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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 350/2000

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....O.A......Pg. 1.....to 5.....
2. Judgment/Order dtd. 6.12.1999.....Pg. 1.....to 2.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....350/2000.....Pg. 1.....to 56.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg. 1.....to 4.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 350/2000

Kamala Kanta Das & Ors., APPLICANTS
 versus.

Union of India & Ors Respondents.

FOR THE APPLICANT(S) *Mr. M. Chanda*
 ADVOCATE *Mrs. N.D. GooNami*

FOR THE RESPONDENT(S) *C.G.S.C*

Notes of the Registry | DATE | COURT'S ORDER

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

Heard Mr M.Chanda, learned counsel for the applicants.

Issue notice to show cause as to why this application shall not be admitted. Returnable by six weeks.

List on 8.12.2000 for show cause and admission.

pendency of this application shall not stand on the way of the respondents to consider the case of the applicants as per ~~rule~~ Law

[Signature]
 Vice-Chairman

List on 9.1.2001 for Admission.

[Signature]
 Vice-Chairman

List after six weeks on the prayer of the learned counsel for the parties. List on 22.2.01.

[Signature]
 Vice-Chairman

in form
Application
vide
C.F.
vide
 IPO/2000
 Dated..... 22.10.2000

[Signature]
 Dy. Registrar 23/10/2000

Requisites has been

filed
NS
 23/10/2000 pg

Notice prepared and sent to
D/S for issuing the Respondent
No 1 to 3 vide D/No 2474 to
2476 dttd 6/11/2000

3/11/00
under PR No 2873
and by Peon Book
 16/11/00

Notice duly served on R No 3.
Others are admitted
 11/01/01

① Notice duly served (by hand)

on R. No-2. other respd. are still awaited.

② No. W/S has been filed.

22.2.2001 M/S. B. Adjudged to 28.2.2001

M/S
A. K. Singh
22.2

30/1
7.12.2001

① Notice served by hand

on R. No-2. other respondents are still awaited.

② No. written statement has been filed.

30/1
8.1.2001

28.2.2001 Heard Mr M. Chanda, learned counsel for the applicant. The application is admitted. Call for the records returnable by four weeks. List it on 28.3.01.

Vice-Chairman

nkm

28.3.2001

Four weeks time allowed to the respondents to file written statement. List it for orders on 9.5.01.

Office to show the name of the Central Government Standing Counsel in place of Dr B.P. Todi.

Vice-Chairman

nkm

9.5.01

Written statement has been filed by the respondents. The applicant may file rejoinder if any within three weeks from today.

List on 1.6.2001 for orders.

Vice-Chairman

1.6.2001

List the matter for hearing on 2-7-2001. The applicant may file rejoinder, if any, within ten days from today.

Vice-Chairman

bb

No. written statement has been filed.

30/1
9.1.2001

Services Completed.

30/1
11/01/01

No. written statement has been filed.

30/1
27.3.01

30.4.2001

W/S has been submitted by the respondents.

30/1

No. Rejoinder has been filed.

30/1
29.6.01

Notes of the Registry

Date

Order of the Tribunal

2.7.01

Mrs.N.D.Goswami appearing on behalf of Mr. M.Chanda, learned counsel for the applicant and Mr. A.Deb Roy, learned Sr.C.G.S.C. for the respondents both request for adjournment of the case for personal reasons.

Accordingly, the case is adjourned to 3-9-2001 for hearing.

ICC Sharma

Member

3.8.01

Adjourned to 7.9.2001 on the prayer of the counsel of the applicant. List on 7.9.2001 for hearing.

ICC Sharma
Vice-Chairman

Written statement has been filed.

May 19.01

trd

7.9.01

Mr. M.Chanda, learned counsel for the applicant, states that in the written statement it is mentioned that the applicant did not appear before the verification committee, though they were asked to appear. Mr. A. deb Roy, Sr.C.G.S.C. on the other hand states that there is no local office to inform the applicants about appearing before the verification committee. *was asked to appear* As communication was *denied* delay by the applicant. End of justice would be met by giving direction to respondents, to allow the applicant to appear before the verification committee. The applicants are also directed to keep in touch with the respondents.

Three months time is allowed for the completion of the process. List on 10/12/01 for hearing.

