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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CUMHATI BENCH: CUMHATI. 5 (FORM NO. 4)
(See Rule-42)

ORDER SHEET.

APPLICATION NO. 330/2000

Applicant(s) Joy Kumar Pandey

Respondents(s) Union of India and others.

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

Advocate for Respondent(s) Mr S. Sarma, Mr. U.K. Goowami
C.G.S.C.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

29.9.2000

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

Heard Mr S. Sarma, learned counsel
for the applicant. The application is admitted.
Call for the records. Mr B. S. Basumatary,
learned Addl. C.G.S.C. is present. List for orders
on 29.11.00. In the meantime the respondents
are directed to allow the applicant to continue
in service. Pendency of this application shall
not stand in the way of the respondents to
consider the case of the applicant as per the
Scheme/Instructions of the Government of India.

Vice-Chairman

nkm

29.11.2000

Four weeks time allowed for filing of
written statement. List it for orders on 2.1.2001.

Vice-Chairman

nkm

2.1.2001

Heard Mr.S. Sarma, learned counsel
for the applicant.

Mr.A. Deb Roy, learned Sr.C.G.S.C.
is accommodated due to his indisposi-
-tion.

Mr.B.S.Basumatary, learned
Addl.C.G.S.C. prays for time to
file written statement. Prayer allowed.

List ...

for the records
vide No. 502960
Dated 29.9.2000

Dy. Registrar

Steps are yet to be
received to issue notices.

29/7/00

Steps are received. Notice
prepared and sent to
B/S for issuing the respondents
No 1 to 4. Vide A/No
2356 to 2359 dtd 30/10/2000

24/10/00

(2)
at 330/ 2000

Service report are
still awaited.

28
28.11.2000

2.1.01
CONTD

List on 18.1.01 for
written statement and further
orders.


Vice-Chairman

Notice duly served on
Respondent No 4

29
29/11/00

mk

18.1.01 W.S. B. Adjourned to 24.1.2001.


Mlo
A.B. 22
18.1.

No. 4's has been
filed.

24.1.01

Adjourned to 23.2.01 to enable
the respondents to file written statement.

List on 23.2.01.


Vice-Chairman

Notice duly served on
No. 1, 2, 3 and adjourned

31
31/11/01

trd

23.2.01 W.S. B. Adjourned to 5.3.2001.

Mlo
A.B. 22
23.2

Notice duly served on

R No 2

25
25/01/01

5.3.01

List on 11.4.01 to enable the respon-
dents to file written statement.


Vice-Chairman


lm

10.4.2001

11.4.01

W/S has been
submitted by the
Respondents.

~~W/S~~ Written statement has been
filed. The applicant may file rejoinder
if any within 2 weeks. List on 9.5.01
for hearing.


Vice-Chairman

lm

9.5.01

9.5.01

On the prayer of learned counsel
for the applicant, the case is adjourned to
30.5.2001 for hearing.


Vice-Chairman

bb

Notes of the Registry	Date	Order of the Tribunal
No. Rejoinder has been filed. By 3.7.01	30.5.01	<p>The learned counsel for the parties, mainly, Mr.S.Sarma and Mr.A.Deb Roy, Sr. C.G.S.C. are away from this Bench for attending the Circuit Court at Imphal and Kohima and accordingly, a prayer has been made on their behalf for adjournment.</p> <p>Prayer allowed. The case is adjourned to 4-7-2001 for hearing.</p> <p>Vice-Chairman</p>
31.7.2001	04.07.01	<p>Mr.A.Dab Roy, learned Sr.C.G.S.C. for the respondents, requests for adjournment.</p> <p>Mr. S.Sarma, appearing for the applicant, has no objection. Prayer is accepted.</p> <p>List on 27-07-2001 for hearing.</p> <p>Member</p>
Rejoinder to the written statement has been filed.	27.7.	<p>There is a reference. The case is adjourned to 31.8.2001.</p> <p>mb</p>
The case is ready for hearing as regard service.	31.8.	<p>Adjourned to 6.9.2001.</p> <p>mb</p>
By 26.7.01	6.9.01	<p>Mr.S.Sarma, appearing on behalf of the applicant, says that there are some development in the matter, so requested for adjournment.</p> <p>Prayer accepted. List on 17/10/01 for hearing.</p> <p>Member</p>
The case is ready for hearing.	17.10.01	<p>Mr B.C.Pathak, learned Addl.C.G.S.C on behalf of Mr A.Deb Roy, XXXXXX who is hospitalised prays for a short adjournment. Prayer allowed.</p> <p>List on 14.12.01 for hearing.</p> <p>Member</p>

The case is ready
for hearing.

By
22.1.02

Notes of the Registry	Date	Order of the Tribunal
	14.12.01	Prayer has been made on behalf of Sri S.Sarma, learned counsel for the applicant for adjournment for the case on the for personal reason. Prayer is allowed. List on 23.1.02 for hearing.
	mb 23.1.02	<p>The matter was extensively heard. Mr.A.Deb Roy, Sr.C.G.S.C. appearing for the respondents submitted that the applicant was given opportunity by the Verification Committee and only after giving opportunity to the applicant the Verification Committee found that the applicant had not worked for 240 days in any of the year. At this stage Mr.S.Sarma, learned counsel for the applicant submitted that he wants to file an amended application.</p> <p>After hearing the learned Standing counsel for the respondents the applicant is given 2 days time to file an amended application. The respondents may file their objection to the amended application within two weeks thereafter.</p> <p>List the case for hearing on 20.2.2002.</p>
	bb 13.2.02	<p>Heard Mr.S.Sarma learned counsel for the applicant. One week time is allowed to the Respondents to file objection of the amended application. List on 20.2.02 for orders.</p>
	lm	


1 CC Sharma
Member

1 CC Sharma
Member (A)

1 CC Sharma
Member

20.2.2002

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


Vice-Chairman

nk m

14.3.2002

Copy of the Indst
has been sent to the
Office for issuing
the fine to the D.C.G.S.C.
for the Reply by Ind.

HL



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 330 of 2000

Date of Decision.....20.2.2002

Shri Ajoy Kumar Pandey

-----Petitioner(S)

Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Nair.

-----Advocate for the
Petitioner(s)

-Versus-

The Union of India and others

-----Respondent(s)

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

-----Advocate for the
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.330 of 2000

Date of decision: This the 20th day of February 2002 .

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

Shri Ajoy Kr Pandey,
Resident of Bongaigaon,
District- Kokrajhar.

.....Applicant

By Advocates Mr B.K. Sharma, Mr S. Sarma and
Mr U.K. Nair.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Telecommunication,
New Delhi.
2. The Chairman,
Telecom Commission,
New Delhi.
3. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
4. The Divisional Engineer,
Telecom District Manager,
Bongaigaon.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the legitimacy of the action of the respondents in seeking to review its decision of conferring temporary status. By order dated 16.9.1996 on the strength of the orders contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi, the applicant alongwith 12 others was conferred temporary status in the Office of the Telecom District Manager, Bongaigaon. By order dated 9.10.1996 the approval for conferring status to these persons vide order dated 16.9.1996 was kept in abeyance till further orders. The applicant

assailed the order dated 9.10.1996 in O.A.No.131 of 1998. This Bench by Judgment and Order dated 31.8.1999 disposed of the said O.A. alongwith a series of other O.A.s directing the respondent authority to examine the case of each of those applicants. The applicants were also provided with an opportunity to submit representations narrating their grievances. Pursuant to the order of the Tribunal, according to the applicant, he submitted representation before the authority, but since the same was not disposed of and as the applicant was not absorbed he moved this Tribunal again seeking for appropriate direction from this Tribunal.

2. The respondents submitted their written statement and in the written statement the respondents have mentioned that a Review Committee was formed for scrutinising the order for conferring temporary status to the 13 persons including the applicant as shown in the notice dated 9.10.1996 and the said committee remarked that the order dated 16.9.1996 was not regular since the requisite conditions were not fulfilled by any of the thirteen persons mentioned therein and accordingly the order dated 16.9.1996 conferring temporary status to them, which was first kept in abeyance by order dated 9.10.1996, was cancelled vide order dated 25.4.1997. The respondents also stated and contended that these persons did not fulfil the eligibility criteria for being conferred the temporary status and they were only engaged for a very small duration on day to day basis on exigency of service to meet the requirements. It was also asserted that their engagements were purely casual and of intermittent nature. In the written statement the respondents also disputed the correctness of the communication of the SDOT, Kokrajhar dated 2.7.1996. The respondents specifically asserted that a Review Committee was constituted to verify the engagement particulars of these thirteen persons and the Review Committee, on examination, found that the report submitted by the field units were wrong and that none of the casual labourers were

eligible.....

eligible for being granted temporary status. Accordingly the order dated 16.9.1996 conferring temporary status to the thirteen persons was cancelled by order dated 25.4.1997. The applicant assailed the order dated 25.4.1997 on coming to know about the same from the written statement of the respondents by filing an amendment petition in M.P. No.24 of 2002.


3. I have heard Mr B.K. Sharma, learned Sr. counsel for the applicant assisted by Mr U.K. Nair, learned Advocate and also Mr A. Deb Roy, learned Sr. C.G.S.C. Admittedly, the applicant was conferred with temporary status on 16.9.1996. The conferment of temporary status was made by the authority in pursuance to the order contained vide letter No.269-4/93-STN-II dated 17.12.1993 of the DOT, New Delhi. The list consisted of thirteen casual Mazdoors including the applicant of Bongaigaon SSA who were engaged by the Circle during the period from 31.3.1985 to 22.6.1988 and were continuing in the circle where they were initially engaged and were not absent for the last 365 days. It appears that a conscious decision was taken by the respondents and the decision must have been taken on consideration of the materials on record. Official acts are presumed to be done regularly. However, the approval conferring temporary status was subsequently kept in abeyance vide communication dated 9.10.1996 and finally the conferment of temporary status to these persons was cancelled by the impugned order dated 25.4.1997. On a bare perusal of the order dated that the aforesaid exercise by constituting a Review Committee was made on receipt of complaints from the staff side regarding irregularities on conferring temporary status to casual Mazdoors. The nature of the irregularities was not pointed out to the applicant. At least no such materials were produced. Mr Deb Roy, however, referred to para 8 of the written statement, wherein it was stated that the casual labourers were also given the opportunity to present their case before the committee to meet the ends of justice. Apparently, para 8 referred to the exercise made by the reviewing committee formed for scrutinising

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the case for conferring temporary status, i.e. an exercise that took place pursuant to the order of the Tribunal in O.A.No.131 of 1998. In para 8 itself it has been stated that the exercise was carried out pursuant to the order of the Tribunal dated 31.8.1999 in O.A.No.131 of 1998. In the case in hand, the applicant was already granted temporary status on 16.9.1996 on the basis of his engagement as casual labourer during the period 1985-1988. The written statement is also specifically silent on this issue. At any rate there are no materials to show that the applicant was intimated about any of the irregularities. The order dated 25.4.1997 is visited with civil consequences and the said order was passed without affording any opportunity to the applicant to defend his case before the authority. The Scrutiny Committee only dealt with the cases of those casual labourers who were engaged from 1993 to 1998. So far this applicant is concerned, his case was for conferment of temporary status for the work rendered by him as casual labourer on and from 1988 in the Circle.

