnormal delay in absorbing the retrenched labour etc against the Vacant D.R.M post, sanctioned since 10/4/1996, the C.W.C Meeting of this union met on 25th/July/1997 in Shillong, as decided that the member of this union to start, " NON-CO-OPERATION AND OTHER MOVEMENT FROM 8/sept/97 ONWARDS CULMINATING WITH PEN & TOOL DOWN STRIKE ON 19th/Sept/97 " for getting all these sanction vacant post by " RETRENCHED LABOUR etc " only.

....P.T.O....Page (2)



N F T E

All India Telecom Employees' Union
LINE STAFF & GROUP D
N. E. CIRCLE : SHILLONG

No. NEC/LS/

Dated, Shillong, the

Contd...Page (2)

(5) I, therefore urgently request your intervention to fill up all these vacant posts by RETRENCHED/ Surplus/Contractual labours etc only, so that this circle union can avoid the movement programme as mentioned above.

With regards,

Yours faithfully,

Prabir Dutta

(PRABIR DUTTA)

Circle Secretary, A.I.T.E.U.,
L/S Grp-D, N.E.Circle, Shillong.

Circle Secretary
L/S Grp-D,
A.I.T.E.U. N. E. Circle,
Shillong-763001.

Copy to:-

- (1) The Minister Of Communication, Govt of India, New Delhi -110001, for information and Necessary action please.
- (2) The Chairman, Telecom Commission, Sanchar Bhawan, New Delhi for information and favourable instruction please.
- (3) Sree Om.P.Gupta, Secretary General, N.F.T.E, C-4/1 Baird Road, New Delhi -110001 for information and necessary action please.
- (4) Sree Chandrasekhar, General Secretary, A.I.T.E.U., L/S & Grp-D, C.H.Q, Dada Ghosh Bhawan, 1, Patel Road, New Delhi -110008, is earnestly requested you to take up the issue with D.O.T, New Delhi for immediate filling up of the post of D.R.Ms sanctioned vide D.O.T NO. 269-5/96-STN-II, dated 10-4-96 by Retrenched labour etc and listed in C.G.M.T, Shillong letter No. STB-27/Labour/TB/Corr/L, dated 24/12/91, as the post was sanctioned in " ONE time Relaxation " in N.E.Circle.
- (5) All Divisional Secretaries, L/S & Grp-D, A.I.T.E.U, of N.E.Circle for information please.
- (6) All Branch Secretaries, L/S & Grp-D, N.E.Circle for information and attention please.

Prabir Dutta

(PRABIR DUTTA)

Circle Secretary,
A.I.T.E.U, L/S & Grp-D, N.E.C:
Shillong.

Circle Secretary
L/S Grp-D,
A.I.T.E.U. N. E. Circle,
Shillong-763001.

Attested.

Advocate.

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ANNEXURE-8.

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

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- 35 -

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

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

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b

,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 D.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.

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- 29 -
ANNEXURE - 4 9

DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE CHIEF GENERAL MANAGER : N.E. TELECOM CIRCLE

SHILLONG - 793001

NO. STB/STR/96-97

Dated at Shillong, the 29th Aug. '97.

To

Sri Prabir Dutta,
The
Circle Secretary,

All India Telecom Employees' Union

Line Staff & Gr-'D'

N.E. Circle, Shillong.

Sub: Re-employment

of
Retrenched/Surplus/Contractual Labour in New
sanctioned post of 400 DRMs in N.E. Circle.

Ref: Your letter No. NBC/LS/Org/Memorandum/97
dated 25.8.97.

Sir,

With reference to your letter on the captioned subject, I have been directed to intimate you that the matter is under examination and hence you are requested not to resort to any agitational programme.

Yours faithfully

Copy to:-

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

The AD(HRD), C.O. Shillong.

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

Advocate.



ANNEXURE-10

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DEPARTMENT OF TELECOMMUNICATIONS

O/o. The TDM, SHILLONG

No. E-38/RECTT./CASUAL LABOUR/39 Dt Shillong the

28.08.1997

1.9.97

To

1. The Employment officer, District Employment Exchange, Shillong
2. The Employment officer, District Employment Exchange, Tura
3. The Employment officer, District Employment Exchange, Williamnagar, West Garo Hills
4. The Employment officer, District Employment Exchange, Jowai
5. The Employment officer, District Employment Exchange, Nongstoin, West Khasi Hills
6. The Employment officer, District Employment Exchange, Nongpoh
7. Sainik Welfare Board, Shillong
8. Notice Board % TDM/SH
9. Notice Board % CMT/NR

Sub: Recruitment for the posts of Daily Rated Mazdoors [D.R.M] under Meghalaya Secondary Switching Area, Department of Telecom.

Forty Five [45] posts of Daily Rated Mazdoors vacancy are required to be filled up in the Meghalaya SSA of Telecom. Deptt. The following are the reserved quota. Physically handicaped candidates are not required due to the labourious nature of the work.

While forwarding the names attention to be given to include all communities viz., SC, ST, OBC and OC as per rule.

Existing rate of 62.15 per day, weekly one [1] day off [paid], after six [6] days of continuous work.

The following desirability and eligibility are mentioned

Atte



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ANNEXURE-1

1. Educational Qualification:- Passed Class VIII.
2. Age as on 01.07.1996:- Between 18 years to 25 years. Age relaxation for SC/ST/^{OBC} and Ex-Serviceman will be as per existing rules.
3. Date and Time and Place of Interview:- Will be intimated later on.

In this connection kindly arrange to sponsor eligible candidates from your Employment Exchange so as to reach this office on or before 30.09.1997.

The Candidates are to be sponsored as per the proforma below and no subsequent list will be entertained *after due date*.

Sr. SDE (Admn.)

O/e 8/96 TDM Shillong

Proforma for sending sponsoring nomination for the post of DRM.

1. Name
2. Father's name
3. Date of Birth
4. Educational Qualification
5. Caste - SC/ST/OBC/OC
6. Local Address
7. Permanent Address
8. Past Experience if any
9. Registration number and Date of Registration

[Signature]
Signature and Designation
of Employment Exchange Officer.

Attested.

Advocate.

CENTRAL

ADMINISTRATIVE
GUWAHATI BENCH

TRIBUNAL

ANNEXURE - 11

C.A. No. 222/1997

All India Telecom Employees Union

A.F. Circle & ORS Applicant(s)

Union of India & ORS

Respondant(s)

Mr. B.K. Sharma & S. Sharma

Advocate for the Applicant(s)

Mr. S. Ali, Sr. C.G.S.C.

Advocate for the Respondant(s)

Office Note

Date

Court Orders

26/9.97

Heard Mr B.K. Sharma, learned counsel for the applicant. The application is admitted. Mr A.K. Choudhury, learned Addl. C.G.S.C. receives notice on behalf of the respondents.

Mr. Sharma prays for an interim order directing the respondents not to fill up the posts of daily rated Mazdoor till the disposal of the application. Issue notice on the respondents to show cause why interim order as prayed for shall not be granted. Meanwhile the authorities shall not fill up at least 26 posts of daily rated Mazdoors pursuant to Annexure-A until further orders.

List it on 7.11.97.

Sd/-Vice-Chairman

Memo Not- 3158
Copy to:-

Dt. 30/9/97

- 1) Mr. S. Sarma, Advocate, C.A. T.
- 2) Mr. A.K. Choudhary, Addl. C.G.S.C. C.A. T.

DY. REGISTRAR



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 20th Day of September, 1999.

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

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

Original Application No. 222 of 1997

1. Shri Prabir Dutta &
2. Shri Binod Kumar Roy

Original Application No. 252 of 1997.

1. Shri Prabir Dutta &
2. Shri Bahadur Gurung . . . Applicants.

By Advocate S/Shri B.K. Sharma, S. Sarma & U.K. Nair.

- Versus -

1. Union of India
represented by Secretary,
Govt. of India,
Ministry of Telecommunication,
New Delhi.
2. Director, General, Department of Telecommunication,
New Delhi.
3. Chairman, Telecom Commission,
Sansar Bhawan,
New Delhi.
4. Chief General Manager, Telecom.
N.E. Circle,
Shillong. . . . Respondents.

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

ORDERBARUAH J. (V.C)

The above two Original Applications involve common questions of law and similar facts. Therefore, we propose to dispose of these two applications by a common order.

2. The contentions of the applicants in these two applications is to reinstate them in service and also regularise their services as per the scheme. As this was not done the applicants have approached this Tribunal.

3. We have heard both sides. Mr A. Deb Roy, learned Sr. C.G.S.C submits that these cases are covered by a judgment



contd.. 2

of this Tribunal passed in O.A.No.107 of 1998 and also in a series of C.As on 31.8.1999. We have perused the same. We agree to the submissions of the learned counsel for the parties. In view of the above we dispose of these two applications with a similar directions as given in O.A.No.107/98 and others. Accordingly the respondents are directed to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

4. No order as to costs.

SD/-VICE-CHAIRMAN

SD/-MEMBER (A)



Certified to be true Copy
প্রমাণিত প্রতিলিপি

pg
[Signature]
12/10/99
Deputy Registrar (D)
Central Administrative Tribunal,
Guwahati Bench
[Signature]
12/10/99

the Chief General Manager telecom,
N. E. Circle,
Shillong - 793001.

ANNEXURE - 13

Dated, Shillong, 10th, Nov
1999.

Subject :- ORDER DATED 20IB/SEPI/ passed in O.A. No. 222-252
by the Hon'ble Tribunal. CAT/GHTY.

Sir,

With due reference and profound submission, I
beg to state few following lines before your honour.

That, in the year of 1982/83 I entered the
service of telecom as Casual Worker and was performing my
duties and responsibilities with due respect, in the year
of 1983/84 (PK) my service has been terminated with Notice
/ without any notice. Thereafter some posts have been
sanctioned for Casual Mazdoor (D.R.M), to that effect names
have been called for from the local employment exchange
without giving me any opportunity for such posts, I was also
visiting the offices, but till date my name has not been
considered for the said Post, by the G.M/ T.D.M., Shillong.

That, being aggrieved by the said action, I was
constrained to move the honorable Tribunal by way of aforesaid
O.A and the Honorable Tribunal was pleased to dispose of the
said O.A. with a direction to consider my case against the
said vacant posts or other posts (copy of the order of CAT/
Ghty enclosed).