By intimating them through registered letter

ICC Sharma
Member

mb

Notes of the Registry	Date	Order of the Tribunal
<p><i>J</i></p> <p>[Faint, illegible text in the first column]</p>	<p>[Faint, illegible text in the second column]</p>	<p>[Faint, illegible text in the third column]</p>

(4)

4

Notes of the Registry	Date	Order of the Tribunal
	7-9-01	<p>Mr. M. Chanda, learned counsel for the applicant, states that in the written statement it is mentioned that the applicants did not appear before the verification committee, though they were asked to appear. Mr. A. Deb Roy, Sr. C.G.S.C. on the other hand states that the local office was asked to inform the applicants about appearing before the verification committee ; As communication is denied by the applicant, Ends of justice would be made by giving direction to respondents to allow the applicant to appear before the verification committee by intimating them through registered letter . The applicants are also directed to keep in touch with the respondents.</p> <p>Three months time is allowed for the completion of the process. List on 10/12/ for hearing.</p> <p style="text-align: right;">K. C. Sharma Member</p>

Wks has been billed.

16.1.02.

Notes of the Registry	Date	Order of the Tribunal
<p>U</p>	<p>10.12.01</p>	<p>Prayer has been made on behalf of Mr. M. Chanda, learned counsel for the applicant for adjournment of the case on the ground that he is out of station. Sri A. Deb Roy, learned Sr. C.G.S.C. submits that this case is listed in D/B, and he has not brought the records. The case is accordingly adjourned.</p> <p>List on 11.1.2002 for hearing.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>
<p>Written statement has been filed.</p> <p style="text-align: right;"><i>[Signature]</i> 5.2.02</p>	<p>mb</p> <p>11.1.2002</p> <p>nkm</p>	<p>List again on 6.2.2002 for further orders.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>
<p>21.2.2002</p> <p>Copy of the Judgment has been put to the office for filing the same to the applicant as well as to the D.C. & S.C. by hand.</p> <p><i>[Signature]</i></p>	<p>6.2.02</p> <p>trd</p>	<p>Heard learned counsel for the parties. Hearing concluded. Judgment delivered in the open court, kept in separate sheets. The application is disposed of in terms of the observations made in the order. No costs.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

350/2000
O.A./R.A. No. of .

6.2.02
DATE OF DECISION

Sri Kamala Kanta Das APPLICANT(S)

Mr. M.Chanda. ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors. RESPONDENT(S)

Mr. A.Deb Roy, Sr. C.G.S.C. ADVOCATE FOR THE
RESPONDENTS.

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 ?

5. Judgment delivered by Hon'ble Vice-Chairman.

No

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 350 of 2000

Date of decision : This the 6th day of February, 2002.

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

Sri Kamala Kanta Das
Son of Sri Durga Ram Das
Village Uparhali,
P.O. Uparhali, District-Kamrup,
Assam and 4 Ors.

...Applicants

By Advocate Mr. M. Chanda.

-versus-

1. Union of India
Through Secretary to the Govt. of
India, Ministry of Communication,
Department of Telecommunication,
New Delhi.
2. General Manager,
Telecom Department,
Kamrup Telecom District,
Guwahati-781007.
3. S.D.E.(O),
Borjhar Telephone Engineer,
Borjhar
Guwahati-15.

..Respondents

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

O R D E R (ORAL)


CHOWDHURY J.(V.C.)

The subject matter of this application pertains to conferment of temporary status. The applicants are five in numbers who claim that they were engaged as far back in 1980 by the Sub Divisional Engineer (O), Borjhar as Mazdor. They contended that despite the direction issued by this Bench in O.A. 120/98 in their favour the respondents did not consider their case for such absorption.

2. The respondents have filed its written statement denying and disputing the claim of the applicants. In course of hearing it was brought to my attention that the matter was again taken up by the competent authority and in fact a communication was sent to one of the applicants - Sri Kamala Kanta DAs by the Divisional Engineer (Admn) to appear in person before him alongwith other documents at the earliest possible time for considertion of his case. Mr. A. Deb Roy, learned Sr. C.G.S.C. submitted that similar communication must have sent to others in that very matter. It appears that exercise is going on and the case of the applciants is also under consideration.