4. In the circumstances the impugned order dated 25.4.1997 cancelling the order conferring temporary status dated 16.9.1996 to the applicant cannot be sustained and the same is thus set aside.

5. The application is accordingly allowed so far the applicant is concerned. There shall, however, be no order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

29 SEP 7PM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
 (An application U/s 19 of the Administrative Tribunal
 Act, 1985).

ORIGINAL APPLICATION NO. 330 OF 2000

Shri Ajoy Kumar Pandey ... Applicant.

Versus

The Union of India & Ors. ... Respondents.

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Filed by -

Uk Gormen

Advocate.

Date of Filing : 29.09.2000
 Registration No:

REGISTRAR.

Filed by:
the Applicant
through
ujjal kr. Gossain
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI : BENCH
: GUWAHATI

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

O.A. NO. 320 OF 2000

BETWEEN

Shri Ajoy Kr. Pandey,
son of Shri Banarasi Pandey,
Resident of Bongaigaon,
District - Kokrajhar,
Pin-783372

... APPLICANT

-VERSUS-

1. Union of India.
Represented by the Secretary to
the Govt. of India, Ministry of
Telecommunication, New Delhi.
2. The Chairman,
Telecom Commission,
Sanchar Bhawan,
New Delhi-1.
3. The Chief General Manager,
Assam Telecom Circle,
Guwahati-1.

AKP

4. The Divisional Engineer,
Telecom District Manager,
Bongaigaon-783380.

... RESPONDENTS

PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not considering the case of the applicant for regularisation of services pursuant to scheme/guidelines and direction of Hon'ble Supreme Court of the which under the similar fact situation like that of the applicant above named has been benefited and against the illegal termination of the services of the applicant. Further the common Judgement and order dated 31.8.99 in the O.A. No.131/98 when the present applicant was also an applicant, this Hon'ble Tribunal directed the respondent to consider his case for regularisation.

2. LIMITATION

The applicant declares that the instant

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AKP

application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights privileges and protections guaranteed by the Constitution of India and laws framed thereunder.

4.2. That in the instant application the applicant was holding the post of casual Mazdoor under the respondents. The applicant was holding the said post like that of regular Mazdoor under the regular establishment works. The applicant joined his service in the year 1988 and by now he has completed almost 13 years of service. The applicant through this application has challenged the action of the respondents in not considering his case for grant of temporary status and regularisation in the light of the various schemes and subsequent clarification issued from time to time by the respondents.

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AKP

4.3 That the applicant begs to state that the Sub-Telecom Officer (T), Kokrajhar Telecom Sub Division issued a letter vide Memo No. A-8/KAJ/96-97 dated 2.7.96 to the Telecom District Manager, Bongaigaon whereby submitted the engagement report of the casual worker under Kokrajhar Sub Division. The engagement report of the applicant was annexed therein.

A copy of the order dated 2.7.96 along with the engagement report is annexed herewith and marked as ANNEXURE-1.

4.4 That the applicant begs to state that the Divisional Engineer (P & A), Telecom District Manager, Bongaigaon issued an office order vide Memo No.E-75/PT & CM/Pt-II/96-97/146 dated 16.9.96 whereby the name of the 13 persons were brought under TEMPORARY STATUS with effect from 1.1.88. The name of the applicant was also in the list.

A copy of the aforesaid order dated 16.9.96 is annexed herewith and marked as ANNEXURE-2.

4.5 That the applicant begs to state that the Divisional Engineer (P&A), the Telecom District Manager, Bongaigaon, issued an order vide Memo No.

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E-75/PT-CM/PT-111/96-97/02 dated 9.10.96 whereby directed to kept abeyance the earlier order dated 16.9.96.

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The copy of the order dated 9.10.96 is annexed herewith and marked as ANNEXURE-3.

4.6. That some of the similarly situated worker like that of the applicant belonging to the Deptt. of Posts had approached the Hon'ble Supreme Court for regularisation of their services and the Hon'ble Apex Court was pleased to grant the relief to them directing the official respondents to prepare a scheme for grant of Temporary status and Regularisation. It is pertinent to mention here that claiming similar benefits a group of similarly situated employees under the Respondent No. i.e. Deptt. of Telecommunication had also approached the Hon'ble Supreme Court for similarly direction by way of filing petition No. (C) No. 1288/89 (Ram Gopal and ors. Vs. Union of India & Ors. along with several writ petition i.e. 1245/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass direction to the respondents authority to prepare a scheme on a rational basis for absorption of the casual workers as far as possible who have been working more than one year in their respective posts. Pursuant to that aforesaid Judgement Govt. of India, deptt. of Telecommunication prepared a scheme in the

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name and style "Scheme 1989 and the same was communicated vide letter No. 269-10/89-STN dated 7.11.89. In the said scheme benefits have been granted to the casual workers such as conforment of temporary status, wages and daily rate with reference to the minimum pay scale of regular Group-D employees including DA, HRA, etc.

Copies of the orders of the Hon'ble Supreme Court and the order dated 7.11.89 are annexed herewith and marked as
(ANNEXURES-4 & 5

4.7. That as per the Annexure-4 scheme as well as the direction issued by the Hon'ble Supreme Court in the cases mentioned above, the applicants are entitled to the benefits described in the scheme. The qualification prescribed in the said scheme as well as in the aforesaid verdict of the Hon'ble Supreme Court the applicant is in possession of all the qualification to get the benefits of the said scheme.

4.8 That the respondents after issuance of the aforesaid scheme issued further clarification from time to time 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 be conferred to the casual labourers who were engaged during the period fro

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13.3.85 to 22.6.88. It is pertinent to mention here that in the instant case the applicant was working as a casual worker under Deptt. of Telecommunication since 1988 up to 1996 and as such he is also covered by the stipulations mentioned in the above letter.

Copies of the said letter dated 17.12.93 is annexed herewith and marked as ANNEXURE-6

4.9 That the applicant appointed in the year 1988 on casual basis. Since 1988 he was continuing in that post. In the year 1998 he approached this Hon'ble Tribunal by way of filing an Original Application being numbered as O.A. No. 131/98 along with other similarly situated persons and the Hon'ble Tribunal was pleased to disposed off the O.A. in its common Judgement and Order dated 31.8.99 directing the respondent to consider the case of the applicant on the basis of the representation made by them.

A copy of the aforesaid Judgement and Order dated 31.8.99 is annexed herewith and marked as ANNEXURE-7.

4.10. That the applicant begs to state that pursuant to that order dated 30.8.99 passed by the Hon'ble

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Tribunal the applicant made a representation to the respondent authority praying therein for regularise his service. Pursuant to the representation, the Divisional Manager (P&A) Bongaigaon issued an order to the S.D.O.P. Bongaigaon vide Memo No. E-75/PT & CM/Court Case/99-2000 dated 10.11.99 directing therein to strictly following the order of the Hon'ble Tribunal dated 30.8.99 in O.A. No. 131/98.

A copy of the aforesaid order dated 10.11.99 is annexed herewith and marked as ANNEXURE-8.

4.11 That the applicant begs to state that the Divisional Manager (H & A), Bongaigaon issued an order vide Memo No. E-75/PT & CM/Court Case/99-2000 dtd. 11.10.99 to the concerned officials of Telecommunication Department, Bongaigaon to collect the individual representations from the casual Mazdoor in the O.A. No.131/99 along with other O.A. and examine the each case.

A copy of the aforesaid order dated 11.10.99 is annexed herewith and marked as ANNEXURE-9.

4.12 That the applicant begs to state that as per the Annexure-4 scheme as well as the verdict of the

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Hon'ble Supreme Court, the applicant is entitled to the benefits described therein. It is further submitted that the applicant has got the qualifying service records more specifically the date of engagement as well as No. of days work as reflected in the aforesaid scheme and the Judgement.

4.13. That the applicant states that just after pronouncement of the Judgement by the Hon'ble Supreme Court the case of the applicant was required to be considered in light of the said Judgement. The applicant has made several representations from time to time to implement the aforesaid Judgement and to extend the benefits of the aforesaid scheme for grant of temporary status and regularisation to him. Contrary to the Hon'ble Supreme Court by appointing persons from open market. The respondents of their own ought to have extend the benefits of the scheme to the applicant instead of requiring him to approach the Hon'ble Tribunal again and again.

4.14 That the instant application has been made for appropriate direction from the Hon'ble Tribunal towards the redressal of his grievances through the O.A. The applicant is a casual worker in the Telecommunication Department, he is entitled to benefit as has been extended to the casual workers. The denial of some to

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them has resulted in hostile discrimination and hence the O.A. for appropriate relief.

4.15 That the applicant states the matter relating to filling up of Group-D posts came up before the local joint consultancy meeting held in various dates in the circle. In the aforesaid meeting including the Chairman there were 6 competent officers and 11 union members from the staff side to discuss the welfare of the employees including regularisation of Gr.-D employees. After a detailed discussion, one time relaxation of Group-D recruitment was discussed and to that effect both the sides office side as well as staff side decided to approach directorate for the appropriate steps.

The applicant prays before the Hon'ble Tribunal for a direction to the respondents to produce the copies of the Minutes of the said LJCM Meeting at the time of hearing of the case.

4.16 That the applicant begs to state that in view of the aforesaid scheme as well as the verdict of the Hon'ble Supreme Court, the applicant is entitled to be regularised. However, the respondents are still sitting over the matter without regularizing the services of the applicant.

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4.17 That the applicant in view of the above discrimination in respect of the applicant is working under the respondents No. 4, made numbers of representations to the authority concerned. However, the respondent have expressed their inability to do anything in the matter in absence of any order from the Hon'ble Tribunal directing the respondents to consider his case. In view of the aforesaid circumstances, has necessitated in filing of the instant application.

4.18 That the applicant begs 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 O.A. No. 299/96 and this Hon'ble Tribunal pleased to allow the aforesaid application on 13.8.97 by a common Judgement and Order.

A copy of the said order dated 13.8.97 is annexed herewith and marked as ANNEXURE-10.

4.19 That the applicant begs to state that recently making similar prayer a group of casual workers working under Assam Telecom Circle had approached this Hon'ble Tribunal by way of filing various O.A. viz. 107/98 and other connected OAs and this Hon'ble Tribunal by a common order was pleased to allow the aforesaid application on 31.8.99.

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A copy of the said order dated 31.8.99 is annexed herewith and marked as ANNEXURE-7.

It is pertinent to mention here that the respondents, pursuant to the said Judgement and Order dated 31.8.99, have taken steps to consider the cases of the aforesaid applicants and seeking time towards implementation of it.

4.20 That the applicant states that it is settled position of law that when some principles have been laid down a given case these principles are required to be made applicable to other similarly situated cases without requiring them to approach the Hon'ble court again and again. But in respect of casual labourers of Department of Posts, the Department of Telecommunication under the same ministry has not yet extended the benefit to the casual labourers working under them.

4.21 That the applicant begs to state that the respondents i.e. the Director very recently has issued a letter by which names of several casual workers have been sent to the Chairman for consideration of their cases for regularisation.