In view of the said facts and circumstance, I
pray your Honour to consider my case in the light of Circulars
for retrenched Casual employees like that of me and pass necess-
ary order considering and appointing me against the said vacant
posts or any other future vacancy.

With Kind regards,

Copy to :
(1)

The Director General,
Department of Telecommunication
Sanchar Bhawan,
New Delhi - 110001 for
information please.

Enclosed:-

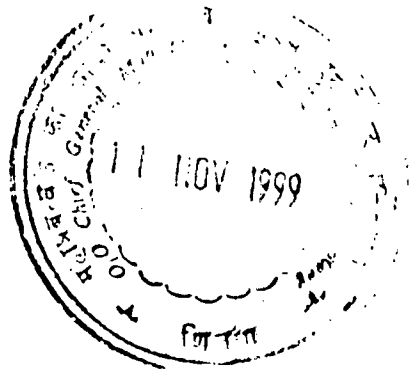
- 1) Working Days Certificate Xerox Copy.
- 2) School Certificate / Birth Certificate Xerox Copy.
- 3) Employment Card Xerox Copy.
- 4) CAT Judgement Copy Xerox copy.

Sincerely Yours,

MONOJ SEN
Retrenched Casual Labour
(Mazdoor)
Under, Meghalaya Telecom
District, Shillong.

S/o, Mohesh Sen

Received
11/11/99



ANNE-XURE - 14
627

- 45 -

**DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, N.E. TELECOM CIRCLE
SHILLONG.**

No: NE/LA/Disposal of OA 222/97, 252/97/2000 / 2.5 Dated at Shillong, the 29th May 2000

To,
Sri Binod Kumar Roy
C/o Madan Roy
Pynthorumkhrah, Shillong

Subject: Your representation dated 10-11-99 in accordance with the judgement and order dated 20-9-99 in OA. No: 222/97 and 252/97 passed by the Hon'ble Central Administrative Tribunal Bench, Guwahati.

[In pursuance of the Judgement and order dated 20-9-99 in OA. No: 222/97 and 252/97 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, your representation dated 10-11-99 was considered in the light of the judgement on the basis of the available records. As per records you were engaged by AE (Cable) Shillong with effect from 8-7-1986 to 31-8-1987. Since your services were no longer required, your services were discontinued from 1-9-1987 as per DOT order No: 270/6/84-STN dated 22-4-1987. There is no provision in the rules regarding re-engagement/ or regularisation after such a prolonged discontinuity and to condone such a long discontinuity. It is regretted that your prayer for appointment could not be entertained and hence the claim is rejected.]

This is for your kind information in response to your representation dated 10-11-99.

87.86
31.8.87

(G.N. CHYNE)

Asstt. General Manager (Admn),
O/o the Chief General Manager,
N.E. Telecom Circle, Shillong

Copy to:

1. The Registrar, Central Administrative Tribunal, Guwahati Bench, Bhangagarh, Guwahati-7 with reference to the Judgement and order dated 20-9-99 in OA No: 222/97 and 252/99 for information.
2. The General Manager Telecom District, Meghalaya SSA, Shillong for information.
3. File.No E-38/Court-case/20

(G.N. CHYNE)

Asstt. General Manager (Admn),
O/o the Chief General Manager,
N.E. Telecom Circle, Shillong

To

The Chief General Manager Telecom
N.E.Circle, Shillong Meghalaya

ANNEXURE 15

46-
Dated at Sh, the 3rd August, 2K

Sub:- Prayer for re-consideration of reinstatement of
Re-trenched casual labour of Meghalaya SSA in N.E.
Circle against the vacant 45 nos. DRM posts.

Respected Sir,

We are the re-trenched casual labours of Meghalaya SSA were struggling since 1990 for re-employment as casual labour in Meghalaya SSA. We appealed time to time and again to the TDM/Shillong and C.G.M.T./N.E.Circle, Shillong for our re-engagement in the (a) T.D.M/Shillong's field offices, (b) Telecom M/W project offices, (c) Telecom Satellite project offices (d) Telecom M/W Projects Mtce. Organisations and (e) in C.G.M.T. offices, Shillong. But, we were not brought back in any offices while fresh casual staff engaged in every offices mentioned above. It is not only heartening to us but justice was denied. It was done only in the area of Meghalaya SSA.

During the last 10/12 years a fresh sanction of 45 (forty five) nos. of DRM posts had received by the Meghalaya SSA from the C.G.M.T./N.E.CIRCLE/Shillong and DOT/ND in the year of 1996. But TDM/Shillong could not re-engage us. On the other hand, Meghalaya SSA went to Employment Exchange to recruit fresh casual labours from the open market.

We appealed not to recruit any fresh candidate for the vacant DRM post. But TDM/Shillong not granted our appeal. We went to the CAT/Guwahati for "Interim Order to stop fresh recruitment" Interim order was granted. Final order for considering the re-instatement/Regularisation of re-trenched casual labour from the CAT Guwahati had passed recently on November, 1999. Our individual application to the C.G.M.T. N.E.Circle, Shillong have not been considered and rejected showing the reason of "Long Break Period" in the service.

We hope till today that your active and sympathetic consideration on humanitarian ground, can "Re-engage"/"Re-instate" us in the 45 nos. DRM vacant posts in Meghalaya SSA under N.E.Circle. We may be re-instate as "Fresh candidate" on priority basis referring our previous employment in the Department. Your personal decision, only can decide our fate and future mode of survival. After loss of 12/13 years, our age has crossed for any departmental fresh entry through employment exchange and denial of further persuasion.

We, therefore appeal once again to consider our case as "Re-instate" us in the same type of job under same Telecom Division/District Meghalaya SSA against vacant DRM posts. We shall remain ever grateful to you for your sympathetic action and justice.

With best regards,

Yours faithfully,

Encl:- Signature sheet.

Signature of all re-trenched casual labours under Meghalaya SSA (in enclosed separate sheet).

Signature sheet

47-

Sl. No. Name of the re-trenched casual labour

- 1) Nonoj Sen
- 2) Binod Kumar Ray
- 3) - Narayan Ray
- 4) Ganesh Ray
- 5) - Telendra Singh
- 6)m - SHIVLAL JOSHI
- 7) श्रीलाल जोशी
- 8) - RAM JANAM RAY
- 9) - GANESH PASHMAN
- 10) प्रताप चव्हाण
- 11) AJIT KUMAR PANDIT
- 12) योगेंद्रा यादव
- 13) Binatara Roy
- 14) LAKHINDRA RAY
- 15) श्री जे - ई श्री
- 16) श्री श्री सिंह
- 17) महेश राय
- 18) Arun Kumar Ray
- 19) Kamal Kanti Chakraborty
- 20) Saty Narayan Ray
- 21) Suk Bahadur Gurung
- 22) श्री राय
- 23) H. R. Talukdar
- 24) Raju Sharma
- 25) Mahadeo Thapa

Signature

Binod Kumar Ray
Ganesh Ray
Telendra Singh
Shivlal Joshi
Ram Janam Ray
Ganesh Pashman
Pratap Chavhan
Ajit Kumar Pandit
Yogendra Yadav
P. Roy
L. Ray
श्री जे - ई श्री
श्री श्री सिंह
महेश राय
Arun Kumar Ray
Kamal Kanti
Saty Narayan Ray
Suk Bahadur Gurung
श्री राय
H. R. Talukdar
Raju Sharma
Mahadeo Thapa

C/o Sri Mahindra Singh,
S.I.
Telecom Store Godown
Lower Lachumiere
Shillong-1.

Central Administrative Tribunal
IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

O.A. No. 326/2000
Guwahati 30.09.2000

Shri Binod Kumar & others Applicants.

Vs.

Union of India & others Respondents.

(Written statements filed by the respondents No. 1, 2 & 3)

The written statements of the respondents No 1, 2 and 3 are as follows:-

1. That the copies of the O.A No. 326/2000 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 there of.
2. That the statement made in the application save and except those which are specifically admitted and denied by the respondents.
3. That with regard to the statement made in paragraph 1 of the application the answering respondents state that the disposing of the individual representation filed by the applicants pursuant to the judgement and order dated 20.9.99 passed in O.A. No.222 and 252 of 1997 was legal and as per the direction of the Hon'ble Tribunal/Guwahati and the applicant does not satisfy the condition of the scheme the applicants were barred by time limitation. Moreover it is to mentioned that the applicants are not a civil servants holding a sanctioned Civil Post governed by CCS(CCA) Rules 1965 and as such he cannot file this application in this Hon'ble Tribunal.
4. That with regard to the statement made in paragraph 2 and 3 of the application the respondents have nothing to comment.
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 statement is not correct. Shri Prabir Dutta is the Circle Secretary, Line Staff and Group D, N.E.Circle. Moreover as per ruling on membership the right of the Union to represent casual labour has not been conceded. The Union can represent the cases of regular staff only. Hence applicant No.2, Shri Prabir Dutta cannot represent the interest of casual labourer. (O.M. Annexed here as R1 and R2).
7. That with regard to the statement made in paragraph 4.3 of the application the respondents beg to state that the applicants worked as casual labourer only for work which is of casual nature. Their post cannot be created and does not fall under regular establishment. Nature of work and the term expired after the prescribed period. The applicants are no longer working as casual labourer. In pursuance of the judgement and order dated 20.9.99 in O.A.No.222/97 and 252/97 passed by this Hon'ble Tribunal their representations were considered in the light of the judgement on the basis of the available records. Their services were no longer required and services were discontinued since a long time. As there is no provision in the rules regarding re-engagement/or regularisation after such a prolonged discontinuity and to condone such a long discontinuity, their prayer for regularisation could not be entertained and was rejected.
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, Ministry of Communication prepared a scheme in the name and style of 'Casual Labour' (Grant of Temporary Status and Regularisation) Scheme, 1989 which was implemented.
9. That with regard to the statement made in paragraph No.4.5 of the application the respondents beg to state that casual labourer was engaged only for work which is of casual nature. The scheme for temporary status on regularisation of casual labourer is applicable only to those labour who are continuously working in the Department and engaged prior to 30.3.85. Moreover as the work is of casual nature the labourers are engaged for the prescribed period. The claim of the

Filed by
PCC Secy
Addl. Secy
14/12/00
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Mr 11
p 22-23

applicants that they possess all the qualification mentioned in the said scheme is not correct. The applicants have no right to claim any benefit under the said scheme.

