

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 336/2000

... Smti. G. C. das.

APPLICANTS
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S)

ADVOCATE

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

FOR THE RESPONDENT(S)

Notes of the Registry

DATE

COURT'S ORDER

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

Heard Mr B.K. Sharma, learned Sr. counsel for the applicant and Mr B.S. Basumatary learned Addl. C.G.S.C for the respondent s.

Issue notice to show cause as to why this application shall not be admitted. Call for the records. Returnable by 6 weeks.

List on 1.12.2000 for show cause and admission. Till then the 3 applicants whose names are mentioned in Annexure-A shall be allowed to continue in their respective post.

Vice-Chairman

Mr. S. Sarma, learned counsel for the applicant. Mr. A. Deb Roy, Sr. C.G.S.C. prays for adjournment on behalf of Mr. B.S. Basumatary, learned Addl. C.G.S.C. Prayer allowed.

List on 8.12.2000 for admission.

Vice-Chairman

Notice prepared and sent to D/S. for issuing the respondents No 1 to 3 vide D/No 2505/2507 dttd
7/11/00.

Notice duly served on R/No
1
17/11/00.

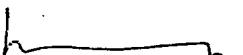
8.12.2000 Heard Mr. S. Sarma, learned counsel for the applicants and also Mr. B.S. Basumatary, learned Addl. Central Govt Standing Counsel for the respondents.

Application is admitted. Call for the records. No fresh notice need be issued to the respondents.

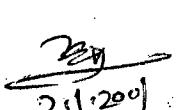
The respondents are allowed three weeks time for filing of written statement. An endeavour shall be made to dispose of the application on the next date.

Interim order dated 17.10.2000 shall continue until further order.

List on 3.1.2001 for written statement and for further orders.


Vice-Chairman

No written statement has been filed.


3.1.01

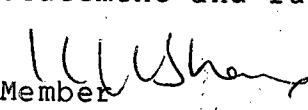
On the prayer of learned counsel for the respondents 4 weeks time is allowed for filing of written statement. List on 5.2.01 for filing of written statement and further orders.


Vice-Chairman

lm

5.2.01 List after three weeks to enable the respondents to file written statement on the prayer of Mr. A. Deb Roy, Sr. Addl. C.G.S.C.

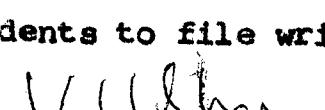
List on 2.3.2001 for written statement and further orders.


Member


Vice-Chairman

trd
12.3.01

List on 11.4.01 to enable the respondents to file written statement.


Member


Vice-Chairman

lm

Notes of the Registry	Date	Order of the Tribunal
<u>21.5.2001</u> N/S has been filed on behalf of the Respondents.	11.4.01 1m	List on 17.5.01 to enable the respondents to file written statement. Vice-Chairman
<u>NTS</u> <u>21/5/01</u>	16.7.01	No representation stand out. List the case on 17.7.2001 for further order.
<u>nts filed on behalf of the respondents.</u>	17.7.01 bb	<u>IC Usha</u> Member List on 31.7.2001 to enable the applicant to file rejoinder. Vice-Chairman
<u>30.7.01</u>	31.7.01 bb	<u>IC Usha</u> Member List on 30-08-2001 to enable the respondents to file written statement. Vice-Chairman
<u>No. Rejoinder has been filed.</u>	30.8.01 mb	Written statement has already been filed. The case now be listed for hearing. The applicant may file, rejoinder if any, within 2 weeks. List on 1/10/01 for hearing. Vice-Chairman
<u>28.9.01</u>	1/10 mb	<u>IC Usha</u> There is no Division Bench today. The case is adjourned to 15/10/2001. A/c. Jey 1/10
<u>No. Rejoinder has been filed.</u>	15/10 mb	<u>IC Usha</u> There is no Division Bench today. The case is adjourned to 20/11/2001. A/c. Jey 15/10
<u>19.11.01</u>		

Notes of the Registry	Date	Order of the Tribunal
11. 20/1 copy of the brief seen and to the see. for today in re to the t/b about the parties.	20.11.01 bb	<p>Heard counsel for the parties. Hearing concluded, judgment delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in in terms of the order. No order as to costs.</p> <p>(C Ushan Member</p> <p>Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 336 of 2000.