In view of the above I am not inclined to persue this matter further leaving the same to the appropriate to decide as per law since the matter for conferring the temporary status to the applicants is under consideration. I feel that the respondents shall complete the process for consideration of temporary status as early as possible and thereafter pass a reasoned order. If the applicants are so aggrieved by the action of the respondents they may approach the Tribunal again.

3. Subject to the observations made above, the application is disposed of. There shall, however be no order as to costs.


(D.N.CHOWDHURY)
Vice-Chairman

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

Title of the Case : O.A. No. 350/2000

Sri Kamala Kanta Das & : Applicants
4 Others

-versus-

Union of India & Others : Respondents

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1	-	Application	1-16
2	-	Verification	17
3	1	Journal of All India Telecom Employees Union (Extract) & letter dated 1.11.95	18-19
4	2	Letter dt. 20.5.98	20
5.	3 (Series)	Certificates	21-31
5	3A	Judgement & Order dt. 31.8.99	32-40
7	4 (Series)	Representations dt. 15, 11, 99, 29.10.99, 13.1.2000, and 28.10.99	41-56

Date : 23.10.2000

Filed by
N.D. Goswami
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

O.A. No. 350/2000

BETWEEN

1. Shri Kamala Kanta Das,
Son of Sri Durga Ram Das
Village-Uparhali
P.O. Uparhali
P.S. Palasbari,
District-Kamrup,
Assam.
2. Shri Ganiulla Sheikh
Son of Md. Abul Ali,
Village-Siminia,
P.O. Palasbari (Mirza)
Kamrup.
3. Shri Naba Majumder
Village-Vijay Nagar,
P.O. Vijay Nagar,
P.S. Palasbari,
District-Kamrup,
Assam.
4. Shri Sanjay Balmiki
Son of Gouri Shankar Tewari,
Village-Vijay Nagar,
P.O. Vijay Nagar,
District-Kamrup,
Assam

Applicants Contd...

19

5. Shri Satya Kalita,
^{halit}
Son of Satya Kalita
O/o the Chaygaon Telephone Exchange,
P.O. Chaygaon,
District-Kamrup

....Applicants.

Applicant Nos. 1, 2, 3, 4 are working as Casual Worker at Bijay Nagar Telephone Exchange and applicant No.5 is working in Boko Telephone Exchange.

- AND -

1. Union of India,
Through Secretary to the Government
of India, Ministry of Communication,
Department of Telecommunication,
New Delhi.
2. General Manager,
Telecom Department,
Kamrup Telecom District,
Guwahati-7.
3. S.D.E. (O),
Borjhar Telephone Engineer,
Borjhar,
Guwahati-15.

....Respondents.

Contd.....

Kamala Kanta Das

14

DETAILS OF APPLICATION :

1. Particulars of order against which this application is made.

This application is made against the decision of discontinuation of service of the applicants by the department of Telecom authorities which is evident from the impugned letter dated 20.3.1998 issued by the S.D.E. Cable (Maintenance-I), Dispur and also praying for grant of benefits and facilities of temporary status sanctioned under the scheme named as Casual Labourers (Grant of Temporary Status and regularisation scheme of the Department of Telecommunication 1989) and also praying for a direction to the respondents for regularisation of the services of the applicants and this application is made against the non-compliance of the Judgement and Order dated 31.8.99 passed in O.A. 120/98.

2. Jurisdiction :

The applicants declare that the cause of action arose in this application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation

The applicants further declare that this application has been filed within the prescribed period of limitation prescribed under Section 19 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That your all the five applicants are citizens of India as such they are entitled to all the rights and privileges as guaranteed under the Constitution of India.

Contd....

Kamala Kanta Das

4.2 That as the grievance and reliefs sought for in this application by the applicants are common therefore applicants are humbly pray for grant permission under Section 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987 to move this application in a single application before the Hon'ble Tribunal.

4.3 That all the applicants were initially appointed as casual workers following requirement of cable construction work on different dates since 1980 onwards under the Sub-Divisional Engineer (O) Borjhar. After their initial engagement of casual workers M/R Mazdoor, they are continuously working under the Sub-Divisional Engineer, Borjhar, without any break, they also require to work on Saturday and Sunday since their respective date of engagement as casual workers under the Telecommunication Department.