10. That with regard to the statement made in paragraph 4.6 of the application the respondents beg to state that as OM dated 27.3.76 and 29th June 1978 it is clearly mentioned that facility of re-deployment would be extended to cover all the temporary employees recruited regularly through the prescribed channels of recruitment through recruiting agencies and have put in at least 3 years regular continuous service before retrenchment. But in the instant application the applicants were not at all granted temporary employees status. The order as in Annexure 3 of this application, does not reflect anything in favour of the applicants relating to their re-deployment. (O.M. dated 22.1.93 is enclosed here as R3).
11. That with regard to the statement made in paragraph 4.7 of the application the respondents beg to state that as per letter No.269-4/93-STN-II dated 17.12.98 it is clearly mentioned that all those casual mazdoors who were engaged by Circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circle where they were initially engaged and who are not absent for the last more than 365 days. This order mentioned by the applicant in this paragraph does not reflect anything in favour of the applicants. (DoT letter No.269-4/93-STN II dated 17.12.98 is enclosed as R4).
12. That with regard to the statement made in paragraph 4.8 of the application the respondents beg to state that the applicant No.2 Shri Prabir Dutta as Circle Secretary represents only Line Staff and Group D of the N.E.Circle and not casual labourers as per Govt. norms. The right of the Union to represent casual labourer has not been conceded by Government. The Union can represent only the cases of regular staff only.(Annexure – R5).
13. That with regard to the statement made in paragraph 4.9 and 4.10 of the application the respondents beg to state that the judgement of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in O.A.No.750/94 does not reflect anything in favour of the applicants as the judgement is for Postal Department only. Though the Postal and Telecommunication are under the same ministry i.e. Ministry of Communication rules and regulation are not same. The benefits which are getting by the Telecommunication, Postal Department is not getting the same benefit. Hence the claim is liable to be dismissed.
14. That with regard to the statement made in paragraph 4.11 of the application the respondents beg to state that this does not reflect anything in favour of the applicants relating to their regularisation.
15. That with regard to the statement made in paragraph 4.12 of the application the respondents beg to state that this does not reflect anything in favour of the applicants.
16. That with regard to the statement made in paragraph 4.13 of the application the respondents beg to state that the applicants do not fulfil the qualification mentioned in the scheme. Hence the claim is liable to be dismissed.
17. That with regard to the statement made in paragraph 4.14 of the application the respondents beg to state that the Annexure-7 in the applicants' application the letter was issued by Shri Prabir Dutta, Circle Secy. AITEU who can represent only the cases of regular staff but instant application he has represented the cause of the casual labour which he cannot represent.
18. That with regard to the statement made in paragraph 4.15 of the application the respondents beg to state that the applicants made prayer in the Hon'ble Tribunal in O./A.222/97 and 252/97 and judgement and order dated 20.9.99 which was disposed of by the respondents as per the directive of Hon'ble Tribunal.
19. That with regard to the statement made in paragraph 4.10 of the application the respondents have nothing to comment.

20. That with regard to the statement made in paragraph 4.17 of the application the respondents beg to state that this does not reflect anything in favour of the applicants regularisation.
21. That with regard to the statement made in paragraph 4.18 of the application the respondents beg to state that as per rule the retrenched Temporary Central Govt. employee cannot be re-engaged through the employment exchanges but the instant applicants were not at all granted temporary status and hence the claim is liable to be dismissed.
22. That with regard to the statement made in paragraph 4.19 of the application the respondents beg to state that the Directive of the Hon'ble Tribunal in his judgement and order dated 20.9.99 was disposed of as per rule.
23. That with regard to the statement made in paragraph 4.20 of the application the respondents beg to state that the judgement and order dated 20.9.99 in the O.A.222/97 and 252/97 was implemented as per the directive of the Hon'ble Tribunal.
24. That with regard to the statement made in paragraph 4.21 of the application the respondents beg to state that the representation of the applicant were disposed of as per the directive of the Hon'ble Tribunal.
25. That with regard to the statement made in paragraph 4.22, 4.23 and 4.24 of the application the respondents beg to state there is no provision in the rules regarding re-engagement/ regularisation after such a prolonged discontinuity and to condone such a long discontinuity. Hence the applicants has no right to claim any benefit under any provision of law. The action taken by the respondents is legal as per rule. The applicant has no right to claim for set aside and question the stand taken by the respondents.
26. That with regard to the statement made in paragraph 4.25 of the application the respondents beg to state that the applicants are not having the requisite qualification for the scheme and therefore their case for grant of temporary status could not be considered. This does not reflect anything in favour of the applicant.
27. That with regard to the statement made in paragraph 4.26 of the application the respondents beg to state that consideration for re-engagement is only for those who worked as temporary Central Govt. Employees only The applicants have never worked as Temporary Central Govt. employees. So it does not reflect anything in favour of the applicants relating to the re-engagement as and when the vacancy arises.
28. That with regard to the statement made in paragraph 4.27 of the application the respondents beg to state that as the applicants were not Temporary Central Government employee question of seniority list does not arise. The claim of the applicants are illegal and it has no value in the eyes of law.
29. That with regard to the statement made in paragraph 4.28 of the application the respondents beg to state the casual labour are engaged for work which is of casual nature. Nature of work and their term expired after the prescribed period. Hence the action on the part of respondents is legal as per the departmental rule. The applicants has no right for calling the action illegal and arbitrary in nature.
30. That with regard to the statement made in paragraph 4.29 of the application the respondents beg to state that the statement in this paragraph is false and tried to mislead the Hon'ble Tribunal. The judgement and order dated 30.9.99 was implemented by the respondents as per rule. Evidently the applicants claim has no value in the eyes of law.
31. That with regard to the statement made in paragraph 5.1 to 5.8 of the application the respondents beg to state that the none of the grounds is maintainable as well as in facts and as such the application is liable to be dismissed.
32. That with regard to the statement made in paragraph 6 of the application the respondents have nothing to comment.

33.

That with regard to the statement made in paragraph 7 of the application the respondents beg to state that the applicants filed an application before this Bench of Hon'ble Tribunal in O.A.No. 222/97 and 252/97 in which judgement and order dated 30.9.99 was passed by this Hon'ble Tribunal and the respondents has disposed of as per the directive of this Hon'ble Tribunal.

34.

That with regard to the statement made in paragraph 8.1 to 8.5 of the application regarding the reliefs sought for the respondents beg to state that applicants are not at all entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

35.

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

36.

That with regard to the statement made in paragraph 10, 11 and 12 of the application the respondents have nothing to comment.

37.

That the respondents beg to state that the applicants are not entitled to any of the reliefs sought for in this scheme as they are having no requisite qualification for those scheme claimed by the applicants and as such the application is liable to be dismissed with cost.

38.

That the respondents submit that in fact that there is no merit in this case and as such the application is liable to be dismissed with cost.

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VERIFICATION

I, Shri G.N.Chyne, 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 eight day of December 2000.



DECLARANT

OFFICE MEMORANDUM

Dated 15-2-95

ANNEXURE R1

Subject: Categorisation of Group 'C' / Group 'D' employees for the purpose of forming service union/associations under CCS (RSN) Rules, 1993.

A few staff federations and the service unions had desired that the issue of categorisation of employees vide this office O.M. No. 110, even dated 19-4-94 may be reconsidered.

2. Taking note of the demand of the service unions, to mention a few, All India Telecom Stenographers Assn., National Union of Telecom Engineering Employees, Line Staff & Group 'D' Bhartiya Telecom Technicians Union, Telecom Accounts Association, etc., the above issue has been reconsidered by this office. It has been observed that the categorisation as decided vide O.M. dated 19-4-94 and the clarificatory orders issued by this office subsequent thereto is in order and does not require any further modification. The proposal of forming an exclusive union by the Stenographers/PAs and Telecom Technicians has not been agreed to. As already clarified vide this office letter No. 36-4/94-SRT dated 14-9-94, the stenographers working in Telecom Circles including senior PAs would form the union along with the Administrative Office employees referred to as item 1 of para 6 of the O.M. dated 19-4-94. The Telecom Technicians would form the service union along with the other Group 'C' employees referred to under item 2 of para 6 of the O.M. dated 19-4-94.

3. Taking the above aspects into account, the list of categories and the details of employees covered by each category is enclosed for information of all concerned. The recognition of applicant service unions whose applications have been received within the stipulated date viz. 21-1-95 would be considered as per this categorisation.

(D. B. Verma)
Director (SR)

Copy to:

All Heads of Telecom Circles/Metro Districts.

All Heads of other Administrative Units.

Cont'd.

No action is to be taken on direct reference from branches except when specifically ordered by Minister/Deputy Minister/Chairman, Telecom. Board/Member of the Telecom. Board.

16-2/65-SR dated 3-8-86

5. On behalf of Unions/Associations, their General Secretaries or the holders of corresponding office or the President only should normally address the Administration. The Assistant Secretaries/Deputy General Secretaries wherever specifically authorised by their General Secretaries, may also address communications to the Administration but the references made by them should contain a clear indication that the same are being made under the authority of the General Secretary concerned.

31-1/64-SR dated 5-4-1969

6. The Administration will send replies to communications from Unions/Associations addressed to the General Secretaries of the Unions/Associations and to the Headquarters' address of the Branch Unions concerned with the only exception of D.O. letters from President. Replies to such D.Os. may be sent to the President but these will also be invariably addressed to the Headquarters' address of the Union Branch Unions concerned unless the sender of the reply is of the opinion that there are special reasons or circumstances for sending a reply direct to the address of the President.

31-3/66-SR dt. 24-11-66

7. The Unions/Associations shall not espouse or support the cause of individual government servants relating to service matters. When such references are received, the Unions/Associations may be informed that they are precluded from taking up individual cases with the Administration and as such their references are being filed.