Date of Decision 20.11.2001.

Sri Ganesh Das & Others.

Petitioner(s)

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

Advocate for the
Petitioner(s)

- Versus -

Union of India & 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 MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

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.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 336 of 2000.

Date of Order : This the 20th Day of November, 2001.

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

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

1. Sri Ganesh Das

S/O Sri B.Das

At present working as Casual Worker
Under the SDE, Office of the DE, TP-II
Guwahati.

2. All India Telecom Employees Union
Line Staff and Group-#D"

Assam Circle

represented by Circle Secretary

Shri J.N.Mishra

... Applicants.

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

- Vs -

1. The Union of India

Represented by the Secretary to the
Ministry of Communication
New Delhi.

2. The Chief General Manager

Telecom, Task Force, Pan Bazar
Guwahati-1.

3. The Sub Divisional Engineer

C-DOE, RRC I, Guwahati.

... Respondents.

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

O R D E R

CHOWDHURY J. (V.C.) :

Conferment of temporary status is the
subject matter of controversy in this Original Appli-
cation.

2. By order dated 31.8.1999 in O.A.131 of 1998
the Tribunal issued a direction on the respondents to
examine the case of each applicants including that of the
present three applicants. According to the applicants, the
respondents formed Verification Committee Division wise
to verify the case of the each Casual Labourer. The
Verification Committee examined the same taking 1.8.1998
as cut off date and found that these three applicants

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did not complete 240 days in a year preceding 1.8.1998. The respondents annexed the findings of the Verification Committee in the written statement as Annexure-R1, R2 & R3. Subsequently the Department by memo No. ESTT-9/12 /PT(II)/59 dated 19.10.2000 sent the communication to the concerned authority. Department forwarded detail particulars of the casual labourers who were engaged in the field units, but not granted temporary status. By the said communication the respondents were also reminded that Sub-divisional Officer was to give a certificate that no fresh casual labourer was engaged after 1.8.1998.

3. In course of the hearing Mr.S.Sarma referred to communication No.DE(0)/E-10/2000-01/3 dated 27.10.2000 whereby the Divisional Engineer (DPN) of the CGMT Office, Assam Circle submitted the details of the casual labourers still in engagement, but was not granted temporary status. In the said communication the name of the three applicants appeared. The Divisional Engineer also certified that no fresh casual labourers was engaged after 1.8.1998 and the case of the three casual labourers were pending for grant of TSM. In the proforma submitted by the S.D.E, RRC-I/GH on 28.10.2000 the No. of days put in work during calender year 1998, 1999 and 2000 have been shown against the applicants. All the three applicants completed 207 days in a calender year. Mr.Sarma submitted that these three applicants since working under respondent No.3, being an Administrative Office that observes five days week and accordingly 207 days is required for granting of temporary status. According to Mr.Sarma, since they had fulfilled the period, they were untitled for temporary status.

4. Upon hearing Mr.S.Sarma, learned counsel for the applicant and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents we are of the view that ends of justice will be met if a direction is issued on the respondents to reconsider the case of the applicants taking into consideration the period of services they rendered after 1.8.1998. If the applicants really completed minimum statutory period and eligible for grant of temporary status, in that case respondents shall consider the same and pass necessary order. The applicants are also directed to submit fresh representation individually before the authority indicating all the facts alongwith a copy of this judgment within three weeks from the receipt of the order. In that case the respondents shall examine the same and pass necessary order as per law within two weeks thereafter.

Subject to the observation made above, the application stands disposed of. No order as to costs.

I C Usha
(K.K. SHARMA)
ADMINISTRATIVE MEMBER

D.N.CHOWDHURY
VICE CHAIRMAN

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

17 NOV 2000

698 गुवाहाटी अदायक

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case :

O.A.No. 336/ of 2000.

BETWEEN

G.C.Das
Shri D. Bhaktav & Ors.

VERSUS

Union of India & Ors.

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Filed by : U.K. Nair, Advocate.

File No. : C:\WS7\DHANAPATI.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 2000

BETWEEN

1. Sri Ganesh Das,

son of Sri B Das.

At present working as Casual worker,

Under the SDE, office of the DE, TP-II

Guwahati.