The applicant craves leave of the Hon'ble Tribunal to produce the said copy at the time of

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APP

hearing of the case. On the other hand the higher authority of the respondents have issued a letter by which it has been stated that service of the casual workers will be regularized. The applicant inspite of the best effort could not get hold of the said copy of the order issued in the year 1999 and hence craves leave of the Hon'ble Tribunal to produce the same at the time of hearing of the case.

4.22 That the applicant begs to state that presently the respondents are issuing various orders granting temporary status to the casual workers like that of the applicant but the applicant is yet to get the similar consideration from the said respondents. It is pertinent to mention here that under the respondents these are numbers of vacant posts of regular mazdoors and hence there will be no difficulty in regularizing the service of the applicant in those posts. Very recently at least 700 posts of regular mazdoor, have been allotted to the Assam Telecom Circle and the respondents may fill up the said posts without considering the case of the applicant and hence this application praying for an appropriate direction from the Hon'ble Tribunal directing the respondents to consider the case of the applicant against those vacant posts or any other vacant posts.

Contd.../-

AKP

26

4.23 That the applicant begs to state that the respondents very recently issued an order dated 1.9.99 clarifying the cut off date of the said scheme dated 7.11.89. IN the said order, the respondents themselves have extended the cut off date and according to the said clarification, the case of the applicant is required to be considered.

A copy of the said order dated 1.9.99 is annexed herewith and marked as ANNEXURE-II.

12.

4.24 The applicant states that in a nutshell his whole grievances are that to extend the benefits of the aforesaid scheme as well as similar treatment as has been granted to the casual workers working under Department of Posts in regard to treating the cut of date of engagement as 10.9.93 or as described in the order dated 1.9.99 for conferment of the aforesaid scheme.

4.25 That the applicant begs to state that till date he is continuing in his service and respondent after the issuance of the notice from the Hon'ble Tribunal may terminate his service. In that view of the matter the applicant prays before the Hon'ble Tribunal for an appropriate interim order directing the respondents not to disturb the services of the applicant

Contd.../-

AKP

during the pendency of the case. In case the Hon'ble Tribunal does not protect the interest of the applicant by passing appropriate interim order, applicant will suffer irreparable loss and injury.

5. **GROUND'S FOR RELIEF WITH LEGAL PROVISION:**

5.1 For that prima-facie the action/inaction on the part of the respondents is illegal so far as non-regularisation of the services of the applicant is concerned that too without assigning any reason and hence the same is liable to be set aside and quashed.

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

5.3 For that it is the settled principles have been laid down in a Judgement extending certain set of employees, the said benefits are required to be extended to the similarly situated employees 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.

5.4 For that the discrimination meted out to

Contd.../-

AKP

applicant in not extending the benefit of the scheme and in not treating them as per with Postal employees is violative of Article 14 and 16 of the Constitution of India.

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

5.6 For that since the cut of date for extending the benefit of the scheme dated 7.11.89 has been extended, the respondents are duty bound to carry out the process for granting of temporary status as per the said scheme and non consideration of their cases, has resulted in hostile discrimination and hence their entire action are liable to be set aside and quashed with a further direction to the respondents to extend the benefit of the said scheme with all consequential service benefits.

The applicant crave leave of this Hon'ble Tribunal to advance more grounds both factual as well as legal at the time of hearing of the case.

5.7 For that in any view of the matte the

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action/inaction of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves 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 applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares 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 such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR.

Under the facts and circumstances stated above, the applicant most respectfully prayed that the

Contd.../-

KK

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 records, be grant the following reliefs to the applicant:-

8.1 To direct the respondents to extend the benefits of the said scheme to the applicant and to regularize his service with all consequential benefits.

8.2 To direct the respondents to allow the applicant to continue in his service.

8.3 To direct the respondents to extend the benefits of the scheme to the applicant particularly taking into consideration of the Hon'ble Earnakulam Bench Judgement as well as the subsequent clarification issued by the respondents regarding the cut off date of the scheme and to regularize his service with retrospective date with all consequential service benefits.

8.4 Cost of the application.

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

Contd.../-

AKD

9. INTERIM ORDER PRAYED FOR

Pending disposal of the application Your Lordships may be pleased to pass interim order directing the State Respondents to allow him to continue in his service till disposal of this O.A.

11. PARTICULARS OF THE I.P.O.

i) I.P.O. No.	: 502960
ii) Date	: 29/9/2000
iii) Payable at	: Guwahati.

12. LIST OF ENCLOSURES:

As stated above in the index.

35 -
Representations - disposed of 14.11.2000

Contd.../-

AKP

7)

VERIFICATION

I, Sri Ajay Kumar Pandey, son of Sri Banarasi Pandey, aged about 30 years, resident of Bongaigaon in the district of Kokrajhar, Assam do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.7, 4.12 to 4.17, 4.20-4.21 are true to my knowledge and those made in paragraphs 4.22 to 4.24, 4.26, 4.28, 4.30, 4.31 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 29th day of September, 2000 at Guwahati.

✓ Ajay Kumar Pandey

Contd.../-

ANNEXURE-1

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL OFFICER TELEGRAPHS KOKRAJHAR

NO. A-8/KAJ/96-97. Dated at Kokrajhar the 2nd July 1996.

To,

The Telecom District Engineer,
Bongaigaon-783380

Sub: Statement for engagement of Casual Mazdoor
under Kokrajhar Sub-Divn engaged after 22-6-1996

Ref: Your letter no. E-75/~~XXXX~~PI & CM/Pt-II/94-95/
dated at BGN the 07-03-95.

Please find enclosed herewith the statement of
Casual Labour engaged under the J.T.O.(Grp)/Kokrajhar of this
Sub-Division for favour of your information and necessary action

The Casual Labour was engaged by J.T.O.(Grp)/KK
on A.C.G.-17 basis with time to time break since 1988, for execution of Departmental TARGETED Developmental and Maintenance works and It was necessary for the interest of service.

1. Casual Mazdoor engaged on A.C.G.-17 under J.T.O.(Grp)KKJ=1 n

Encls: As mentioned above

20/7/96
Sub-Divisional Officer (T)
Kokrajhar Telecom Sub-Divn
KOKRAJHAR-783370

*Afternoon
16/7/96
Advocate*

Sl. No.	Name of the Casual Mazdoor. and address.	Date of Birth.	Working on A.C.G.-17 Basis Details.	Name of the officials Who engaged Mazdoor After 22-06-88.	Approval of the Authority concerned for engagement of Mazdoor.	Remarks.
1)	Sri Ajoy Kumar Pandey. Son of Sri Anarashi Pandey. Basugaon Telephone Exchangee.	03-09-70	01-01-1988 to 31-12-1988 01 12 = 239 days. 01 — to 31 — = 244 days. 1989 1989 01 to 31 — = 243 days. 01 1990 1990 01-01-1991 to 31-12-1991 = 230 days 01-1-1992 to 31-12-1992 = 226 days 01-1-1993 to 31-12-1993 = 231 days 01-01-1994 ut to Oct '94 = 185 days 01-1-1995 to 1-12-95 = 210 days 01-1-1996 up to June '96 = 100 days	The casual labour were engaged by the then S.I.P. on J.T.O.s under their respective sections in the Sub-Division of Kokrajhar. Newly created for execution of developmental works and maintenance of telecommunication services specially. This was necessary for the interest of public service.		The casual labour were engaged by The S.I.P. on A.C.G.-17 basis with time to time break up under the supervision of J.T.O.s for execution of developmental works like :- to lay U/G cables, to provide LDFTs, construction, New alignment and to provide New Telephone connections for this Newly Created sub-Division Kokrajhar.

62/1441
Kokrajhar Telephone Sub-Division
Kokrajhar-782002

Statement of Telecommunications

From: Junior Telecom Officer (Group) Kankhal.

24

This is to certify that Shri Ajay Kumar Pandey son of Shri Banarashi Pandey of Banegaon performed duty as temporary mazdoor in this department i.e. of 1988 to 1991. This is as per records of the J.T.O (Group) Banegaon and this certificate has been issued after checking the same.

Particulars in detailed regarding duty performed by Shri Ajay Kumar Pandey i.e. of 1988 to January 1991 as found in the previous records are mentioned below.

Particulars:-

<u>Year</u>	<u>Station</u>	<u>Duty performed (No. of days)</u>
1988	Banegaon	239 days
1989	Banegaon	347 days
1990	Banegaon	243 days
1991 (1.1.1991 to 31.12.1991)	Banegaon	31 days

Dated - At Kankhal, the
18.11.1991

Signature

Certified to be
correctly submitted by the
J.T.O. in the
in the sum of Rs. 1000/-
for the year 1991.

Signature
J.T.O. Banegaon

Sub-Div. Officer, Banegaon
Banegaon, District, Banegaon
Banegaon, District, Banegaon
Banegaon, District, Banegaon

Wishes to certify that Shri Ajay Kumar Pandey son of Shri. Banarashi Pandey, Bhusuagan found to perform duty time to time at Bhusuagan Telephone Exchange under department of Telecommunication as a casual labour on daily wages basis under time man, S.I. and J.T.O. from 1995 to 1996 as follows:-

(1) 1995 — 210 days.

(2) 1996 — 100 days. (from Jan '96 to June '96)

Previously He has performed duty as per enclosed letter submitted by Shri. T. K. Bora, J.T.O. (328), Telephone Exchange, Kokrajhar on following:-

(1) 1991 — 130 days.

(2) 1992 — 116 days.

(3) 1993 — 131 days.

and (4) upto October, 1994 — 185 days.

Shri Ajay Pandey, is very polite, obedient, sincere and intelligent too.

The said person is physically fit for L&W and A&P works. He helped the ups in wiring and installation of J.T.O. system, 256 P.C.DOT and testing of J.T.O. system. He will be able to maintain Telephone Exchange like Bhusuagan even without a time man or phone mechanic. I will be highly pleased to get a person like him as a T.O.M or R.M to help me in any departmental work.

Dated at Kokrajhar
the 01.7.96.

Per: 01.7.96
M. P. Mondal, J.T.O.
Telephone Exchange,
Kokrajhar-781001.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE
TELECOM DISTRICT MANAGER : BONGAIGAON

NO.E-75/PT & CM/Pt-II/96-97/145 Dated at Bongaigaon the 16-09-1996

In pursuance of the orders contained vide DOT/ND's letter NO.269-4/93-STN-II. dtd 17-12-93, the following casual Mazdoors of BGN SSA who were engaged by the Circle during the period from 31-03-85 to 22-6-88 and who are still continuing for such works in the circle where they initially engaged and who are not absent for the last more than 365 days counting from the date of issue of DOT's above orders are brought under the schemes of TEMPORARY STATUS with effect from the date of issue of this order.