16-2/72-SR dated 7-7-72

8. As per the existing system, the entire working of an office is appropriately distributed among its different sections for quick and proper disposal. When a communication is received which deals with more than one subject, it creates administrative inconvenience and difficulty, necessitates preparation of extracts for action in appropriate files in the concerned sections and delays the disposal of items referred to in the communication. With a view to facilitate quick and straight disposal, each union's communication addressed to the administrative authorities concerned at different levels, should deal with only one subject.

9. Creation and abolition of posts is purely an administrative matter and it is not a subject which the Union can discuss with the Administration. It is for the Department to decide whether a parti-

cular post is justified or not and it is not the function of the Union to determine the justification or otherwise of the post. Views of the Union may, however, be considered when the question is examined on merits. No correspondence will be entertained with the Union regarding creation of individual posts. The question of fixation of standards for creation of posts is a different matter and does not fall in the above category.

16-6/65-SR dated 31-3-1965

III. Office Bearers

1. Honourably retired Telecom. officials of any arm of service are eligible to hold office in Associations/Unions.

17-9/59-SR dated 23-2-60 and 33-7/77-SR dated 26-12-77

2. Telecom. employees are permitted to hold office in Unions/Associations of their own arm of service and their own Circle/Division and All India Union concerned only. A class III employee can become an office bearer of a Union/Association of Class IV employees subject to the conditions that (a) the official belongs to the same arm of service and the same circle in the case of Circle Union and same Division in the case of Branch Union below Circle level and (b) the constitution of the Union of Class IV employees provides for membership of Class III employees. There is no objection to an employee holding office simultaneously in two or more branch Unions at Division/Circle and All India level provided the branches belong to his own arm of service, Circle and Division. The above restrictions shall not however apply in case of employees holding office of President/Vice President.

17-23/73-SR dated 8-1-75

3. Prescribed facilities should not be extended to branches of Unions/Associations where any of the office bearers are non-employees (outsiders.)

17-7/74-SR dated 17.1.75 and 17-28/84-SR dated 9-10-84

IV. Rulings on Membership

1. The right of the Unions to represent casual labour has not been conceded. But if any grievances of casual labour covered by the recommendations of the Pay Commission are brought to notice by the Federation or Unions affiliated to it, this will be examined. However, no reply in respect of such grievances would be sent to the Federation or Unions affiliated to it.

32-1/64-SR dated 11-8-64

2. The trainees who have been recruited directly and yet to be absorbed in the Department will not join to organise any Unions/

8/24 -
ANNEXURE R3 27/5

ANNEXURE-02

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

New Delhi, the 22nd January '93.

OFFICE MEMORANDUM

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

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

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

Contd..../-

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regularly through the prescribed channels of recruitment such as Staff Selection Commission, Employment Exchange etc., including those who have not completed 3 years of regular continuous service at the time of retrenchment. The notified scheme would have retrospective effect from 1st January, 1991.

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

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

To

All Ministries/Departments of the Govt. of India.

Dated New Delhi, 17 Dec. 1998

To,
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-STN 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 such works 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 works 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 has 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.

Advocate.

.....2/

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 & 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 RECT-3/10/Art-II Dated at Guwahati, 4.1.94.
Copy forwarded for information, guidance and necessary action to:-

- 1-2. The AMTs Guwahati/Dibrugarh .
3. The TLM, Guwahati.
9. The IDEs BGN/DR/SC/TZ/JRT/AG3
- 10-14. The STTs BOM/DR/SC/TZ/JRT
15. The O.S.C.T.O. Guwahati .
16. The A.E. I/C CFSD, Guwahati .
17. The Principal CIRC, Guwahati.
18. The REN, Guwahati.
19. The A.D. (Staff) C.O. Guwahati .
- 20-21. The Concerned Circle Secretaries of service Unions.,

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

Attested.

Advocate.

कन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

25 APR 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

O.A No 326 of 2000.

Binod Kr. Roy & ors.

..... Applicants .

-VS-

Union of India & ors.

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS.

1. That the applicants have gone through the written statement filed by the Respondents and have understood the contentions made therein. Save and except the statement made in the written statement which has not been admitted hereinbelow, rests may be treated as total denial. The statements which are not born out of records may also be treated as total denial.
2. That with regard to the statements made in paragraphs 1 and 2 of the written statement the Applicants offer no comment on it.
3. That with regard to the statements made in paragraph 3 of the written statement the Applicants deny the correctness of the same and begs to state that their cases are very much covered by the scheme of 1989 circulated vide letter dated 7.11.89 (Annexure-2), which was prepared pursuant to the judgment (Annexure-1) of the Hon'ble Apex Court. Their cases are also covered by the various subsequent clarifications issued by the Respondents in clarifying the (Annexure-2) scheme. Nowhere there has been any out of date and hence question of limitation does not arise. On the other hand the Hon'ble Tribunal in exercising its power under Sec. 19 of AT Act, 1965 can entertain the matter pertaining to casual worker.
4. That with regard to the statements made in paragraphs 4 and 5 of the written statement, the Applicants offer no comment on it.
5. That with regard to the statements made in paragraph 6 of the

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Filed by: Mr. Apurva Applicant,
through S. Sarma, Advocate

written statement the Applicant denies the correctness of same and begs to state that the Applicant No. 2 can represent the interest of the other Applicants for the sake of their welfare. Law is settled that even an unrecognized union can report the cause, if the same is for the welfare of its union member.

6. That with regard to the statements made in paragraph 7 of the written statement, the Applicants while denying the contentions made therein begs to state that, the Respondents have already taken decision in respect of creation of posts (Annexure-5) and in fact by issuing Annexure-6 order dated 25.6.96 54 numbers of posts have been allotted to Meghalaya SSA. The Respondents in the RJCM meeting have assumed the union regarding allotment of posts vide Annexure-5 minutes and accordingly the said assurance was materialise by Annexure-6 order dated 25.6.96 by allotting 45 posts to the Meghalaya SSA. It is therefore the contention of the Respondents are contradictory. On the other hand several posts have also been allotted to the Meghalaya SSA from other source and the Chief General Manager has conveyed his sanction to grant temporary status against 169 posts under Meghalaya SSA.

A copy of the communication dated 10.5.99 is annexed herewith and marked as Annexure-RJ-1.

7. That with regard to the statements made in paragraph 8 of the written statement the Applicant beg to state that as per the scheme of 1999 as well as its subsequent clarification issued time to time, the Respondents are duty bound to manage the present Applicants and to grant temporary status. Denial of the same has resulted in hostile discrimination, taking into consideration the fact that other similarly situated employees like that of the present Applicants have been granted with temporary status.

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8. That with regard to the statements made in paragraph 9 of the written statement the Applicants beg to state that as per Annexure-A of the OA the case of the Applicants required to be considered under scheme of 1989 and its subsequent clarifications. It is further stated that the judgment of the Hon'ble Apex Court is quit clear that in case any casual worker worked continuously for one year, his case is required to be considered for grant of temporary status as per the scheme.

9. That with regard to the statements made in paragraph 10 of the written statement the Applicants beg to state that as per the OM dated 27.3.76 and 29.6.78 read with OM dated 22.1.93 the case of the Applicants are required to be considered for redeployment on priority basis. It is further stated that as per the DOT letter No. 269-69/88-STM dated 17.10.87 Respondents are duty bound to prepare a combined seniority list and to fill up the Group-D posts in order of seniority but the Respondents without taking into consideration the said OM dated 17.10.87 dis-engaged them from their respective services and now proposal has been made to fill up those posts by outsiders/juniors to the present Applicants.

A copy of the said OM dated 17.10.87 is annexed hereto as Annexure-RJ-2.

10. That with regard to the statements made in paragraph 11 of the written statement the Applicants beg to state that the statement made by the Respondents are contrary to their own circular dated 1.9.99 by which benefits of the scheme has been granted to the recruitees up to 1.8.98. In fact the Hon'ble Apex Court has given a clear cut direction to the Respondents to prepare a scheme on rational basis for those casual workers who have completed one year continuous service. The scheme of 1989 is

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the net result of the said Apex Court is wherein no cut off date has been mentioned. Now the Respondents are debarred from making a statement that certain cut off date is in existence and even if there exists any such order, same will be in direct conflict of the Hon'ble Apex Court judgment (Annexure-1), and the Applicants pray that such orders including one cited by the Respondents (17.12.98) may be set aside and quashed and issuing authority may be held responsible for contempt of courts proceedings in violating the said judgment and order (Annexure-1).

11. That with regard to the statements made in paragraph 12 of the written statement the Applicants beg to reiterate and reaffirm the statements made in the OA as well as above (para-5 of the rejoinder).

12. That with regard to the statements made in paragraph 13 of the written statement the Applicants reiterate and reaffirm the statement made above as well as in the OA, and beg to state that both the schemes i.e. the schemes of postal department as well as the present scheme in question came into force pursuant to a similar judgment passed by the Hon'ble Apex Court and more so since both the departments under the same ministry, there should not have been any priority so far it relates to granting of benefit under the scheme is concerned.

13. That with regard to the statements made in paragraphs 14 and 15 of the written statement the Applicants while reiterating and reaffirming the statements made above as well as in the OA begs to state that, the Respondents in the RJCM meeting held in Shillong made certain commitment (Annexure-5) and said commitment has been fulfilled vide (Annexure-6) order dated 25.6.96 order allotting 45 posts to the Meghalaya SSA. Therefore the statements regarding 'nexus' is baseless. In fact acting on the request made on their behalf by the union only, the said posts have been

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allotted, and non by the impugned action , the Respondents sought to allot the same to some others (outsiders) ignoring their case who were at some time were their experiences hand. Even the Respondents did not even think fit to call them for such consideration, which is perse illegal and violate of Article 14 of the Constitution of India.

14. That with regard to the statements made in paragraph 16 of the written statement the Applicants deny the correctness of the same and beg to state that as per the judgment of the Hon'ble Apex Court as well as per scheme of 1989 and its subsequent clarification issued from time to time , their cases once required to be considered for re-engagement against the aforesaid 45 vacant posts of DRM or any other posts and t grant them temporary status with subsequent regularisation with full back wages.

15. That with regard to the statements made in paragraph 17 of the written statement the Applicants reiterate and reaffirm the statement made in para 5 and 11 of the RJ as well as in the OA.