2. All India Telecom Employees Union

Line Staff and Group "D"

Assam Circle

represented by, Circle Secretary,

Shri J.N. Mishra

..... Applicants.

- A N D -

1. The Union of India,

Represented by the Secretary to the

Ministry of Communication, New Delhi.

2. The Chief General Manager, Telecom,

Task Force, Panbazar, Guwahati-1.

3. The Sub Divisional Engineer,

C-DOT, RRC I, Guwahati.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS

MADE:

This application is directed against the threatened action of the respondents for termination of the services of the applicants without any notice and without following the due

Fixed By: 11
the Applicants
Through;
U.K. Nai, Advocate.

process of law, as directed by this Hon'ble Tribunal in its judgment and order dated 31.8.99 passed in OA Nos. 113/98 and 112/98. This application is also directed against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applications, others named been benefited.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

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

4.2. That in the instant application, the Applicant No.2 is the Circle Secretary of All India Telecom Employees Union, Line Staff and group-D, Assam Circle and he represented the interests of casual workers more particularly reflected in the Annexure-A to this Original Application. Applicant No.1 is one of the casual labourers as listed in the Annexure-A is also similarly situated like that of the other applicants on whose behalf the

instant application has been filed by the applicant No.2. Accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together in a single application invoking rule 4(5)(b) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

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

4.3. That the casual labourers whose interests are being represented in the instant application were all appointed in various dates ranging from 1993 onwards on temporary basis. The applicants are at present drawing their wages under ACG-17 and pay slip, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

For better appreciation of the factual position the services particulars reflected in the Annexure-A may be referred to. They are still continuing in their respective posts as reflected in the Annexure-A till date.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C) No.1280/89

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(Ram Gopal & Ors. Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt. of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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

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

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

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be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

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

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

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

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

4.8. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicants in the instant application more so when they are similarly circumstance with that of the casual workers to whom benefits have been granted and presently working in the Deptt. of Posts. As stated above both the Deptts. are under the same Ministry i.e. the Ministry of Communication, and the scheme were pursuant to

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the Supreme Court's Judgment as mentioned above. There can not be any earthly reason as to why the applicants shall not be extended the same benefits as have been granted to the casual labourers working in the Deptt. of Posts.

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

4.10. That the applicants beg to state that in view of aforesaid scheme as well as the verdict of the Hon'ble Supreme Court,

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they entitled to be regularised more so whereas all the applicants have completed more than 240 days of service in each year.

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

A copy of the said order dated 13.8.97 is annexed herewith and marked as ANNEXURE-4.

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

4.13. That the applicants beg to state that the action of the respondents towards the non implementation of the judgments passed by this Hon'ble Tribunal in their cases are nothing but their ulterior motive only to deprive them from their legitimate claim of regularisation. The respondents being a model employer aught to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

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

A copy of the order dated 1.9.99 is annexed here with as Annexure-5.

4.15 That the applicants beg to state that claiming temporary status and regularisation they had occasions to approach the Hon'ble Tribunal by way of filing OA No. 131/98 and the Hon'ble Tribunal was pleased to pass the judgment and order dated 31.8.99 directing the respondents to scrutinise their cases, and to consider their cases.

A copy of the said judgment and order dated 31.8.99 is annexed herewith as Annexure-6

4.16. That the applicants beg to state that the respondents are presently making arrangements for filling up at least 900 posts of Gr.D Mazdoors within a short time and it is also learnt that the cases of the applicants will not be considered for those posts and some outsiders are going to be appointed in these posts.

4.17 That the applicants beg to state that the respondents have not implemented the judgment and order dated 31.8.99 but some

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other similarly situated employees like that of them are going to be appointed in these 900 posts. The respondents have been appointing persons who are juniors to them and who does not fulfill the minimum required qualifications of the said scheme as well as its subsequent clarifications issued from time to time. Pursuant to the judgment and order of Hon'ble Tribunal the respondents ought to have considered the cases of the applicants but contrary to the same the respondents have issued some orders enclosing lists of casual workers who does not come under the required criteria described in the scheme, ignoring their cases. Till date no formal order has been issued in their favour but there is every likelihood of terminating their service only on the ground that their names do not appear in the said list for the reasons best known to the authority concerned. It is noteworthy to mention here that all the applicants fulfill the required criteria mentioned in the scheme and to that effect they have sufficient documents to show that they are casual workers who worked for 240 days each year till date.