The name of the casual Mazdoors conferred Temporary status are mentioned below with their place of posting:-

SL NO]	Name of the Mazdoors	Community	Date of entry as C/Mazdoors	Place of posting
1.	Sri Dinesh Ch. Nath	O/C	01-01-88	SDOT/KOJ
2."	Kadar Roy,	O/C	01-01-88	TDM/Office, BGN
3.	Ratan Kr. Paul	O/C	01-01-88	SDOT/KOJ
4."	Harish Ch. Roy,	O/C	01-01-88	-do-
5."	Satrughna Paul	O/C	01-01-88	TDM. Office, BGN
6.	Biswa Ch. Deb Nath	O/C	01-01-88	SDOT/ KOJ
7."	Khagan Nath	O/C	01-01-88	-do-
8."	Rohani Barman	O/C ST	01-01-88	-do-
9."	Birendra Singh	O/C	01-01-88	TDM. Office/BGN
10"	Dilip Kr. Paul	O/C	01/01/88	-do-
11."	Upendra Singh	O/C	01-01-88	-do-
12."	Ajoy Kr. Pandey	O/C	01-01-88	-do-
13.	Md. Golam Hussain	O/C	01-01-88	SDE(Microwave)Mtd. BGN

(U.C.Deori)
Divisional Engineer (P&A)
O/O the Telecom District Manager
BONGAIGAON.

Copy forwardrd for information and necessary action to :-

1. The Chief General Manager, Assam Circle, Guwahati.
2. The Accounts Office (Cash) O/O the TDM/BGN.
3. The SDOT/ Kokrajhar. SDE (P&A) Arun, Bongaigaon
4. The SS (Pay bills) O/O the TDM/BGN.
- 5-16. Official concerned Sri Arun Kr Pandey O/O SDE-7-Kaj
- 17-28. Personal files of the officials.
29. File NO.E-38/GL/TDM.
30. Office copy.

DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE TELECOM DISTRICT MANAGER : BONGAIGAON.

NO.E-75/PT-CM/PT-III/96-97/02 Dated at Bongaigaon the 09-10-96

The approval for conferring TSM. to the casual Mazdoors issued vide this office letter NO.E-75/PT-CM/PT-II/96-97/146 dated 16-09-96 is kept abeyance till further orders. The officials are instructed to go back at their original stations.

NAMES OF CASUAL MAZDOORS.

- | | |
|-------------------------|---------------------------|
| 1. Sri Dinesh Ch. Nath. | (2) Sri Kadar Roy. |
| 3. " Ratan Kr. paul | (4) " Harish Ch. Roy. |
| 5. " Satrughna Paul | (6) " Biswa Ch. Deb Nath |
| 7. " Khagan Nath | (8) " Rohani Barman |
| 9. " Birendra Singh | (10) " Dilip Kr. paul |
| 11. " Upendra Singh | (12) " Ajoy Kr. Pandey. ✓ |
| 13. Md. Golam Hussain. | |

Divisional Engineer (P&A)
O/O the Telecom District Manager
BONGAIGAON.

Copy forwarded for information and necessary action to :-

1. The Chief General Manager Telecom, Assam Circle, Guwahati-7
2. The Accounts Officer (Cash) O/O the TDM. Bongaigaon.
3. The S.D.O. Telegraphs, Bongaigaon.
- 4.-15. The officials concerned.
- 16-27. Personal files of the officials
28. The SS. (Pay Bill) O/O the TDM/ P&A
29. ~~Office copy~~ The Divisional Engineer (Microwave. Mtc) Chaprakata Bongaigaon.
30. O/C.

P. S. S. 07/10/96
Sub-Divisional Engineer (H.W.)
O/O the Telecom District Manager
BONGAIGAON.

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.

Jaht 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

*Noted
Wk given
Private*

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/-

Sd/-

(Ranganath Mishra) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1990.

ANNEXURE-5.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

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

SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

\ P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

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

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

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.

@ @ @

NO. 269-4/93 STN II
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATION;
STN SECTION.

Dated New Delhi 17 Dec 1993.

To,

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

Subj:- Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 engaged in circles after 30.3.85 and up to 22.06.88.

Sir,

I am directed to refer to this office order no 269-4/93-STN dated 25 th June 1993 , where in orders were issued who were engaged by the project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who are still continuing for such works where they were initially engaged and who were not absent for last more than 365 days continuing 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 labourers who were engaged by the circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circles where they were initially engaged and who are not absent for last more then 365 days continuing from the date of issue of this order, be brought under the aforesaid scheme.

3. The engagement of the casual mazdoors after 30.3.85 in violation of the instruction of the Head Quarter, has been viewed very seriously and it is decided that all past cases wherein recruitment has been made in violation of instruction of the Head Quarter dated 30.3.85 should also be analyzed and disciplinary action be initiated against defaulted officers.

4. It is also decided that engagement of any casual mazdoors after the issuance of 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 Head of the Circle, concerned Class-II Officers and amount paid to such casual mazdoors towards wages should be recovered from the person who has recruited/engaged casual labourer in violation of these instructions.

5. It is further stated that the service of the casual mazdoors who have rendered at least 240 days (206 days in 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 condition laid down in I.D.Act 1947 under

section 25 F.E. & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3911/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully.

(S.K.Dhawan)

Asstt. Director General (STN.)

copy to:-

1. All the staff members of Dept. JCM.
2. All recognised Unions/Associations.
3. Budget TE-I/TE-II/GNA/CVO/PAT/NCS/Gr Sections of the Telecom Commission.
4. SPP-I Section Dept. of Posts, New Delhi.

NO RECTT-3/10 part-II dated at Guwahati, 1.1.94. copy forwarded for information, guidance and necessary action to:-

- 1-2. The AMTs Guwahati/ Dibrugarh.
- 3-8. The TDM Guwahati.
9. The TDEs BGN/DR/SC/TZ/JRT.
- 10-11. The OTTs BGN/DR/SC/TZ/JRT.
12. The C.S.C.T.C. Guwahati.
13. The A.E. I/O CTSD Guwahati.
14. The principal OTTC Guwahati.
15. The REM Guwahati.
16. The A.D. (Staff) C.D. Guwahati.
17. The concerned circle Secretaries of Service Unions.

sd/-

(K.S.K. Prasad Barua.)

Asstt Director Telecom (E & R.)

O/O COMT Mirbani, Ghy-7.

Sd/- Vice Chairman.

ANNEXURE. 7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.

Date of decision : This the 31st day of August 1999.

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

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

1. O.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.

By Advocate Mr. J.L. Sarkar and Mr. M.Chanda

- versus -

The Union of India and others. Respondents.

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

.....

2. O.A. No.112/1998

All India Telecom Employees Union,

Line Staff and Group- D and another..... Applicants.

By Advocates Mr.B.K. Sharma and Mr.S.Sarma.

- versus -

Union of India and others. Respondents.

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

.....

3. O.A.No. 114/1998

All India Telecom Employees Union

Line Staff and Group-D and another. Applicants.

By Advocates Mr. B.K. Sharma and Mr. S.Sarma.

- versus -

The Union of India and others Respondents.

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

.....

4. O.A.No.118/1998

Shri Bhuvan Kalita and 4 others. Applicants.

By Advocates Mr. J.L. Sarkar, Mr.M.Chanda

and Ms.N.D. Goswami.

- versus -

The Union of India and others. Respondents.

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

.....

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others Applicant

By Advocates Mr. J.L. Sarkar, Mr.M.Chanda

and Ms. N.D. Goswami.

- versus -

The Union of India and Others. Respondents.

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

.....

6. O.A.No.131/1998

Not
Attested
by you
Advocate

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

- versus -

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

.....

7. D.A.No.135/98

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

- versus -

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

.....

8. D.A.No.136/1998

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

- versus -

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

.....

9. D.A.No.141/1998

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

- versus -

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

.....

10. D.A. No.142/1998

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

- versus -

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

.....

11. D.A. No.145/1998

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

- versus -

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

.....

12. D.A.No. 192/1998

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

-versus-

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

.....

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13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma.
- versus -
The Union of India and others ... Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.
.....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
Mr.U.K.nair and Mr.D.K.Sharma.
- versus -
The Union of India and others ... Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.

15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
and Mr.D.K.Sharma.
- versus -
The Union of India and others ... Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.
.....

O R D E R

BARUAH.J. (V.C.)

All the above applicants involve common question of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the

respondents be directed not to implement the decision of terminating the services of the casual Mazdoors . but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt.of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA> Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits

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

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

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

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

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

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

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

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

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

*Approved
W. G. ...
Advocate*

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER : BONGAIGAON-783380

No. E-75/PT & CM/Court Case/99-2000

Dated at Bongaigaon, the 10th November 1999

To,

1. The SDOP, Bongaigaon
2. The SDOT, Bongaigaon / Nalbari / Barpeta Road / Kokrajhar.

Subject: CAT, Guwahati.

The Hon'ble CAT, Guwahati bench has passed the common order/judgment dated 31.8.99 in OA No. 107/98, 112/98, 114/98, 118/98, 120/98, 131/98, 135/98, 136/98, 141/98, 142/98, 145/98, 192/98, 223/98, 269/98 and 293/98. In their order, the Tribunal has directed the respondent department to examine the case of each applicant. For that purpose, the applicants are allowed to file individual representation within a period of one month and the respondents should scrutinise and examine each case in consultation with the records and thereafter to pass a reasoned order on merit of each case.

In view of the above judgement and order immediate action is required to be taken at all level to complete the process strictly in accordance with the direction of Hon'ble Tribunal. Towards that end you are requested to take the following time bound action:-

- a) You are to receive the individual representations of all applicant Casual Labourers belonging to your jurisdiction as per enclosed list.
- b) The representations received from the Casual Labourer will be thoroughly scrutinised and examined at your office in consultation with the office records and record findings in each case in an attached sheet.
- c) All the representations received up to the closing date together with the note as above should be forwarded to this office in one lot along with the following information in respect of each applicant:
 - i) Name of Casual Labourer and OA No. to which is an applicant.
 - ii) Mode of selection.
 - iii) Date of initial engagement.
 - iv) No. of days put in service in each calendar year since initial engagement with mode of payment.
 - v) Nature of duty performed from time to time.
 - vi) Break period and particulars of condonation thereof, if any.

The representations along with self contained notes and complete information as above should be forwarded in one lot to reach the undersigned on or before 25th November 1999 positively.

This has a reference to CGMT, Guwahati letter no. STES-21/207/4 dt. 27.10.99.

Encls: As above.