16. That with regard to the statements made in paragraph 18 of the written statement the Applicants beg to state that the Respondents have violated the direction issued by the Hon'ble Tribunal dated 20.9.99 (Annexure-12) which has been passed in the light of a judgment and order dated 13.8.99 passed in OA No. 107/99 and others wherein there has been a direction to consider the case of the Applicants in the light of the scheme as well as the judgment of the Hon'ble Apex Court. But the Respondents by issuing the impugned order dated 25.9.2000 has rejected the claim of the present Applicants as time barred, which is contrary to the directions issued by the Hon'ble Tribunal.

17. That with regard to the statements made in paragraph 19 of

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the written statement the Applicants offers no comment on it.

18. That with regard to the statements made in paragraph 20 of the written statement the Applicants beg to state that the Respondents all along have been assuring the Applicants for their re-engagement and granting of temporary status reflection of which is there in the Annexure-9 letter dated 29.8.97. Only after filing of the OA they have shifted their stand on the ground that the Applicants have approached the Hon'ble Tribunal.

19. That with regard to the statements made in paragraph 21 of the written statement the Applicants reiterate and reaffirm the statement made above and beg to state that as per the OM indicated above as well as in the OA the case of the Applicants are required to be considered for re-engagement in priority basis and after such re-engagement they should be granted with temporary status and the other benefits as enumerated in the scheme of 1989.

20. That with regard to the statements made in paragraphs 22, 24, 25, 26 & 27 of the written statement the Applicants reaffirm the statement made above as well as in the OA and beg to state that the entire proceedings of the Respondents in issuance of the impugned order dated 29.5.2000 is illegal and violative of judgment and order dated 20.9.99. Since there is no cut off date in the scheme of 1989 which was prepared pursuant to a judgment of the Hon'ble Apex Court, the stand taken by the Respondents regarding delay is baseless rather contemptuous in nature. Again as per the Government of India, Department of Personnel and Training OM dated 22.1.93 (Annexure-3) and taking into consideration the DOT's letter dated 17.10.87 (Annexure- RJ-2) the case of the Applicants are required to be considered for re-engagement and grant of temporary status.

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21. That with regard to the statements made in paragraph 28 of the written statement the Applicants beg to state that as per the DOT's letter dated 17.10.87 (Annexure-RJ-2) the Respondents are duty bound to prepare a combined seniority list of all casual workers including retrench casual workers and to grant the benefit of the scheme in order of seniority.

22. That with regard to the statements made in paragraph 29 of the written statement the Applicants deny the correctness of the same and beg to state that it is not open for the Respondents to say that their term of casual employment expired and it is therefore the Respondents have terminated Annexure-s 5 & 6 letters dated 25.6.96 it is crystal clear that presently there are atleast 45 posts of DRM are in existence. That apart vide Annexure-RJ-1 letter dated 10.5.99 altogether 169 persons have been granted temporary status who were much junior to the present Applicants. Had there been any expiry of term as mentioned in the written statement, the Respondents ought not to have issued the aforesaid orders.

23. That with regard to the statements made in paragraph 30 of the written statement the Applicants deny the correctness of the same and beg to state that the posts allotted to the Meghalaya SSA pursuant to the request made on behalf of the Applicants now has been sought to be allotted to some outsiders without considering the case of the present Applicants.

24. That with regard to the statements made in paragraphs 31, 32, 33, 34, 35, 36, 37 & 38 of the written statement the Applicants deny the correctness of the same and begs to reiterate and reaffirm the statement made above as well as in the OA.

In view of the above facts and circumstances the Applicants submit that it is a fit case wherein your lordships would

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graciously be pleased to issue appropriate direction to the Respondents for issuance of necessary order re-engaging the present Applicants in the vacant posts mentioned above or any other such posts and to grant temporary status by setting aside the impugned order dated 29.5.2000 (Annexure-14) and the order dated 17.12.98 as mentioned by the Respondents in their written statement at para-11 and any such order/orders of like nature by which the Respondents have put a cut off date for granting the benefit of the scheme.

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VERIFICATION

I, Shri Prabin Dutta, aged about 52 years, son of M.M. Dutta, Circle Secretary, All India Telecom Employees Union Line Staff & Group-D, N.E. Circle, Shillong, do hereby solemnly affirm and verify that I am one of the applicant in this instant application and conversant with the facts and circumstances of the case. Thus I am competent to verify this case and the statements made in paragraphs 1 to 5, 11, 15, 17 and 24 are true to my knowledge ; those made in paragraphs 6 to 10, 12 to 14, 16 and 18 to 23 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 7 th day of April 2001.

Prabin Dutta
Circle Secretary
Line Staff & Group-D,
A.I.T.E.U. N. E. Circle,
Shillong-793001.

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ANNEXURE - RJ - 1

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

No. EST/BE-445/RM/III178

10th
Dated at Shillong, the 3rd May, 1999.

In pursuance to DOT New Delhi letter No. 269-4/93-STN-II dated 12-2-1999, approval of the Chief General Manager, N.E. Telecom Circle, Shillong is hereby conveyed to grant Temporary Status to Casual Labourers to the extent of number indicated against each SSA as shown below which has been compiled based upon the information furnished by the SSAs/Units concerned.

Name of the SSA	Number of Casual Labourers to be given Temporary Status as on 01-08-1998
Manipur	150
Meghalaya	169
Tripura	1
Total	320
	(THREE HUNDRED TWENTY)

As the numbers indicated above are furnished by the Units concerned, there should not be any variation in the figures. In case, there is a change, Heads of SSA should refer the cases to this office explaining the reasons thereof immediately for taking up those cases with TC HQ. The information in the prescribed proforma circulated earlier, indicating reasons should reach this within 15 days from the date of issue of this letter.

(D. Gbi)

Dy. General Manager (A)
O/o. the Chief General Manager,
N.E. Telecom Circle, Shillong.

Copy for information and necessary action to: -

1. TDM/Shillong/Imphal/Agartala/Itanagar/Aizawl
2. Sr.ACAO(TA)/Sr.AO(BGT/TR)/ADT(HRD) C.Q. Shillong
3. O.S. C.O. Shillong
4. Secretary, Staff Side, RJCM, CTO Complex, Shillong
5. Guard file 6. Office Copy

10/5/99
Asstt. Director Telecom (Estt)
O/o. the Chief General Manager,
N.E. Telecom Circle, Shillong.

Combined Seniority

LIST

DOT No. 269-69/83-STN dt. 17/10/87

The undersigned is directed to refer to this office letter No. 269-64/83-STN dated 23.4.87 on the above mentioned subject and to state that the following instructions are issued in supersession of the earlier orders on the subject, to streamline the regular absorption or retrenchment of casual labourers.

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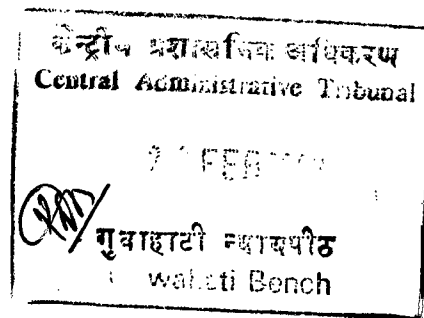
1. A combined seniority list of all casual labourers in respect of a recruitment unit will be maintained. This list will include all casual labourers working within the territorial jurisdiction of the recruitment unit, for various functional units such as Telecom/Projects/Maintenance regions/Electrification/Quality Assurance etc. to which they are attached.

2. Absorption of casual labourers against regular group 'D' post or retrenchment due to exigencies such as non-availability of work, will be done strictly according to the combined seniority list.

3. Non-recruiting circles/units should ensure that any of their requirement of casual labourers is invariably met through the respective recruitment unit of the concerned territorial circle only.

4. These instructions will have immediate effect.

5. This letter also disposes of d. c. letter No. E-13/CM/83-89/56 dated 24.9.88 from G. M.M., Southern Telecom. Region, Madras on the subject.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case :

OA No 326 of 2000

BETWEEN
SHRI BINOD KUMAR & OTHERS
AND

..Applicants.

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENTS

I N D E X

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Filed by : *Usha Das*
Miss Usha Das
Addl CGSC

Date : 25/1/08.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.
O.A. NO. 326/2000

90
Filed
20 FEB 2000
Guwahati Bench

Shri Binod Kumar & others

Vs.

Union of India & others

Respondents.

(Written statements filed by the respondents No. 1, 2 & 3)

The written statements of the respondents No 1, 2 and 3 are as follows:-

1. That the copies of the O.A No. 326/2000 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 there of.
2. That the statement made in the application save and except those which are specifically admitted and denied by the respondents.
3. That with regard to the statement made in paragraph 1 of the application the answering respondents state that the disposing of the individual representation filed by the applicants pursuant to the judgement and order dated 20.9.99 passed in O.A. No.222 and 252 of 1997 was legal and as per the direction of the Hon'ble Tribunal/Guwahati and the applicant does not satisfy the condition of the scheme the applicants were barred by time limitation. Moreover it is to mentioned that the applicants are not a civil servants holding a sanctioned Civil Post governed by CCS(CCA) Rules 1965 and as such he cannot file this application in this Hon'ble Tribunal.
4. That with regard to the statement made in paragraph 2 and 3 of the application the respondents have nothing to comment.
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 statement is not correct. Shri Prabir Dutta is the Circle Secretary, Line Staff and Group D, N.E.Circle. Moreover as per ruling on membership the right of the Union to represent casual labour has not been conceded. The Union can represent the cases of regular staff only. Hence applicant No.2, Shri Prabir Dutta cannot represent the interest of casual labourer. (O.M. Annexed here as R1 and R2).
7. That with regard to the statement made in paragraph 4.3 of the application the respondents beg to state that the applicants worked as casual labourer only for work which is of casual nature. Their post cannot be created and does not fall under regular establishment. Nature of work and the term expired after the prescribed period. The applicants are no longer working as casual labourer. In pursuance of the judgement and order dated 20.9.99 in O.A.No.222/97 and 252/97 passed by this Hon'ble Tribunal their representations were considered in the light of the judgement on the basis of the available records. Their services were no longer required and services were discontinued since a long time. As there is no provision in the rules regarding re-engagement/or regularisation after such a prolonged discontinuity and to condone such a long discontinuity, their prayer for regularisation could not be entertained and was rejected.
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, Ministry of Communication prepared a scheme in the name and style of 'Casual Labour' (Grant of Temporary Status and Regularisation) Scheme, 1989 which was implemented.
9. That with regard to the statement made in paragraph No.4.5 of the application the respondents beg to state that casual labourer was engaged only for work which is of casual nature. The scheme for temporary status on regularisation of casual labourer is applicable only to those labour who are continuously working in the Department and engaged prior to 30.3.85. Moreover as the work is of casual nature the labourer is not entitled to regularisation.

Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-1 Telecom Circle, Shillong-1

25/11/08
T. Manoj
Asha Dm
Add. CMC
25/11/08

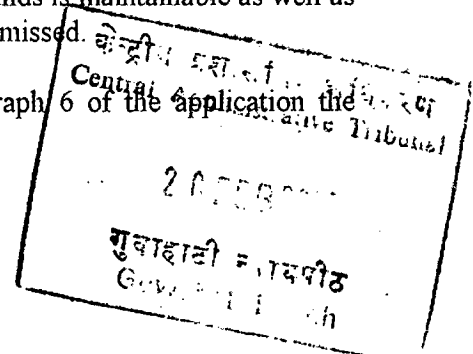
applicants that they possess all the qualification mentioned in the said scheme is not correct. The applicants have no right to claim any benefit under the said scheme.

10. That with regard to the statement made in paragraph 4.6 of the application the respondents beg to state that as OM dated 27.3.76 and 29th June 1978 it is clearly mentioned that facility of re-deployment would be extended to cover all the temporary employees recruited regularly through the prescribed channels of recruitment through recruiting agencies and have put in at least 3 years regular continuous service before retrenchment. But in the instant application the applicants were not at all granted temporary employees status. The order as in Annexure 3 of this application, does not reflect anything in favour of the applicants relating to their re-deployment. (O.M. dated 22.1.93 is enclosed here as R3).
11. That with regard to the statement made in paragraph 4.7 of the application the respondents beg to state that as per letter No.269-4/93-STN-II dated 17.12.98 it is clearly mentioned that all those casual mazdoors who were engaged by Circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circle where they were initially engaged and who are not absent for the last more than 365 days. This order mentioned by the applicant in this paragraph does not reflect anything in favour of the applicants. (DoT letter No.269-4/93-STN II dated 17.12.98 is enclosed as R4).
12. That with regard to the statement made in paragraph 4.8 of the application the respondents beg to state that the applicant No.2 Shri Prabir Dutta as Circle Secretary represents only Line Staff and Group D of the N.E.Circle and not casual labourers as per Govt. norms. The right of the Union to represent casual labourer has not be conceded by Government. The Union can represent only the cases of regular staff only.(Annexure - R9).
13. That with regard to the statement made in paragraph 4.9 and 4.10 of the application the respondents beg to state that the judgement of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in O.A.No.750/94 does not reflect anything in favour of the applicants as the judgement is for Postal Department only. Though the Postal and Telecommunication are under the same ministry i.e. Ministry of Communication rules and regulation are not same. The benefits which are getting by the Telecommunication, Postal Department is not getting the same benefit. Hence the claim is liable to be dismissed.
14. That with regard to the statement made in paragraph 4.11 of the application the respondents beg to state that this does not reflect anything in favour of the applicants relating to their regularisation.
15. That with regard to the statement made in paragraph 4.12 of the application the respondents beg to state that this does not reflect anything in favour of the applicants.
16. That with regard to the statement made in paragraph 4.13 of the application the respondents beg to state that the applicants do not fulfil the qualification mentioned in the scheme. Hence the claim is liable to be dismissed.
17. That with regard to the statement made in paragraph 4.14 of the application the respondents beg to state that the Annexure-7 in the applicants' application the letter was issued by Shri Prabir Dutta, Circle Secy. AITEU who can represent only the cases of regular staff but instant application he has represented the cause of the casual labour which he cannot represent.
18. That with regard to the statement made in paragraph 4.15 of the application the respondents beg to state that the applicants made prayer in the Hon'ble Tribunal in O./A.222/97 and 252/97 and judgement and order dated 20.9.99 which was disposed of by the respondents as per the directive of Hon'ble Tribunal.
19. That with regard to the statement made in paragraph 4.16 of the application the respondents have nothing to comment.

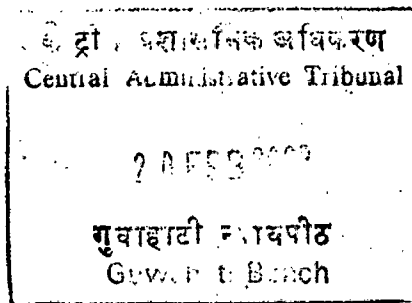
13/1/08
 Asstt. General Manager (Legal)
 Of the CGMT, BSNL
 NE-1 Telecom Circle, Shillong-1

20. That with regard to the statement made in paragraph 4.17 of the application the respondents beg to state that this does not reflect anything in favour of the applicants regularisation.
21. That with regard to the statement made in paragraph 4.18 of the application the respondents beg to state that as per rule the retrenched Temporary Central Govt. employee cannot be re-engaged through the employment exchanges but the instant applicants were not at all granted temporary status and hence the claim is liable to be dismissed.
22. That with regard to the statement made in paragraph 4.19 of the application the respondents beg to state that the Directive of the Hon'ble Tribunal in his judgement and order dated 20.9.99 was disposed of as per rule.
23. That with regard to the statement made in paragraph 4.20 of the application the respondents beg to state that the judgement and order dated 20.9.99 in the O.A.222/97 and 252/97 was implemented as per the directive of the Hon'ble Tribunal.
24. That with regard to the statement made in paragraph 4.21 of the application the respondents beg to state that the representation of the applicant were disposed of as per the directive of the Hon'ble Tribunal.
25. That with regard to the statement made in paragraph 4.22, 4.23 and 4.24 of the application the respondents beg to state there is no provision in the rules regarding re-engagement/ regularisation after such a prolonged discontinuity and to condone such a long discontinuity. Hence the applicants has no right to claim any benefit under any provision of law. The action taken by the respondents is legal as per rule. The applicant has no right to claim for set aside and question the stand taken by the respondents.
26. That with regard to the statement made in paragraph 4.25 of the application the respondents beg to state that the applicants are not having the requisite qualification for the scheme and therefore their case for grant of temporary status could not be considered. This does not reflect anything in favour of the applicant.
27. That with regard to the statement made in paragraph 4.26 of the application the respondents beg to state that consideration for re-engagement is only for those who worked as temporary Central Govt. Employees only. The applicants have never worked as Temporary Central Govt. employees. So it does not reflect anything in favour of the applicants relating to the re-engagement as and when the vacancy arises.
28. That with regard to the statement made in paragraph 4.27 of the application the respondents beg to state that as the applicants were not Temporary Central Government employee question of seniority list does not arise. The claim of the applicants are illegal and it has no value in the eyes of law.
29. That with regard to the statement made in paragraph 4.28 of the application the respondents beg to state the casual labour are engaged for work which is of casual nature. Nature of work and their term expired after the prescribed period. Hence the action on the part of respondents is legal as per the departmental rule. The applicants has no right for calling the action illegal and arbitrary in nature.
30. That with regard to the statement made in paragraph 4.29 of the application the respondents beg to state that the statement in this paragraph is false and tried to mislead the Hon'ble Tribunal. The judgement and order dated 30.9.99 was implemented by the respondents as per rule. Evidently the applicants claim has no value in the eyes of law.
31. That with regard to the statement made in paragraph 5.1 to 5.8 of the application the respondents beg to state that the none of the grounds is maintainable as well as in facts and as such the application is liable to be dismissed.
32. That with regard to the statement made in paragraph 6 of the application the respondents have nothing to comment.

17/11/08
Asstt. General Manager (Legal)
O/o the CGMT, BSVL
NE-1 Telecom Circle, Shillong-1



33. That with regard to the statement made in paragraph 7 of the application the respondents beg to state that the applicants filed an application before this Bench of Hon'ble Tribunal in OA.No.222/97 and 252/97 in which Judgement and Order dated 30.9.99 was passed by this Hon'ble Tribunal and the respondents has disposed of as per the directive of this Hon'ble Tribunal.
34. That with regard to the statement made in paragraph 8.1 to 8.5 of the application regarding the reliefs sought for the respondents beg to state that the applicants are not at all entitled to any of the reliefs sought for and as such the application is liable to be dismissed.
35. 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.
36. That with regard to the statement made in paragraph 10, 11 and 12 of the application the respondents have nothing to comment.
37. That the respondents beg to state that further, now that since BSNL has become a Corporate body the Hon'ble Central Administrative Tribunal has no jurisdiction over service matters of BSNL.(Annexure R5).
38. That the respondents beg to state that the applicants are not entitled to any of the reliefs sought for in this scheme as they are having no requisite qualification for those scheme claimed by the applicants and as such the application is liable to be dismissed with cost.
39. That the respondents submit that in fact that there is no merit in this case and as such the application is liable to be dismissed with cost.



Handwritten signature
 Asstt. General Manager (Legal)
 Of the CGMT, BSNL
 NE-1 Telecom Circle, Shillong-1

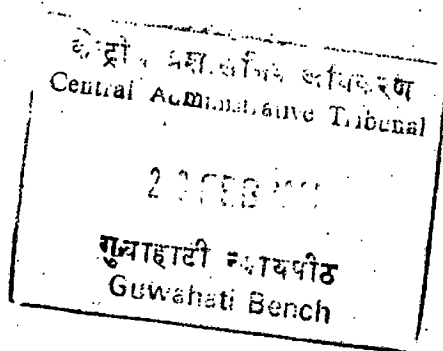
- 5 -

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VERIFICATION

I, Shri K.L.Shaw, Asstt.General Manager (Legal), O/o the Chief General Manager Telecom, North East-I Telecom Circle, Shillong -793001 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 ^{17th}..... day of ~~January~~ 2008.

I have not suppressed any material fact before Hon'ble court.



Ne De 17/1/08
Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-I Telecom Circle, Shillong-1
DECLARANT

10-13-1/85-BRT(Vol-IV)

OFFICE MEMORANDUM

Subject: Categorisation of Group 'C' / Group 'D' employees for the purpose of forming service union/associations under CCS (RS) Rules, 1993.