The applicants crave of this Hon'ble Tribunal for an order directing the respondents to produce all the orders as well as the minutes of the interviews granting temporary status to the others.

4.18. That the applicants beg to stat that pursuant to the aforesaid judgment and order dated 31.8.99 the respondents have initiated various interviews and personal hearings but the method and yard sticks applied in others cases have not been maintained in regard to the present applicants. It is pertinent to mention here that the applicants although fulfill all the required qualifications mentioned in the scheme as well as its subsequent clarifications but due consideration has never given to the

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present applicants and they could come to know that their names have not appeared in the said list and for that reason only respondents may terminated their services without any formal order within the month of October 2000. The applicants immediately on gathering the aforesaid information regarding threatened termination have come before this Hon'ble Tribunal seeking an appropriate interim protection directing the respondents not to terminate their service without first disposing of their representations as directing by this Hon'ble Tribunal during the pendency of this original application. In case the Hon'ble Tribunal is not inclined to pass the interim order as prayed above the applicants will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that the threaten action on the part of the respondents in issuing such oral termination orders is perse illegal and same is in direct confrontation with the judgment and order dated 31.8.99 passed by the Hon'ble Tribunal and hence same are liable to be set aside and quashed.

5.2 For that the action on the part of the respondents in not treating the applicants at per with the other similarly situated employees in whose favour the aforesaid orders have been issued and hence the aforesaid action is liable to be set aside and quashed and appropriate direction need be issued directing the respondents not to disengaged the applicants without first considering their cases.

5.3. For that the denial of benefit of the scheme to the casual labourers whom the applicants union represent in the instant case is prima-facie illegal and arbitrary and same are



liable to be set aside and quashed.

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

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

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

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

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

8. RELIEF SOUGHT FOR:

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

8.1 To direct the respondents not to disengage/terminate the services of the applicants without first considering their cases for grant of temporary status as per the scheme as well as its subsequent clarification issued from time to time.

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

8.3. To direct the respondents to extend the benefits of the scheme to the applicants particularly who have joined in the year 1998 taking in to consideration the judgment of the Hon'ble ernakulam Bench as well as the clarification issued in this

regard and to regularise their services.

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

8.5. Cost of the applicants.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to disengage/terminate the services of the applicants with a further direction to allow them to continue in their respective posts and not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants.

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. :
2. Date :
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.



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VERIFICATION

I, Shri Jaynarayan Mishra, s/o Late Chalbal Mishra, aged about 52 years, Circle Secretary, All India Telecom Employees Union, Lines staff and Gr.-G, Assam Circle, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 4, 5-43 4, 5, 6, 7-410, 412-413, 416-418, 5 to 12 are true to my knowledge and those made in paragraphs 4, 4, 47, 411, 414, 415 _____ are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the applicant No.2 to sign this verification on his behalf.

And I sign this verification on this the 2nd day of October, 2000.

Signature.

Jai Narayan Mishra.

ANNEXURE-A.

PARTICULARS OF THE APPLICANTS.

S.NO	NAME	DATE OF ENTRY	WORKING UNDER	CASE NO.
1.	Ganesh Ch Das	1.8.94	SDE/RRC-I Gh	131/98.
2.	Sd Jakir Hussain	14.6.95	-do-	-do-
3.	Nripen Ch Das	20.2.96	-do-	-do-

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners..

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 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

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

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

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

- 19 -

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SMF/78/98 dated 27.9.89.

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

sd/ =

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/ =

ASSISTANT DIRECTOR GENERAL (STN).

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ANNEXURE

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

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

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

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

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

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

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

Temporary Status.

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

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

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

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

R3 is an Adm ofc which observes
Five day week

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.

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ANNEXURE-..3.

EXTRACT.

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

NO.66-52/92-SPB/I

dated 1.11.95.

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

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

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

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

ANNEXURE-4.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.

ORDERBARUAH J. (V.C.)

Both the applications involve common question of law



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

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

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourars 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

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

submitted a representation dated 29.12.1995 before the Chairman, 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.Chaudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3(in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

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

Sd/- Vice Chairman.