S. I. /

(U. C. Deori)
Divisional Engineer (P & A)
o/o Telecom District Manager
Bongaigaon-783380

Copy forwarded for information and necessary action to:-

The D.E., Dhubri / Kokrajhar / Barpeta / Bongaigaon

12.11.99

(P. C. Sarker)
For T.D.M. Bongaigaon

List of casual labourers

Sl. No.	Name of casual labourer	OA Number	Unit of working
1.	Sri Dinesh Ch. Nath	131/98	SDOT, Kokrajhar
2.	Sri Ratan Kr. Paul	-do-	-do-
3.	Sri Sudinghm Paul	-do-	-do-
4.	Sri Khagen Nath	-do-	-do-
5.	Sri Birendra Singh	-do-	-do-
6.	Sri Kedar Roy	-do-	-do-
7.	Sri Himish Ch. Roy	-do-	-do-
8.	Sri Biswa Ch. Debnath	-do-	-do-
9.	Sri Rohini Burman	-do-	-do-
10.	Sri Ajoy Kr. Pandey	-do-	-do-
11.	Sri Upendra Singh	-do-	-do-
12.	Sri Dilip Kr. Paul	-do-	-do-
13.	Sri Gopal Das	192/98	SDOT, Nalbari
14.	Sri Mohan Deka	-do-	-do-
15.	Sri Thun Ran Burman	-do-	-do-
16.	Sri Shiva Sankar Paul	-do-	-do-
17.	Sri Ganeshyam Talukder	-do-	-do-
18.	Sri Khagen Boro	-do-	-do-
19.	Md. Harik Ali	-do-	-do-
20.	Sri Bhadrachoy Saranya	-do-	-do-
21.	Sri Mridul Das	-do-	SDOP, Bongaigaon
22.	Sri Tapen Dey	-do-	-do-
23.	Sri Chandra Sankar	-do-	-do-
24.	Md. Sahajan Ali	-do-	-do-
25.	Md. Musha Ali	-do-	-do-
26.	Sri Bhagat Das	-do-	-do-
27.	Sri Jamaklal Bhattacha	-do-	TDM/Bongaigaon
28.	Sri Sambhu Das	-do-	SDOT/Kokrajhar
29.	Sri Tapen Ch. Das	-do-	SDOT/Nalbari
30.	Sri Dnyanram Roy	-do-	TDM/Bongaigaon
31.	Sri Khagen Boro	-do-	SDOP/Bongaigaon
32.	Sri Dwijen Singh	-do-	-do-
33.	Sri Bhannidhar Roy	-do-	-do-
34.	Sri Sujanya Prasad Ratha	-do-	SDOT/Bongaigaon
35.	Sri Biswjit Das	-do-	SDOP/Bongaigaon
36.	Sri Ganesha Das	-do-	SDOT/Kokrajhar
37.	Sri Haldhywantha Datta	-do-	SDOT/Bajpeta Road
38.	Sri Ananta Nath	-do-	-do-
39.	Sri Dipak Ch. Das	-do-	-do-
40.	Sri Nripan Ch. Ratha	-do-	-do-
41.	Sri Satya Narayan Singh	-do-	-do-
42.	Sri Dolanran Das	-do-	-do-
43.	Sri Sanjib Tewari	-do-	-do-
44.	Sri Azad Ali	-do-	-do-
45.	Sri Dibakar Mohanta	293/98	SDOT/Nalbari
46.	Sri Paranj Samra	-do-	-do-

Contd.....2/-

Sl. No.	Name of casual labourer	OA Number	Unit of working
47.	Sri Pakshi Sarma	-do-	SDOT/-do-Nalbari
48.	Sri Maheswar Mahanta	-do-	-do-
49.	Sri Tilak Sarma	-do-	-do-
50.	Sri Joydeep Sarma	-do-	-do-
51.	Sri Bhubu Das	-do-	-do-
52.	Sri Dhyaeswar Mahanta	-do-	-do-
53.	Sri Subhresh Sarma	-do-	-do-
54.	Sri Pulok Sarma	-do-	-do-
55.	Sri Binod Sarma	-do-	-do-
56.	Sri Raju Das	293/98	SDOT/Nalbari
57.	Sri Dipu Sarma	-do-	-do-
58.	Sri Bimal Raddai	-do-	-do-
59.	Sri Ranjan Boro	-do-	-do-
60.	Sri Jogen Talukdar	-do-	-do-
61.	Sri Dipak Ch. Das	-do-	-do-
62.	Sri Nakul Deka	-do-	-do-
63.	Sri Bilalati Bhattacharya	-do-	-do-
64.	Sri Divyesh Mehta	-do-	-do-
65.	Sri Hii Lalukar	-do-	-do-

9/11/97
(P. C. Sakar)
For T. D. M. Bourignon

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER :::::::::: BONGAIGAON.

No. E-75/PT & CM/Court Case/1999-2000

Dated at Bongaigaon the 11-11-1999.

To,

- 1-5. The SDO/Dhubri/Kokrajhar/Bongaigaon/Barpeta Road/Nalbari.
6. The SDO Phones, Bongaigaon.
7. The SDEP (Grp), Goalpara.
8. The SDE (IT), Bongaigaon

Sub :- CAT, Guwahati's common order/judgement dtd. 31-08-99 in OA No. 112/98, 131/98, 192/98, 269/98 and 293/98.

Kindly find enclosed herewith the letter from the CIRCLE OFFICE regarding the common order/judgement passed by the Hon'ble CAT, Guwahati dtd. 31-08-99 for information and necessary action at your end.

You are requested to collect individual representations from the casual labour and scrutinise and examine each case in consultation with the official record and forwarded to this office in one lot as instructed in the enclosed letter on or before 25-11-99 to the undersigned positively.

Encls :- As above.

sd/-
(P.C.SARKAR)
Sub-Divisional Engineer (HRD)
o/o the Telecom District Manager
Bongaigaon - 78 3380

Copy forwarded for information and necessary action to :-

- 1-3. The D.E.Telecom, Kokrajhar / Barpeta / Dhubri.
4. The Divisional Secretary, A.I.T.E.U, Bongaigaon Division.
- ✓ 5. NOTICE BOARD.

Rmm 11/11/99
Sub-Divisional Engineer (HRD)
o/o the Telecom District Manager
Bongaigaon.

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ANNEXURE-10

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

Attested
by Govt
Advocate

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

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

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

scheme was prepared by the Department of Posts granting benefit 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

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submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

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

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

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

Attended
Mr. Sharma
Advocate

Sd/
Vice Chairman
CAT / GMY

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

Dated 1.9.99.

To

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

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

Sir,

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

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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

10 APR 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

63
Regd by 10/4/2001
Sr. c. g. s. c.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI.

O.A. NO. 330 OF 2000 .

Shri A.K. Pandey

- Vs -

Union of India & Others

In the matter of :

Written statements submitted by
Respondents

The respondents beg to submit para wise
written statements as follows :-

1. That with regard to para 1 the respondents beg to state that the applicant's case was considered and examined by the verification committee set up for this purpose. The committee worked out the engagement particulars of the applicants on the basis of authentic official records including M/R, paid vouchers records and based on the findings it was found that he is not entitled for the benefit of the Temporary Status Scheme. Accordingly the applicant was informed by the TDM, Bongaigaon office that he was not eligible for Temporary Status vide his office letter No. E-75/PT & CM/CAT-Case/2000-2001/40 dated 14.11.2000. The order dated 14.11.2000 is a reasoned and speaking one and the same was issued after through scrutiny and proper examination of the applicant's case.

2. That with regard to paras 2, 3 and 4.1 the respondents beg to offer no comments.

3. That with regard to para 4.2 the respondents beg to state that the engagement of daily rated mazdoor is not an appointment to any post according to rules. Even for Group 'D' employees, the selection process according to rules is a precondition for any appointment to Govt. Post. The applicant was not appointed to any post. The operation and maintenance of Telecom Services are attended to by departmental employees. In case of any sudden spurt of activities or during special maintenance drive mazdoors are engaged by the fields units to assist the regular employees. Such temporary engagement of Mazdoor on daily basis become necessary on exigency of service to meet the special requirement and is of purely casual and intermittent in nature. When the special occasion disappears or the specific work for which the labour was engaged on day to day basis comes to an end there is no further need for continuous engagement of such labourer.

The applicant was engaged for performance of sundry works for very small duration. He was for the first time engaged in September 1993 and worked for 91 days. He was again engaged in Feb'1994 for 28 days. He was also engaged in 1996 for 44 days, in 1997 for 61 days and in 1998 for 59 days. The applicant was not engaged for any work/duration after February '1998. It is not correct that the applicant has been working for 13 years from 1988.

The engagement particulars submitted by the SDOT, Kokrajhar under his letter No. A-8/KAJ/96-97 dated 2.7.96 is factually incorrect. This can not be relied upon for determining the eligibility of the applicant for conferment of temporary status in the absence of supporting details of payment vouchers number, amount and date and record of number of days worked in a year.

4. That with regard to para 4.4 the respondents beg to state that the based on the wrong informations submitted by the SDOT, Kokrajhar, temporary status was wrongly conferred to the applicant and 12 others vide DE(P&A) order No. E-75/PT & CM/PT.II/96-97/146 dated 16.09.96.

5. That with regard to para 4.5 the respondents beg to state that the subsequent to the issuance of the order dated 16.9.96 reports were received by the issuing authority raising strong suspicion about the correctness of the engagement particulars submitted by the filed units. On preliminary enquiry it transpired that the engagement particulars/service length furnished by the field units are incorrect. Accordingly the order dated 16.9.96 was kept in abeyance pending detailed verification.

Simultaneously, a Review Committee was constituted to verify the engagement particulars of the 13 casual labourers. The Review Committee examined the matter and found that the report submitted by the field units were wrong and that none of the casual labourers were eligible for grant of temporary status. Accordingly the order of conferment of Temporary Status dated 16.09.96 was cancelled vide order No. E-75/PT & CM/Pt.III/96-97 dated 25.04.97.

A copy of the order dated 25.04.97 is annexed hereto and marked as Annexure - *.

6. That with regard to paras 4.6 and 4.7 the respondents beg to state that the pursuant to the judgement delivered by the Hon'ble Supreme Court of India, the Department of Telecom prepared a scheme in 1989 for absorption of all casual labourers who have put in at least 240 days casual service in a year. The scheme is known as casual labourers (Grant of Temporary Status and Regularization) scheme 1989 and came into effect on 01.10.89. The scheme is intended to cover all casual labourers who were on engagement on the day of introduction of the scheme and have completed at least 240 days in one calendar year. Under the provision of the scheme, the Department has regularized thousands of casual labourers who were engaged before 1.10.89 and have worked for more than 240 days in a year as on that date.

The Department has imposed a complete ban on engagement of casual labourer with effect from 22.06.88 and restraining order was issued to all concerned. The Telecom officers are devoid of any power/competence to engaged any casual labour for any type of work. There is an irregularity of an enormous scale in the engagement of casual labourers in defiance of ban order. No selection procedure of any kind was followed in any case. Such engagement, in most of the cases, was unjustified and without jurisdiction and on choose and pick basis. The accumulated result of such mind less engagement by field units that too without maintaining proper

records has aggravated the situation to the detriment of the Department.

The Department of Telecom has addressed the situation on humanitarian ground and as a one time relaxation it has been decided that all casual mazdoor on engagement as on 01.08.98 and who have continuously worked for at least 1(one) year would be granted temporary status followed by regularization. In the process the Department has liberalized the scheme and advanced the cut off date to 1.8.98.

7. That with regard to para 4.8 the respondents beg to state that it is already stated in para 4.2 above that the applicants was for the time, engaged in Sept '93 for small duration. The Telecom DTE letter dated 17.12.93 referred to in para 4.8 of the O.A. does not help the case of the applicant as he was not engaged before 22.06.88 nor he had completed 240 days as on the date of issuance of that order.

8. That with regard to para 4.9 the respondents beg to state that the applicants and other casual labourers filed the O.A. No. 131/98 and the same was contested by the respondent Department by filing rejoinder. After hearing both side, the Hon'ble Tribunal was pleased to pass the common order dated 31.08.1999 . The said order contained the direction to the respondent department to examine each case in consultation with the records and representation of applicant, if filed by them individually, and to pass a reasoned order on merit of each case.