A few staff federations and the service unions had desired that the issue of categorisation of employees vide this office O.M. No. 36-4/94, even, dated 19-4-94 may be reconsidered.

2. Taking note of the demand of the service unions, to mention a few, All India Telecom Stenographers Assn., National Union of Telecom Engineering Employees, Indo Staff & Group 'D' Bhartiya Telecom Technicians Union, Telecom Accounts Association, etc. the above issue has been reconsidered by this office. It has been observed that the categorisation as decided vide O.M. dated 19-4-94 and the clarificatory orders issued by this office subsequent thereto is in order and does not require any further modification. The proposal of forming an exclusive union by the Stenographers/PAs and Telecom Technicians has not been agreed to. As already clarified vide this office letter No. 36-4/94-SRT dated 14-9-94, the stenographers working in Telecom Circles including senior PAs would form the union along with the Administrative Office employees referred to as item 4 of para 6 of the O.M. dated 19-4-94. The Telecom Technicians would form the service union along with the other Group 'C' employees referred to under item 2 of para 6 of the O.M. dated 19-4-94.

3. Taking the above aspects into account, the list of categories and the details of employees covered by each category is enclosed for information of all concerned. The recognition of applicant service unions whose application have been received within the stipulated date viz. 21-1-95 would be considered as per this categorisation.

(P.D. Verma)
Director(SR)

Copy to:

All Heads of Telecom Circles/Tele Districts.

All Heads of other Administrative Units.

Cont'd.

Asstt. General Manager
O/o the CGMT, BSNL
NE Telecom Circle, Shillong-1

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

मुवाहादी न्यायपीठ
Govt. of India

42 7-7-7
1. No action is to be taken on direct reference from branches except when specifically ordered by Minister/Deputy Minister/Chairman, Telecom. Board/Member of the Telecom. Board.

16-2/65-SR dated 3-8-86

5. On behalf of Unions/Associations, their General Secretaries or the holders of corresponding office or the President only should normally address the Administration. The Assistant Secretaries/Deputy General Secretaries wherever specifically authorised by their General Secretaries, may also address communications to the Administration but the references made by them should contain a clear indication that the same are being made under the authority of the General Secretary concerned.

31-1/64-SR dated 5-4-1969

6. The Administration will send replies to communications from Unions/Associations addressed to the General Secretaries of the Unions/Associations and to the Headquarters' address of the Branch Unions concerned with the only exception of D.O. letters from President. Replies to such D.Os. may be sent to the President but these will also be invariably addressed to the Headquarters' address of the Union Branch Unions concerned unless the sender of the reply is of the opinion that there are special reasons or circumstances for sending a reply direct to the address of the President. 31-3/66-SR dt. 24-11-66

7. The Unions/Associations shall not espouse or support the cause of individual government servants relating to service matters. When such references are received, the Unions/Associations may be informed that they are precluded from taking up individual cases with the Administration and as such their references are being filed.

16-2/72-SR dated 7-7-72

8. As per the existing system, the entire working of an office is appropriately distributed among its different sections for quick and proper disposal. When a communication is received which deals with more than one subject, it creates administrative inconvenience and difficulty, necessitates preparation of extracts for action in appropriate files in the concerned sections and delays the disposal of items referred to in the communication. With a view to facilitate quick and straight disposal, each union's communication addressed to the administrative authorities concerned at different levels, should deal with only one subject.

9. Creation and abolition of posts is purely an administrative matter and it is not a subject which the Union can discuss with the Administration. It is for the Department to decide whether a part-

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ANNEKURE R
cular post is justified or not and it is not the function of the Union to determine the justification or otherwise of the post. Views of the Union may, however, be considered when the question is examined on merits. No correspondence will be entertained with the Union regarding creation of individual posts. The question of fixation of standards for creation of posts is a different matter and does not fall in the above category.

16-6/65-SR dated 31-3-1965

III. Office Bearers

1. Honourably retired Telecom. officials of any arm of service are eligible to hold office in Associations/Unions.

17-9/59-SR dated 23-2-60 and 33-7/77-SR dated 26-12-77

2. Telecom. employees are permitted to hold office in Unions/Associations of their own arm of service and their own Circle/Division and All India Union concerned only. A class III employee can become an office bearer of a Union/Association of Class IV employees subject to the conditions that (a) the official belongs to the same arm of service and the same circle in the case of Circle Union and same Division in the case of Branch Union below Circle level and (b) the constitution of the Union of Class IV employees provides for membership of Class III employees. There is no objection to an employee holding office simultaneously in two or more branch Unions at Division Circle and All India level provided the branches belong to his own arm of service, Circle and Division. The above restrictions shall not however apply in case of employees holding office of President/Vice President.

17-23/73-SR dated 8-1-75

3. Prescribed facilities should not be extended to branches of Unions/Associations where any of the office bearers are non-employees (outsiders.)

17-7/74-SR dated 17.1.75 and 17-28/84-SR dated 9-10-84

IV. Rulings on Membership

1. The right of the Unions to represent casual labour has not been conceded. But if any grievances of casual labour covered by the recommendations of the Pay Commission are brought to notice by the Federation or Unions affiliated to it, this will be examined. However, no reply in respect of such grievances would be sent to the Federation or Unions affiliated to it.

32-1/64-SR dated 11-8-64

2. The trainees who have been recruited directly and yet to be absorbed in the Department will not join form or organise any Unions/

17/1/08
Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-1 Telecom Circle, Bangalore

8-8-8-
ANNEXURE R3

ANNEXURE R3

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

New Delhi, the 22nd January '93.

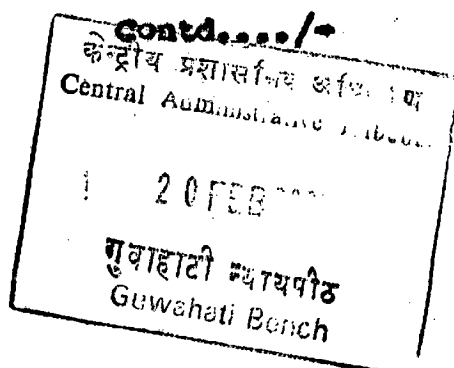
OFFICE MEMORANDUM

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

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

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

Re Dr 17/1/88
Asstt. General Manager (Legal)
O/o P. & T. RSNL
NE-1 Telecom Circle, Shillong-1



- 305 -
98
- 9 -

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

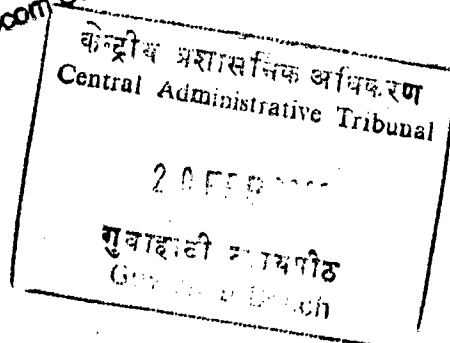
3. All the Ministries/Departments are requested to bring the above scheme to the notice of all concerned including those in the attached and subordinate offices for guidance and necessary action.

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

To

All Ministries/Departments of the Govt. of India.

Re Dc 17/1/08
Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-1 Telecom Circle, Shillong-1



10-11-96 09:00 299/96 09 10-11
- 20 - Telecom Bldg. U-10. Limg
ANNEXURE - 3.
NO. 269-4/93 STN- II
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
STN Section

ANNEXURE- R4

ANNEXURE R4

Dated New Delhi, 17 Dec. 1998

To,

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-STN 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 such works 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 works 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 has been made in violation of instructions of the Head Quarter dtd. 30.3.85 should also be analysed and disciplinary action be initial 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.

Advocate.

12/11/98
Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-1 Telecom Circle, Shillong-1

.....2/
Central Administrative Tribunal
गुवाहाटी न्यायाधीश
Guwahati Bench

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-FA-I dt dated 1.12.93.

Hindi version follows.

Yours Faithfully,

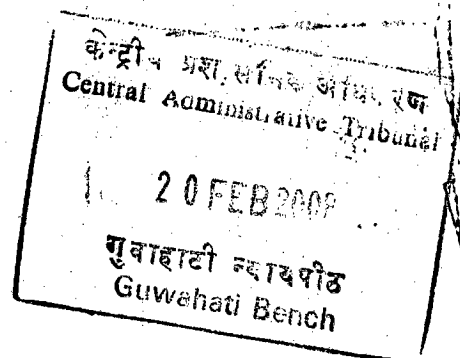
(S.K. DIWAN)
ASSISTANT DIRECTOR GENERAL (STN)

Copy to :

1. All the staff members of Department JCM
2. All Recognised Unions/Associations
3. Budget/TE-I/TE-II/sna/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 TLM, Guwahati.
9. The IDEs BGN/DR/SC/TZ/JRT/NO3
- 10-14 The STTs BON/DR/SC/TZ/JRT
15. The O.S.C.T.O. Guwahati .
16. The A.E. I/C CTSD, Guwahati .
17. The Principal CIRC, Guwahati.
18. The RAN, Guwahati.
19. The A.D. (Staff) C.O. Guwahati .
- 20-21. The Concerned Circle Secretaries of service Unions.,



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

Attested.

Advocate.

Re Bc 17/1/08
Asstt. General Manager (Legal)
O/o NE-1 Telecom Circle, Shillong-1

O.A. 198 of 2001

Present : Hon'ble Mr. Justice R.N. Ray, Vice-Chairman
Hon'ble Mr. B.P. Singh, Administrative Member

BISHNATH BANERJEE

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B.K. Mondal, counsel

For the respondents : Mr. M.S. Banerjee, counsel

Heard on : 1.3.2001

Order on : 1.3.2001

ORDERR.N. Ray, V.C.

Ld. counsel for both sides are present. This case is relating to the Department of Telecom which has now become a corporate body. Bharat Sanchar Nigam Limited is definitely a corporate body under the Government of India within the meaning of Article 12 of the Constitution. But that has not been notified till today and therefore, this court has no jurisdiction to entertain such petition.