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ANNEXURE.5

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/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.

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

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

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

1. 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 Bhuban Kalita and 4 others. Applicants.

By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.

- versus -

The Union of India and others. Respondents.

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

5. 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

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. Pathak, Addl.C.G.S.C.

7. O.A.No.135/98

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

- versus -

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

8. O.A.No.136/1998

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

- versus -

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

9. O.A.No.141/1998

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

- versus -

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

10. O.A. No.142/1998

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

- versus -

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

11. O.A. No.145/1998

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

- versus -

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

12. O.A.No. 192/1998

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

-versus-

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

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M*

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 appli-
cants were submitted by the said union, namely the Line Staff and
Group-D employees and some other applicantion 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 termi-

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nating 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 (Grnt 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. Nos 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union 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 re-

spondents 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 D.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I.

After
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Hussain and Mr. B. Malakar, 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 counse 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 direction 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 the matter should be re-examined by the respondents themselves taking into 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 scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on

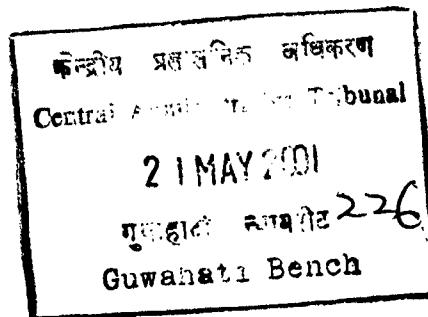
merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

Attn
for



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. NO. 336 OF 2000 .

Shri G.C. Das & Ors.

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statement submitted by the
Respondents

The respondents beg to submit the written statements
as follows :

Shri Ganesh Ch. Das, Md. Jakir Hussain and Shri Nripen Ch. Das, these three applicant casual labourers have jointly filed this O.A. before the Hon'ble Tribunal making a prayer not to dis-engage them from their present service and to grant them Temporary Status as per provision of the scheme. They have also claimed that they are entitled to get the benefit of scheme.

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 had put at least 240 days service in a year and were on engagement on the date of introduction of the scheme. The scheme is known as casual labourers (Grant of

(Grant of Temporary Status and Regularisation) scheme, 1989 and came into effect w.e.f. 1.10.89. Under the provision of the scheme the Department has regularised thousands of casual labourers who were engaged before 1.10.89 and have worked for more than 240 days in a year on that date.

The Department had imposed a complete ban on engagement of casual labourer w.e.f. 22.6.88 and restraining orders were issued to all concerned. The telecom officers are devoid of any power to engage any casual labourer in defiance of ban order. But there is irregularity of an enormous scale in the engagement of casual labourers on choose and pick basis. The accumulated result of such mindless engagement by field unit that ~~for~~^{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 ~~l~~ mazdoors on engagement as on 1.8.98 and who have worked for atleast 240 days in a year prior to 1.8.98, would be granted Temporary Status. In the process the Department has liberalized the scheme and advanced the cut off date to 1.8.98.

Earlier all the three applicants had also approached this Hon'ble Tribunal by way of filing O.A. No. 131/98 claiming temporary status and subsequent regularisation and the Hon'ble Tribunal was pleased to pass an order on 31.8.99 directing the Respondent to examine and scrutinise all cases in consultation with records and to pass a reasoned order there after on merit of each case.

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Pursuant to the above order dated 31.8.99, Division-wise verification committees were formed to verify the claim of each casual labourer. The committee was given access to all records to find out full engagement particulars of the casual labourers. The committee, after thorough scrutiny of all connected records submitted its findings in respect of all casual labourers including the applicants of this O.A. Based on the finding of the committee, the competent authority has assessed the eligibility of the casual labourers for grant of the benefit of scheme taking into consideration of the advanced cut off date as 01.08.98. The casual labourers thus found to satisfy the eligibility conditions have been granted Temporary Status.

The findings of the committee in respect of these applicants, reveal that they were engaged by the Department for casual nature of work from different dates of 1996. The findings also confirm that none of the applicants has completed atleast 240 days in a year preceeding 1.8.98. The applicants thus fail to complete the required length of service and are not entitled for any benefit of the scheme.