Pursuant to the above order dated 31.8.99, the respondent No.2 formed SSA level Verification Committee to verify the claim of each casual labourer. The Committee was constituted by drafting one Senior time scale level Engineering Officer and one Accounts Officer of the concerned SSA and one officer from the circle Administration (all Gazatted level Officers). The committee was given access to all records of the SSA to find out full engagement particulars of the casual labourers. The casual labourers were also given an opportunity to present their case before the committee to meet the ends of natural justice. The committee, after through scrutiny of all connected records, submitted its finding in respect of all casual labourers. Based on the finding of the committee, the head of respective SSA have assessed the eligibility of casual labourers for grant of the benefit of the scheme. The casual labourers thus found to satisfy the eligibility conditions, have been granted Temporary Status. In so far as the present applicant is concerned, the verification committee set up for Bongaigaon committee examined all paid vouchers and master Roll of the SSA and found that the applicant was put on duty as follows..

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A photocopy of the finding report of the verification committee in respect of Shri Ajoy kumar - Pandey is placed Annexure - 2.

9. That with regard to para 4.10 and 4.11 the respondents beg to state that the pursuant to the judgement and order dated 31.08.99 the respondent Department passed an order to the field officers to receive and scrutinize the representation of

of the applicants. That was the beginning of the exercise towards successful implementation of the orders passed by the Hon'ble Tribunal.

10. That with regard to para 4.12 the respondents beg to state that in their judgement their Lordship was pleased ^{the} to direct ~~the~~ respondent Department to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in. In compliance thereto, the DOT prepared the Annexure 'C' scheme. The judgement of the Hon'ble Supreme Court and the DOT Scheme are clearly for those casual labourers who have been continuously working for more than 1 year. As already stated in para 4.2 above the applicant was engaged for small duration on actual work requirement basis. He was not engaged continuously and he was not put on duty even for 100 days in a year. The applicant does not fall in the target category of labourer before the Hon'ble Supreme Court nor satisfies the eligibility condition of the scheme.

11. That with regard to para 4.13 the respondents beg to state that soon after the pronouncement of the judgement by the Hon'ble Supreme Court and introduction of the scheme in 1989, cases of thousands of thousands of casual labourers working in the department at that point of time were considered and temporary status/regular mazdoor was granted to all eligible casual labourers. In the Assam Telecom Circle alone about 1500 labourers were benefited by the 1989 Scheme. As already stated in para 4.2

above, the applicant was engaged by the Department for the 1st time in September, 1993 that too for a very small duration. In other words, the applicants was clearly not in the picture when the initial review was conducted following the Hon'ble Supreme Court's Judgement and introduction of the DOT Scheme.

12. That with regard to para 4.14 the respondents beg to state that ~~xxxx~~ the benefit of the scheme has been extended to the casual labourers who satisfy the eligibility conditions of the scheme drawn in the line of the Judgement of Hon'ble Apex Court. The denial of such benefit to those who do not fulfil the eligibility criteria does not amount to hostile discrimination.

13. That with regard to para 4.15 the respondents beg to state that the department has considered the case of casual labourers who have been continuously working for years and as one time measure extended the cut off date. As a result thereof, the benefit of the scheme was also extended to casual labourers who have been engaged after 22.06.1988 in defiance of ban order, provided they have put in continuous service for at least 1 year as on 01.08.1998. The relaxation also does ^{not} help ~~xxx~~ the case of the applicant, as he had not put in service continuously..

The local council of J.C.M. is not a forum to discuss the case of casual labourers as they are not the departmental employees. The applicant has not produced any record to show that such discussion ever took place in any LJCM meeting of Bongaigaon SSA. The applicant also has not provided any clue as to in which meeting the matter was discussed. The employee's representatives in the LJCM are not allowed to raise the matter of casual labourers as they are not members of any service union.

14. That with regard to para 4.16 the respondents beg to state that the respondent department has carefully examined the case of each applicant in consultation with records and the individual representation. In their judgement their Lordship was pleased to direct the respondent department to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Department. In compliance thereto, the DOT prepared the Annexure '4' scheme. The judgement of the Hon'ble Supreme Court and the DOT Scheme are clearly for those casual labourers who have been continuously working for more than 1 year. As already stated in Para ³~~4.2~~ above the applicant was engaged for small duration on actual work requirements basis. He was not engaged continuously and he was not put on duty even for 100 days in any year. The applicant does not fall in the target category of labourer before the Hon'ble Supreme Court nor satisfies the eligibility condition of the Scheme.

In the process temporary status has been granted to all 504 casual labourers who were found to have become eligible for the said of the scheme.

Apart from granting temporary status to those found eligible, the Department also take care to pass separate reasoned order for each applicants who were not found eligible. In the instant case, the representation of the applicant was disposed of by the office of TDM Bongaigaon vide Order No. E-75/PT & CM/CAT-Case/2000-2001/40 dated 14.11.2000.

15. ~~That with regard to para 4.17 the respondents~~

15. That with regard to para 4.17 the respondents beg to state that as explained in foregoing paras there has not been any discrimination against the applicant and his case has been finally disposed of on the basis of the finding of the verification committee.

16. That with regard to para 4.18 the respondents beg to state that the O.A. No. 299/96 was aimed at ending the alleged discrimination between the Postal Scheme and Telecom Scheme as regards the cut off date. Till that time, the DOT scheme was available to casual mazdoor who were engaged upto 22.06.88 where-as the Postal Scheme accommodated all casual labourers who entered the Postal Department upto 10.09.93. Now that the DOT scheme has been liberalized to take care of all Casual Mazdoor entered upto 1997 provided they are otherwise eligible. The O.A. No. 299/96 and the judgement dated 13.08.97 has lost it's relevance. The same is of no help to the applicant as his case was covered and considred undered a more liberalized policy. In any case the initial date of engagement is not a deterring factory in the instant case, the number of days put on duly by the applicant is the guiding factor.

17. That with regard to para 4.19 the respondents beg to state that the contention of para has been appropriately answered in para 4.9. It is also added that a few other cases are yet to be decided for which the Hon'ble Tribunal was pleased to grant extension of time upto 31.03.2001, the cases of present applicant has been decided on merit and result communicated to the applicant vide order dated 14.11.2000.

18. That with regard to para 4.20 the respondents beg to state that the settled position of law and the essence of the scheme is very clear that casual labourer who have worked continuously for one year is to be granted Temporary Status. The respondent department has rightly considered the case of the applicant under the scheme and found that he is not eligible for the grant of Temporary Status.

19. That with regard to para 4.21 the respondents beg to state that the contention of the para 4.2 is unspecific. The answering Department is not in a position to offer any comment until the copy of the letters referred to by the applicants are made available or at least the particulars thereof are furnished.

20. That with regard to para 4.22 the respondents beg to state that it is made abundantly clear that orders have been passed for conferment of Temporary Status to hundreds of casual labourers who have been found to have completed at least 240/206 days in any calendar year preceeding 01.08.98. the present applicant is not similarly situated to those casual labourers as he has not put in 240/206 days service in any year.

The justified and sanctioned post of R.M. in the circle falls far short than the number of Temporary Status awaiting regularization. It shows that the circles already granted Temporary status to more casual labourers than actually warranted by the job. This is a result of indiscriminate engagement of casual labourer by filed units without reference to job requirement.

21. That with regard to para 4.23 the respondents beg to state that the case of the applicant has been considered in the light of the latest decision/guidelines of the Department and found that he is still not eligible for grant of the benefit of temporary status.
22. That with regard to para 4.24 the respondents beg to state that apart from the cut off date it is an essential condition that the casual labourers who have continuously worked for at least one year would be covered by the scheme. The present applicant was not put on duty on a continuous basis and he has not completed 240 days in any year. He is not entitled for the benefit of the Temporary Status Scheme.
23. That with regard to para 4.25 the respondents beg to state that the applicant has not been engaged for any Departmental work after 01.03.1998. It is, therefore, not correct to state that the applicant is continuing in his service, He was in fact disengaged on 01.03.98 and his ties with the department finally ^{severed} ~~served~~ on that date.

Verification.....

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

I, Shri Ganesh Chandra Sarma, Asst Director (Telecom)

being authorised do hereby solemnly declare that the statement made in this written statement are true to my knowledge, believe and information and I have not suppressed any material fact.

And I sign this verification on this 10th day of April March, 2001 at Guwahati.


Declarant.

Asst. Director Telecom (Legal)
O/O the C. G. M. Telecom
Guwahati Circle, Guwahati-781001

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER : : : : BONGAIGAON

NO. E-75/PT & CM/Part-III/96-97/10 Dated at BGN, the 25-4-97.

The reviewing committee formed for scrutinising the order for conferring Temporary Status Mazdoor to the following Casual Mazdoors has remarked that the order is not regular as the requisite conditions has not been fulfilled by none of the Casual Mazdoor.

As such, now the order no. E-75/PT & CM/Pt-II/96-97/146 dt. 16-09-96 which was kept in abeyance vide this office letter no. E-75/PT & CM/Pt-III/96-97/6 dt. 03-01-97 on receipt of complaint from the staff side regarding irregularities on conferring TSM to the Casual Mazdoors is hereby cancelled.

Sl. No.	Name of the C/Ms	Unit of working
1.	Sri Dinesh Ch. Nath	SDOT, Kokrajhar
2.	Sri Kedar Roy	-do-
3.	Sri Ratan Kr. Paul	-do-
4.	Sri Harish Ch. Roy	-do-
5.	Sri Satrughna Raul	-do-
6.	Sri Biswa Ch. Deb Nath	-do-
7.	Sri Khagen Nath	-do-
8.	Sri Rohini Barman	-do-
9.	Sri Birendra Singh	-do-
10.	Sri Dilip Kr. Paul	-do-
11.	Sri Upendra Singh	-do-
12.	Sri Ajoy Kr. Pandey	-do-
13.	Mr. Golam Hussain	-do-

DE (M/W Mtce.) / BGN

(U. C. Dhority)
Divisional Engineer (P & A)
O/o Telecom District Manager
BONGAIGAON

Copy forwarded for information and necessary action:-

1. The C.S.M.T. (Admn), o/o the CGMT, Assam Circle, GH-7.
2. The Accounts Officer (Cash), o/o the TDM, Bongaigaon.
3. The SDOT, Kokrajhar. He is requested to intimate the concerned C/M accordingly.
4. The D.E.T. (M/W Mtce), Chaprakata, Bongaigaon. He is requested to intimate the C/M accordingly.
5. The Circle Secretary, AITEU, E-IV, MUX Bldg., Panbazar, Guwahati-1.
6. The Circle Secretary, AITEU E-III, MUX Bldg., Panbazar, Guwahati-1.
7. The Divisional Secretary, AITEU E-III, o/o SDOT/KKJ.
8. The Divisional Secretary, AITEU E-IV, Tele.exge./NBR
9. Spares.