2. Accordingly, the O.A. is disposed of ^{as such 'not'} at the stage of admission as 'not maintainable'. The applicant may approach the appropriate forum in respect of his grievances made in this O.A. No order as to costs.

MEMBER

VICE-CHAIRMAN



Re Dec 1/11/00
Asstt. General Manager (Legal)
O/o the CGMT, BSIL
NEI Telecom Circle, Shillong

101
20 FEB 2001
Guwahati Bench
Certified to be true copy
Court Clerk
1.3.2001

... is a Govt Company.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

निःशुल्क प्रतिलिपि

CIVIL MISC. CONTEMPT APPLICATION NO. 176 OF 2003

IN

ORIGINAL APPLICATION/DIARY NO. 4605 OF 2002
ALLAHABAD THIS THE 30th DAY OF OCTOBER, 2003

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A. K. DHATNAGAR, MEMBER-J

1. R.A. Patel, Junior Telecom Officer.
2. Ram Swaroop, Lina Man.
3. Mewa Lal, Telecom Technical Assistant.
4. Kamlesh Kumar Mishra, Regular Mazdoor.
5. Ram Sahivan Patel, Regular Mazdoor.
6. Shanker Lal, Regular Mazdoor.

All posted at Telephone Exchange Saran,
District-Allahabad.

7. Andrajoet, Phone Mechanic.
8. Ajaydh Rao, Phone Mechanic.
9. Gopal Chandra, Phone Mechanic.
10. Daladeen, Regular Mazdoor.
11. Radha Devi, Regular Mazdoor.

12. Anoop Kumar, Regular Mazdoor.

All posted at Karchhana Telephone Exchange,
District-Allahabad.

13. Raja Ram, Phone Mechanic,
Posted as Jasra Exchange, District Allahabad.

14. B.G. Singh, Junior Telecom Officer.

15. Madho Prasad, Phone Mechanic Posted at Ghoorpur,
Telephone Exchange, Allahabad.

.....Applicants

Advocate Shri R.G. Singh)
Asst. General Manager (Legal)
O/o the CGMT.
NE-1 Telecom Circle, Shillong-1

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केन्द्रीय प्रशासकीय न्यायालय
Central Administrative Tribunal

20 OCT 2003

गुवाहाटी न्यायापीठ
Guwahati Bench

Legal
Accountant

Robinson & Co
Baker & Co

1. Sri Prithvipal Singh,
CMD, Bharat Sanchar Nigam Ltd.,
New Delhi.
2. Sri V.K. Shukla,
Chief General Manager, U.P. at Lucknow.

.....Respondents

(By Advocate -----)

ORDER

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

This Contempt Petition is filed against the officers of Bharat Sanchar Nigam Limited a newly constituted corporation. Since no notification under section 14(2) has been issued in respect of this newly constituted corporation i.e., B.S.N.L.

This Contempt Petition is not maintainable before this Tribunal.

2. The legal position has been well settled in this regard by the Judgments of Division Bench of Hon'ble Delhi High Court in Ram Gopal Verma Vs. U.O.I. and Ors A.I.S.L.J. 2002(1) 352 and

Hon'ble Bombay High Court in B.S.N.L. Vs. A.R. Patil and Ors.etc

2002 (3) A.J. 1.

3. In view of the above the contempt petition is rejected as not maintainable with liberty to the applicant to approach the appropriate forum.

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Seal of the
Central Admin. Tribunal
Allahabad

(1) - 15 - 104 264/C

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.811/2002

Thursday this the 28th day of November, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

J.Sasisadharan Pillai,
S/o Janardhan Pillai
Staff No.3358, Senior Telecom Operating
Assistant (P), Telephone Exchange,
Elampalloor, Kundara
residing at Krishnavilassom Veedu,
Ambipolka, Kundara.

...Applicant

(By Advocate Mr.Vishnu S.Chempazhanthiyil)

V.

1. Assistant General Manager (Admin)
Office of the General Manager (Telecom)
District, BSNL, Kollam.

2. General Manager, Telecom District,
BSNL, Kollam.

3. The Director General,
Telecom Department, New Delhi.

4. Union of India, rep. by its
Secretary, Ministry of communications,
New Delhi.

5. K.M.Georgekutty
Senior TOA(P),

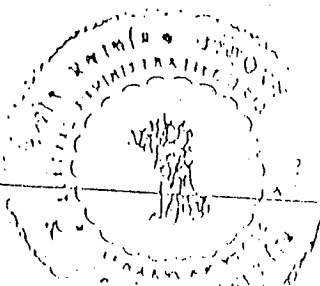
Telephone Exchange, Pathanapuram.

...Respondents

(By Advocate Mr. K. Keeravankutty, ACCSC - RI - 4)

The application having been heard on 28.11.2002, the
Tribunal on the same day delivered the following:

contd...



17/11/08
Asstt. General Manager
O/o the COMT, L. P. L.
NE-1 Telecom Circle, Shillong-1
Legal

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O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

गुवाहाटी न्यायाधीश
Guwahati Bench

The applicant working as Senior Telecom Operating Assistant (P) under the Bharat Sanchar Nigam Limited (BSNL-for-foreign) has filed this application challenging the order dated 1.8.2002 by which the applicant's posting has been changed from Kundra to Pathanapuram, order dated 7.8.2002 (A6) by which the 5th respondent has been posted to Kundara and the A9 order dated 21.11.2002 by which his representation for retention at Kundara or at Kottiyam has been rejected.

The applicant claimed that he being an ex-territorial army man he is entitled to a posting in a choice station and that the order turning down the request is unsustainable.

Shri K. Keshavankutty took notice for official respondents. He argued that the application may not be entertained as the applicant being an employee of the BSNL and as the BSNL has not been notified under the Administrative Tribunals Act, the Tribunal does not have jurisdiction. On the facts the counsel argued that the applicant having ceased to be a member of the

territorial army in the year 1999 he is not entitled

to any benefit and he supports the impugned order on

ground that it was issued on exigencies of

17/1/08
Asstt. General Manager (Legal)
O/o the CGMT
NE-1 Telecom Circle, Shillong-1

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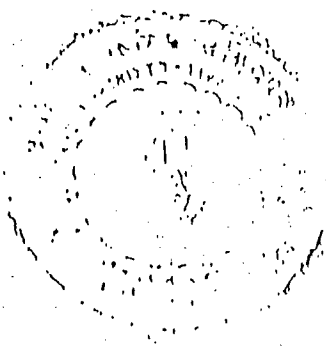
3. We have considered the question of jurisdiction of the Tribunal to entertain this application. Since the applicant has been absorbed as an employee of the BSNL he is no more an employee of the Telecom Department. As the BSNL has not been notified under the Administrative Tribunals Act, this Tribunal cannot exercise jurisdiction in regard to service matters of such employees of BSNL. The applicant being one who has been absorbed we find that this Tribunal does not have jurisdiction to entertain this application.

4. In the result the application is rejected under Section 19(3) of the Administrative Tribunals Act.

Dated the 20th day of November, 2002

Sd/-
(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER

Sd/-
(A.V.HARIDASAN)
VICE CHAIRMAN



7/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

- 18 - 107
266/c

Contempt Petition No.6 of 2004

Date of decision: This the 1st day of April 2004

The Hon'ble Shri Kuldeep Singh, Judicial Member

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Pankaj Borah,
S/o Late Baburam Borah,
Resident of Village- Bhakatgaon,
P.O.- Nabhanga, Golaghat, Assam.

By Advocates Mr A. Dasgupta and
Mr S. Chakraborty.

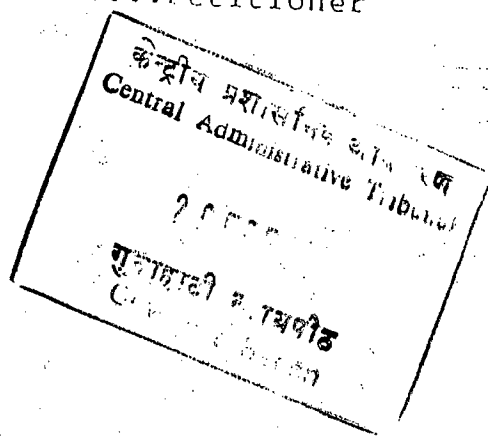
.....Petitioner

- versus -

1. Shri Binod Kumar Mishra
General Manager
Telecom, Kamrup Telecom District,
Guwahati.
2. Shri Kamal Krishna Das
Divisional Engineer (Admn).
Office of General Manager, Telecom,
Kamrup Telecom District,
Guwahati.

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

.....Respondents



O R D E R (ORAL)

KULDEEP SINGH, JUDICIAL MEMBER

The petitioner has filed this Contempt Petition on 25.2.2004 whereas the order in the O.A. was passed on 26.8.2002. Even excluding the time for communication of this order and the time given for implementation of the order then also the Contempt Petition has become barred by limitation under the provisions of Section 20 of the Contempt of Courts Act. The respondents have taken another objection that the officers belong to the Bharat Sanchar Nigam Limited (BSNL for short), therefore, the Tribunal

Asstt. G.
O/o the COMT, BSNL
NE-1 Telecom Circle, Shillong-1
17/1/08
(Legal)

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20/10/08

has no jurisdiction. The learned counsel for the respondents even quoted a judgment of the Delhi High Court in Ram Gopal Verma Vs. Union of India and others, reported in 2002 (1) SLJ 352, wherein it was held that the Tribunal has no jurisdiction for a Public Sector Enterprise unless notification is issued under Section 14(2) of the Administrative Tribunals Act. The learned counsel for the respondents also referred to another judgment passed by the Allahabad Bench of the Tribunal in Civil Miac. Contempt Application No. 175 of 2003 wherein also the contempt petition was also filed against officers of the BSNL and since no notification have been issued in respect of the BSNL under Section 14(2) of the Administrative Tribunals Act, it was held that the Tribunal had no jurisdiction over the BSNL.

2. Following the aforementioned two judgments we also hold that this Tribunal has no jurisdiction over the BSNL and accordingly the Contempt Petition is dismissed.

Sd/MEMBER(J)

Sd/MEMBER(A)

Ne. 8
12/11/08
Asstt. General Manager (Legal)
O/o the CGMT, BSNL
NE-1 Telecom Circle, Shillong-1

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22/11/08
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati-781005