4.4 That your applicants are being entrusted with regular nature of job such as cable construction, cable laying, internal wiring, fault repairing, cable maintenance line work, overhead line maintenance, new connection, maintenance of power plant, line testing, battery charge, A.C.maintenance, Generator work, cleaning. Therefore, there is no difficulty on the part of the respondents to regularise the services of the applicants as the jobs are of permanent nature.

4.5 That your applicants further beg to state that the applicants are entitled to the benefir of temporary status under the scheme named as Casual Labourer (grant of temporary status and regularisation scheme of the department of Telecommunication 1989) which has come into force w.e.f.

Contd....

Kamala Kanta Das

1.10.1989. Applicants have fulfilled all the requirements and also attained eligibility for grant of temporary status. It is categorically stated in the aforesaid scheme that for grant of temporary status, the casual worker should have continuously worked for more than 240 days, in the instant case, all the applicants have rendered more than 240 days work in each calendar year, since their initial date of engagements therefore by operation of law they have acquired temporary status, hence their services cannot be terminated without complying requirement of one month notice. Applicants are also entitled to the benefit of temporary status, granted under the aforesaid scheme. The applicants urged to produce the scheme of temporary status at the time of hearing of this application.

4.6 That your applicants further beg to state that the similarly situated casual labourers of the department of Telecom who were appointed after 29.11.89 and upto 10.9.1993 also approached the Ernakulam Bench of the Hon'ble Central Administrative Tribunal through Original Application No. 750 of 1994 and the same has been decided in favour of the similarly situated casual labourers for conferring temporary status who were recruited after 29.11.89. The present applicants have come to know all the facts of such decision through the correspondence of Journal of All India Telecom Union Class III CHD. In this connection it may be stated that in spite of their best efforts they could not obtain the aforesaid judgement and order passed in O.A.No. 750/94 by the Hon'ble Ernakular Bench of the Central Administrative Tribunal. Therefore the Hon'ble Tribunal be pleased to direct the respondents to produce the aforesaid judgement passed in O.A. No. 750 of 1994 before the Hon'ble Tribunal at the time of hearing of this application.

Contd....

Kamala Kanta Das

It would be further evident from the Extract of letter issued under letter bearing No.66-52/92-SPB/1 dated 1.11.95 whereby the benefit of temporary status has been decided to extend to those full time casual labourers who were recruited after 29.11.89 and upto 10.9.93 under the scheme in the light of the judgement of C.A.T. Ernakulam Bench of the Central Administrative Tribunal delivered on 13.3.1983 in O.A. No. 750/94.

A copy of the relevant portion of the corresponding journal of All India Telecom Employees Union Class III CHQ and extract of the letter dated 1.11.95 are enclosed herewith as Annexure-1.

4.7 That most surprisingly the Sub-Divisional Officer Guwahati issued an order addressed to the S.D.A. (P) (E-1) Guwahati wherein it is stated that in view of departmental instruction to continue the existing maintenance and development works with regular staff only and it is further directed not to engage casual Mazdoor without prior approval w.e.f. 1.6.98. The relevant portion of the letter bearing No. N/E-11/98-99/4 dated 20.5.98 is quoted below :

No. N/R-11/98-99 dated at Guwahati, the 20.5.98.

Sub : Casual Mazdoor.

In view of Departmental Instruction to continue existing maintenance and development works with regular staff only. There is a possibility of discontinuation of engagement of N/R Mazdoor w.e.f. 1.6.1996. Hence you are instructed not to engage casual Mazdoor without the prior approval from the undersigned w.e.f. 1.6.98.

Sd/- D.K.Cable
(MTCE-I) Dispur".