Sub Divisional Engineer (HRD)
o/o The T.D.M., BONGAIGAON

ANNEXURE "C" (PAGE-2)Engagement particulars from the date of initial Engagement

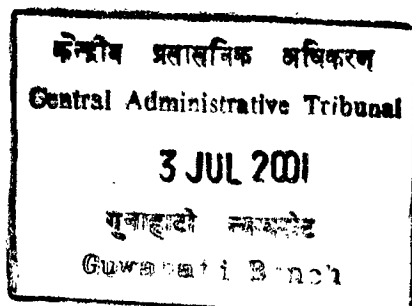
(Ajay Kumar Pandey)

Year	Month	No. of days	Mode of Payment	A/C No.	Vr.No.	Amount	Engaged by whom	Billing/ Passing Authority
1993	Sept.	30	Ag-17	08	11	1260/-	Sd. D.C. Paul, SDOT, Khy.	SDOT
	Oct.	31	do	09	23	1302/-	do	"
	Nov	30	do	10	05	1260/-	do	"
1994	Feb	28	do	13	24	840/-	do	"
1995	N	11	-					
1996	June	25	do	03	103	1275/-	do	"
	July	12	do	04	07	612/-	do	"
	Oct	07	do	04	56	357/-	Sd. R. Brown-alam, SDOT, Khy.	"
1997	Nov.	30	do	03	03	1530/-	Sd. D.C. Paul, SDOT, Khy.	"
	Dec	31	do	04	15	1581/-	do	"
1998	Jan.	31	do	05	02	1581/-	do	"
	Feb	28	do	01	21	1428/-	Md. B. Alam, SDOT, Khy.	"
Summary: -								
1993 - 91 days								
1994 - 28 days								
1996 - 44 "								
1997 - 61 "								
1998 - 58 " and not working at present								

Signature of the Committee Members

A.D.T. (Circle Office member)

Accounts Officer
O/o the TDM/BGNDivisional Engineer
O/o the TDM/B



AB
Filed
21/7/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

OA. 330/2000

A.K. Pandey.

-vs-

Union of India & Ors.

Rejoinder to the written statement filed by the Respondents.

1. That the applicant has recieved a copy of the written statement filed by the respondents and has gone through the same. Save and except the statements which are not specifically admitted herein below may be treated as total deniel.
2. That with regard to the statement made in para 1 of the written statement the applicant denies the correctness of the same and begs to state that the materials placed before the verification committee were not the actual records. In fact, the relevent Master Rule Register and payment and vouchours namely ACG/17 were not placed before the said committee. As per the official procedure the ACG/17 pay slips are destroyed after gattting the senction from the Finance Department. In the year 1996 the respondents issued an order dated 16.9.96 (Annexure-2) by which temporary status was granted to the applicant, but same has been illegally kept in abayence, untill further order. However, till date no final order has been issued cancenlling the order dated 16.9.96 . It is further stated that before issuance of 16.9.96 order all the records were placed before the concern authority and after verification of all the records the temporary status was granted to the applicant.
3. That with regard to the statemnt made in para 2 of the

written statement the applicant offers no comment on it.

4. That with regard to the statement made in para 3 of the written statement the applicant denies the correctness of the same and begs to state that the respondents have admitted the fact that the applicant has been and engaged to assist the regular employees and same has been done to meet the exigences of the service. It is noteworthy to mention here that the applicant has been working since 1988 to till date to meet the exigences of the service and as per the various Apex Court Verdict it can not be turned that there has been a constant need of applicants service and that need started in the year 1988 and continue till date.

The applicant begs to state that SDOT, Kokrajhar issued the order dated 2.7.96 (Annexure-1) after verifying all the records and basing on those records (Annexure-2) order dated 16.9.96 confirming temporary status to the applicant has been issued.

5. That with regard to the statement made in para 4 of the written statement the applicant reiterates and reaffirms the statements made above as well as in the OA and begs to state that since the oredr dated 16.9.96 is yet to be canceled finally the respondents are restrained from terming the same to be based on wrong information. In fact the higher authority of the respondents are still considering the said order date 16.6.96 .

6. That with regard to the statement made in para 5 of the written statement the applicant denies the correctness of the same and begs to state that the order dated 25.4.97 is illegal, taking into cosideration the fact that the same has been issued on the basis of a complaint without afording the applicant to deny the charges. Hence the same is violative of article 14 & 16 of constitution of India.

7. That with regard to statemnt made in para 6 of the written

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statement the applicant begs to state that as per the scheme of 1989 the case of the applicant is required to be considered even with retrospective effect as in year 1989 and 1990 he has completed more than 240 days of continuous service. It is further stated that before their initial appointment a screening committee was constituted which scrutinized 7 candidates including the applicant out of which applicant along with 4 others got their appointment as casual worker. On the other hand liberalising the scheme of 1989 the respondents themselves have issued an order dated 1.9.99 extending the cut off date of the scheme up to 1.8.98 and same has virtually modified the order dated 17.12.93 fixing the cut off date/ban on recruitment. The case of the applicant is also covered by the said order dated 1.9.99 (Annexure-11).

8. That with regard to the statement made in para 7 of the written statement the applicant denies the correctness of the same and begs to state that taking into consideration Annexure -1 of the OA it is crystal clear that the applicant was initially engaged in the year 1988 till date is continuing.

9. That with regard to the statement made in para 8 of the written statement the applicant begs to state that the respondents taking into consideration the judgement and order dated 31.8.98 (Annexure-7) issued various orders to the concerned subordinate officials to submit necessary documents in respect of the applicant but till date the committee has not issued any order conveying the decision of the verification committee. It is pertinent to mention here that in the month of April 2001 the respondents filed a Misc Petition praying for extension of time to implement the judgement and order dated 31.8.98 (Annexure-7). In the said misc petition the respondents have enclosed the orders dated 15.1.2001, 15.2.2001,

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22.3.2001, 20.3.2001 from which it reveals that the Assam Telecom Circle and process of relaxation in some cases are going on. Same also reflects the fact that 497 similarly situated employees have got the relief.

Copies of the orders dated 15.1.2001, 15.2.2001, 22.3.2001 and 20.3.2001 are annexed herewith and marked as ANNEXURE-RJ-1, RJ-2, RJ-3, RJ-4 respectively.

10. That with regard to the statement made in para 9 of the written statement the applicant denies the correctness of the same and begs to state that the judgement and order dated 31.8.98 is yet to be implemented so far as the present applicant is concerned, and no final order has been issued.

11. That with regard to the statement made in para 10 of the written statement the applicant begs to state that as per the verdict of the Hon'ble Apex Court although the respondents have prepared a scheme in the year 1989 but barring a very few case respondents have not implemented the said scheme. Had the respondents implemented the scheme in the year 1989 itself, the applicant would have been well within the purview of the said scheme and by now his service would have been regularised. As stated above the verification committee set up in the year 1999-2000 could not/have not considered the record of the applicant since 1988 which will be revealed from the Annexure-2 particular submitted by the respondents.

12. That with regard to statement made in para 11 of the written statement the applicant denies the correctness of the same and begs to state that since 1.10.89 only few casual workers have been benefited under the said scheme. Thereafter the respondents have issued various orders by which the said scheme of 1989 has been made more liberal, of which mention may be made of order

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dated 1.9.99 (Annexure-11) by which the cut off date has been extended to 1.8.98.

13. That with regard to the statement made in para 12 of the written statement the applicant begs to state that similarly situated employees like that of the present applicant have been granted with the benefit of the said scheme ignoring the case of the present applicant.

14. That with regard to the statement made in para 13 of the written statement the applicant reiterates and reaffirms the statement made above as well as in the OA and begs to state that his case is fully covered by the scheme as well as its subsequent clarifications and respondents are dutybound to extend the benefit of the said scheme taking into consideration the case of the similarly situated employees and the present existing vacancies.

15. That with regard to the statement made in para 14 of the written statement the applicant denies the correctness of the same and begs to state that the records produced before the verification committee were not the full records. The records earlier placed before the committee of 1996 have not been produced even the certificates given by the SDOT certifying his presence has also not been produced.

16. That with regard to the statement made in para 15 of the written statement the applicant denies the correctness of the same and reiterates and reaffirms made above as well as in the OA.

17. That with regard to the statement made in para 16 of the written statement the applicant denies the correctness of the same and begs to state that the judgement and order dated 13.8.97 fully covers the present case and by issuing a subsequent order the respondents can not nullify the judgement more so when the

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judgement has attained its finality, and persons similarly situated have been benefited.

18. That with regard to the statement made in para 17 of the written statement the applicant denies the correctness of the same and begs to state that the order dated 14.11.2000 speaks of completing 240 days of service in (predecelling) years, which has got no relevancy. It is pertinent to mention here that the enclosed working particular reflects the fact that in 1988, 1989, 1990, 1991 etc, he worked for 239, 244, 243, 230 respectively, which entitled him for grant of temporary status under the scheme of 1989, not under its subsequent clarification.

A copy of the order dated 14.11.2000 is
annexed harewith and marked as ANNEXURE-
RJ-5.

19. That with regard to the statement made in para 18 of the written statement the applicant begs to state that the respondents have admitted the fact that, the casual workers who have complited 240 days of continous service or one year continous service, are required to be granted with the benefit of the scheme. Similarly, the present applicant who has complited more than 13 years of service, in which each year he has complited 240 days of continous service is also entitled to the benefit of the scheme.

20. That with regard to statement made in para 19 of the written statement the applicant denies the correctness of the same and reiterates and reaffirms the statement made above as well as in the OA.

21. That with regard to the statement made in para 20 of the written statement the applicant denies the correctness of the same and begs to state that as per Annexure -1 documents to the OA as well as the Annexure-1 to the written statement.

The applicant further begs to state that all most all the similarly situated employees like that of the present applicant have been granted with the temporerary status. Even persins recruited later than him has been grantd with temporary status, ignoring the claim of the applicant.

22. That with regard to the statement made in para 21 of the written statement the applicant denies the correctness of the same and begs to state that his case is covered by the scheme of 1989 as well as its subsiquent clarification issued from time to time.

23. That with regard to the statement made in para 22 of the written statement the applicant denies the correctness of the same and begs to state that admittedly the applicant has performed more than 240 days of contineous service and as such he is entitled to all benefits described in the scheme.

24. That with regard to the statement made in para 23 of the written statement the applicant denies the correctness of the same and begs to state that till date he has been working as Casual Worker under the Respondents.

In view of the aforesaid admitted facts and circumstances the case of the applicant is covered by the scheme of 1989 and relief sought for by the applicant is libe to be extended allowing the OA with cost by setting aside the order dated 14.11.2000.

✓

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

I Shri Ajoy Kumar Pandey , S/O-Banarasi Pandey, aged about 31 years, R/O- Bongaigaon, do hereby solemnly affirm and verify that the statements made in the paragraphs 1, 3 to 4, 8, 10, 11, 13 to 17 19-20 and 22-24 are true to my knowledge and those made in paragraphs 2, 5, 6, 7, 9, 12, 18 and 21 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 2nd day of July, 2001.

Ajoy K. Pandey

Ajoy K.

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Annex-R:1

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM CIRCLE, GUWAHATI - 781007.

No. ESTT-9/12/CM/15

Dated at Guwahati, the 15th January, 2001.