The verification committee's finding for the three applicants are annexed here as R1 R2 and R3 respectively.

Settled position of law and essence of the scheme is very clear that casual labourers who have continuously worked for atleast 240 days in a year prior to 1.8.98 is to be granted Temporary Status. 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 atleast 240 days in a year preceeding 1.8.98. The present applicants are not similarly situated to those casual labourers, as they have not put in atleast 240 days service in a year.

The Respondent Department has rightly considered the cases of the applicants and found that they do not fall in the target category of labour before the Hon'ble Supreme Court nor satisfied the eligibility condition of the scheme. In-eligible casual labourers cannot be granted Temporary Status under any provision of rules.

Thus the relief sought by applicants, therefore cannot be extended to them under any provision of scheme/rules of the Department and the Hon'ble Tribunal is humbly requested to dismiss the application for the grounds as stated above.

verification

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VERIFICATION

I, Shri Ganesh Chandra Sarma, Asst. Director Telecom
being authorised do hereby verify and declare
that the statements made in this written statement are true
to my knowledge, information and belief and I have not
suppressed any material fact.

And I sign this verification on this 16th day
of May, 2001.


Declarant.

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

ANNEXURE "C" (Page 2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME : Shri Ganesh Chandra Das

Year	Month	No. of Days	Mode of payment ie MR/ACG-17/Vr. No etc	Amount Rs.	Engaged by whom	Bill Passing Authority	Name of AO who has paid
1996	1/1 to 31/12	134	Vr. No.226 did 8.2.99 for payment DA arrear against sanctioned memo of 21.7.98 DE(OP),C.O./GH	10,774	S.Das, SDE I/C RRC/GH	DE(OP), C.O./GH	B.Deb, Sr.AO(A&P),C.O./GH
1997	1/1 to 31/12	92	-do-	-do-	-do-	-do-	-do-
1998	1/1 to 31/12	97	-do-	-do-	-do-	-do-	-do-
Total				10,774			

(A.K.Chelleng) AGM (T.O.D.)
AGM(Admin)
Circle Office/GH

(B.Deb).
Sr.AO(A&P)
Circle Office/GH

(G.C.Das)
AD(TT)
Circle Office/GH

1. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

2. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

RECOMMENDED FOR APPROVAL

ANNEXURE "C" (Page 2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME : Shri Jakir Hussain

Year	Month	No. of Days	Mode of payment ie MR/ACG-17/Vr. No etc	Amount Rs.	Engaged by whom	Bill Passing Authority	Name of AO who has paid
1996	1/1 to 31/12	111	Vr.No. 226 dt/d 8.2.99 for payment of DA arrear against sanctioned memo against DE(OP), CO/GH		S.Das, SDE I/C RRC/GH	DE(OP), CO/GH	B.Deb Sr.AO(A&P), CO/GH
1997	1/1 to 31/12	128	-do-		-do-	-do-	-do-
1998	1/1 to 31/12	144	-do-		-do-	-do-	-do-
Total				13,295			

(A.K.Cheleng)
AGM(Admn)
Circle Office/GH

(B.Deb)
Sr.AO(A&P)
Circle Office/GH

(G.C.Das)
AD(TT)
Circle Office/GH

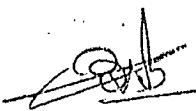
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Annexure - B3 (2-c) - 43 -
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ANNEXURE "C" (Page 2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME : Shri Nripen Das

Year	Month	No. of Days	Mode of payment ie MR/ACG-17/Vr. No etc	Amount Rs.	Engaged by whom	Bill Passing Authority	Name of AO who has paid
1996	1/1 to 31/12	143	Vr.No 226 dt'd 8.2.99 for payment DA arrear against sanctioned memo of DE(OP).CO/GH		S.Das, SDE I/C.RRC/GH	DE(OP).C O/Gh	B.Deb Sr. AO(A&P) CO/GH
1997	1/1 to 31/12	102	-do-		-do-	-do-	-do-
1998	1/1 to 31/12	128	-do-		-do-	-do-	-do-
Total				12,748			

A.K.Chelleng
AGM(Admn)
Circle Office/GH


B.Deb
Sr.AO(A&P)
Circle Office/GH


G.C.Das
AD(TT)
Circle Office/GH