To,

Shri Shailendra Agarwal.

Joint D.D.G. (Pers)

Sanchar Bhawan, 20, Ashoka Road, New-Delhi - 110001.

Sub:-

Grant Of Temporary Status to eligible casual labourers.

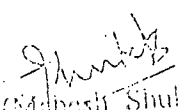
In Assam Telecom Circle, The department has to comply Hon'ble CAT's order in respect of 1290 (approx) casual labourers for whom the Hon'ble CAT in numerous judgements in court case No. 112/98, 114/98, 118/98, 120/98 and 11 others has directed the department to scrutinize the records and grant the temporary status in accordance with the scheme, if found eligible. In pursuance of these CAT orders and in accordance with Directorate sanction temporary status has been already granted to 497 casual labourers so far but there are still 117 more eligible casual labourers who fulfil the criteria for grant of temporary status as on date. Despite being eligible these casual labourers could not be granted temporary status because their names were not forwarded during 1998 and Directorate in their letter No. 269-20/2000-STN II dated 04.09.2000 has put a condition to consider only those cases which were referred in 1998.

2. Vide Directorate letter No. 269-4/93-STN-II(Pt) dt. 13-2-2000, sanction for grant of Temp. status to 672 eligible casual labourers has been received. After doing thorough verification of payment particulars to casual labourers in pursuance of Hon'ble CAT orders in common judgement in case numbers 112/98, 114/98, 118/98, 120/98 and 11 others temporary status has been granted to 497 casual labourers so far and there are 175 balance sanctioned posts available as on date.

3. A number of casual labourers who were not found eligible have filed O.A.s before the Hon'ble CAT/Guwahati and the same are still pending. In the event of the O.A.s being decided in favour of the applicants the department may have to re-engage these casual labourers. The total number of posts in that event may increase.

4. Since there is no alternative in view of the above noted Hon'ble CAT's judgements and as noted in para 2 (two) above Assam Telecom Circle still has balance 175 sanction posts available, it is requested that Directorate may allow Assam Telecom Circle to grant temporary status to the extent of sanction posts available. Time limit for grant of TSM expired on 31.12.2000 and more time has been requested from the Hon'ble CAT. Assam Telecom Circle strongly recommends these cases for grant of TSM since Hon'ble CAT will issue notices of Contempt if TSM is not granted despite Casual labourers found eligible.

In view of the above, you are requested to convey the Directorate approval for the proposal mentioned above.


(Mahesh Shukla)
Deputy General Manager (Admin)

BHARAT SANCHAR NIGAM LIMITED
(a Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM CIRCLE GUWAHATI-781007

No. ESTT-9/12/PT/KTD/470

Dated at Guwahati, the 15th February, 2001.

Shri Shailendra Agarwal.
Joint D.D.G. (Pers)
B.S.N.L. HQ, Sanchar Bhawan.
Ashoka Road, New-Delhi - 110001.

Sub:- Grant of temporary status on eligible casual labourers.
Ref: CGMT/GH letter No. ESTT-9/12/CM/15 dtd. 15/01/2001.

Dear Sir,

You may like to recall my personal meeting with you on 01.02.2001 wherein we discussed the cases of 117 such casual labourers who have completed 240 days but as on 01.08.98 they were not working due to various reasons. You may recall that this includes those 13 cases also, who were disengaged on 13/09/97 and re-engaged on 18/11/98 due to Circle Office order, by concerned DE, but after break of 13 months (Copy of the advice of the Legal Advisor is attached).

2. You may also recall that the Section Officer concerned had given the opinion that counting break periods is relevant only when temporary status mazdoors are regularised on the basis of 10 years service. He also said that break periods have no relevance when casual labourers are to be granted temporary status on the basis of completion of 240 days work in a year.

3. The 117 casual labourers in question were initially engaged as far back as 1990. Verification Committees have found that they are eligible for grant of temporary status because they have completed 240 days in more than 1 year but could not be granted temporary status due to one of the following reasons:-

- (i) They were not in service as on 01/08/98.
- (ii) Their names were could not be sent to the Directorate during 1998 due to mistake at this end though they were in service as on 01/08/98.
- (iii) Break is more than 1(one) year say, 13 to 14 months.

4. Since Assam Telecom Circle still has 175 balance sanctioned post available and casual labourers have completed 240 days of continuous work, it is requested that BSNL Head Quarter may kindly relax the conditions as mentioned in above paras and allow grant of temporary status to casual labourers as referred above.

With regards.

Encls: 1) Order of Hon'ble CAT dtd. 31

2) Copy of advice of Legal Adv.

3) Copy of the CGMT/GH letter

(Mahesh Shukla)
Dy. General Manager (Admn)

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)

कार्यालय मुख्य महाप्रबन्धक
Office of the Chief General Manager
असम दूरसंचार परिमंडल Assam Telecom Circle
Guwahati - 781 007
OFF : कार्यालय - 540040, RES : निवास - 541041
FAX NO. : 540111

J. K. CHHABRA
CHIEF GENERAL MANAGER

D.O.No.STES-21/160/101
Dated 22.3.2001

Dear Sri Sharma,

Kindly refer to this office letters dated 15.01.2001 & 15.02.2001 (copies enclosed) on the subject of grant of Temporary Status to the left out casual labourers, reply of which is still awaited.

2. About 1290 casual labourers had approached the Hon'ble Tribunal, Guwahati in 15 different cases making a prayer for grant of Temporary Status to them. The Hon'ble Tribunal in their common order dated 31.8.99 directed the Respondent i.e. Department of Telecom to scrutinize the cases of these casual labourers on the basis of records and to dispose off their representations with a reasoned order within six months. Three time extensions have been obtained so far and the time limit of the last extension is expiring on 31st March, 2001.

3. During implementation of judgement, 497 casual labourers under Assam Telecom Circle have been granted Temporary Status after examination of their records by the committees constituted for the purpose as per sanction given by Directorate to grant Temporary Status to 672 casual labourers vide letter No.269-4/93-STN-II(A) dated 13.02.2000.

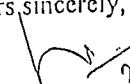
4. However, 117 number casual labourers could not be granted Temporary Status due to the following reasons.

- (i) Break period is 13 to 14 months in certain cases, though they have completed 240 days or more in a year and are working as on date too.
- (ii) Certain casual labourers were not on engagement as on 01.08.98, and
- (iii) The names of certain casual labourers were not forwarded to Telecom HQ during 1998 due to mistakes at SSA and unit level because of time pressure though they were actually on service as on 01.08.98 and have completed 240 days or more in a year.

5. Since Assam Telecom Circle has still 175 vacant posts available out of 672 posts sanctioned by the Directorate and 117 casual labourers in question have completed 240 days of continuous work in a year, You are requested to bestow your personal attention in the matter for according approval of BSNL HQ for grant of Temporary Status to 117 casual labourers. Since these cases are to be decided by 31st March, 2001 as directed by the Hon'ble Tribunal, an urgent action is requested please.

With Kind Regards,

Yours sincerely,


(J.K.Chhabra)

Sri B.Sharma,
Dy. Director General (Pers)
Bharat Sanchar Nigam Limited,
Sanchar Bhawan, New Delhi-110001.

No. 272-2/2001-Pers.-IV(Pt.)
BHARAT SANCHAR NIGAM LIMITED
 [A Government of India Enterprise]
CORPORATE OFFICE
PERSONNEL - IV SECTION
Sanchar Bhawan, New Delhi-110001

Annexure - R4

Dated: 20.03.2001

To

The Chief General Manager,
 BHARAT SANCHAR NIGAM LIMITED,
 Assam Telecom. Circle,
 Guwahati.

Sub: OA No. 1077/1998 and others- Judgement dated 31.08.1999 of CAT
 Guwahati Bench.

Sir,

It is understood that the time allowed by the Hon'ble Tribunal for implementation of its judgement in the above referred case is expiring on 31.3.2001. The matter is presently under consideration with the Legal Adviser, DOT. You are, therefore, requested to seek some more time from the Hon'ble Tribunal.

Yours faithfully,

[Signature]

(O.P. MOGHIA)

Assistant Director General (Pers.IV)

BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
OFFICE OF THE TELECOM DISTRICT MANAGER BONGAIGAON

No.E-75/PT & CM/CAT-Case/2000-2001/40 Dated at Bongaigaon the 14th Nov 2000

To,

✓ Sri Ajoy Kr. Pandey,
S/O Sri Banarashi Pandey, T.M.
C/O Basugaon Telephone Exchange,
P.O. Basugaon, - 783372
Dist. Kokrajhar.

Sub : Casual Labourer case of Sri Ajoy Kr. Pandey.

Ref : ESTT-9/12/PT/BGN/15 dtd. 18-10-2000.

The committee set up in the office of Telecom District Manager, Bongaigaon for making detailed scrutiny and examination of the records of casual labourers working in Bongaigaon SSA, with a view to grant temporary status to the eligible casual labourers.

The committee has examined your representation in accordance with the relevant rules and orders governing the cases of casual labourers of the Department and did not recommend your case for granting TSM. By taking in to consideration of the common interim verdict/direction of Hon'ble CAT/GH for casual labourer on different O.As, I am directed to intimate you that your representation can not be granted as you have not completed 240 days in any preceding years and you are not in service as on 01-08-1998.

P.S. 14/11/2000
(P.C.SARKAR)
Sub-Divisional Engineer (HRD)
B.S.N.L.
O/O the Telecom District Manager,
Bongaigaon - 783 380.

Copy forwarded to :-

- 1) The Asstt. General Manager, (Admn), O/o the CGMT/Guwahati-7.
- 2) The SDO/Kokrajhar.

S.L.P.
For Telecom District Manager,
Bongaigaon - 783 380.

STATEMENT OF CASUAL MAZDOORS.

Sl.no.	Name of the Casual Mazdoor. and address.	Date of Birth.	Working on A.C.G.-17 Basis Details.	Name of the officials Who engaged Mazdoor After 22-06-88.	Approval of the Authority concerned for engagement of Mazdoor.	Remarks.
1)	Sri Ajoy Kumar Pandey. Son of Sri Anarashi Pandey. Basugach Telephone Exchangee .	03-09-72	01-01-1988 to 31-12-1988 01 12-239 days. 01- to 31- =244 days. 1989 1989 01 to 31- =243 days. 1990 1990 01-01-1991 to 31-12-1991 = 230 days 01-1-1992 to 31-12-1992 = 226 days 01-1-1993 to 31-12-1993 = 231 days 01-01-1994 ut to Oct'94 = 185 days 01-1-1995 to 1-12-95 = 210 days 01-1-1996 to 31-12-96 = 100 days	The casual labour were engaged by the S.I.P. on J.T.O.s under their respective sections in this Sub-Division Kokrajhar newly created for execution of developmental work and maintenance of telecommunication services especially this was necessary for the interest of public services.		The casual labour were engaged by the S.I.P. on A.C.G.-17 basis with time to time break up under the sanction of J.T.O.s for execution of developmental works like 1- to lay U/O cables, to provide LDPTs, construction New alignment and to provide New telephone connections for this Newly Created sub-Division Kokrajhar.

62/1996
Sub-Division
Kokrajhar Telephone
Exchange