Contd.....:

Kamala Kanta Das

From above, instruction of the S.D.E. (P), Guwahati it is found that no reason is assigned in the aforesaid letter for discontinuation of the engagement of casual mazdoors w.e.f. 1.6.98 rather the impugned order has been issued by the S.D.O. (P), Guwahati on the dictation of the higher authorities. Therefore it appears that the casual workers particularly above applicants who are working for last 10-12 years and who are entrusted with regular nature of job is now sought to be terminated from service by the respondents without notice, arbitrarily and without assigning any reason or without following the Principles of Natural Justice. It is pertinent to mention here that it is not the case of the opposite parties that the workload have been reduced rather it is a rapid expanding Department and the workload have tremendously increased in the recent past. Therefore the arbitrary decision of termination of the services of the applicants issued under impugned letter dated 20.5.98 is liable to be set aside and quashed. It is pertinent to mention here that the applicants came to know from a reliable source that similar instructions of discontinuation of engagement of casual labourers, of all the Sub-Division, have been issued although no formal notice of termination has issued till filing of this application, therefore, applicants are apprehending that their services also likely to be terminated by the respondents. Therefore, in the compelling circumstances the applicants approached the ~~applicants~~ Hon'ble Tribunal through O.A. No. 120/98.

A copy of the letter dated 20.5.98 is annexed as Annexure-2.

4.8 That your applicants beg to state that they were appointed on different dates, after 1980 onwards and the

Kamala Kanta Das

19

records would be evidents from the Master Roll payment vouchers of the respective Exchange Maintenance and controlled under by the Sub-Divisional Engineer (O), Borjhar and J.T.O. concerned of the respective Exchange. The detail engagement are furnished hereunder;

Name of Applicants	Date of engagements on daily wages basis.
1. Sri Kamala Kanta Das	Autust, 1991
2. Sri Ganiulla Sheikh	January 1991
3. Sri Naba Kajumder	January, 1990
4. Sri Sanjoy Balmaki	June, 1990
5. Sri Satya Kalita	January, 1989

The applicants approached the concerned S.D.O. and J.T.O for issuance of necessary certificates, certifying the period of works, but the same is denied to the applicants. However, they have obtained certificates relating wo their period of work, from the concerned lineman.

Certificates in connection with the period of work as referred above are enclosed as Annexure-3 (series).

4.9 That your applicants after discontinuation of their service by the respondents approached this Hon'ble Tribunal by filing of an application under Section 19 of the Administrative Tribunals Act, 1985 which was registered as O.A. No. 120/98 and the Hon'ble Tribunal was pleased to admit the said O.A. and the respondents after receipt of the notices duly contested the said O.A. before this Hon'ble Tribunal. It is pertinent to mention here that the

Contd...

Kamala Kanta Das

said O.A. was decided on 31.8.1999 with the following observations :

" 7. On hearing the learned counsel for the parties we feel that the applicants 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 scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs."

In terms of the above order of the Learned Tribunal all the applicants submitted representations to the competent authorities but most unfortunately the then S.D.O., Borjhar refused to accept the representation submitted

Contd..

Kamala Kanta Das

Sri Sanjoy Balmiki, applicant no.4 as directed by the Learned Tribunal in its judgement and order dated 31.8.99. Although initially the then S.D.O., Borjhar had received the copy of the representation but subsequently the same has been sent back to the applicant no.4. This action of the S.D.O., Telephone Exchange, Borjhar is amount to contempt of Court because the representation had been submitted following the direction of the Learned Tribunal passed in O.A. No. 120/98. However, a copy of the representation submitted to the General Manager, Kamrup Telecom District, Guwahati duly received by the office of the General Manager, Kamrup District, Ulubari Guwahati. But unfortunately no action has not been taken by the respondents in spite of the specific direction passed by the Learned Tribunal. Till date no communication has been received by any of the applicant from the department of Telecom although it is categorically directed by the Learned Tribunal that the respondents should dispose of the representation of the applicants within a period of six months after examining the case of the individual applicant with a reasoned order on merit. But the respondents deliberately did not pass any order even after expiry of six months. It is relevant to mention here that although the respondents have taken further time from the Learned Tribunal for disposing of the representation of the applicants but the said extended period has also expired long back even then no communication has been received regarding disposal of the representation of the applicants. It is stated that the applicants have come to learn that

Contd...

Kamala Kanta Das

near about 700 posts have been sanctioned by the Directorate of Telecommunication for grant of temporary status to the casual Mazdoor who has served the department of Telecommunication on casual basis. In this connection it is stated that many of the casual workers who are similarly situated like the present applicants have been granted temporary status in different divisional office/Sub-divisional office within the territory of Assam, Telecom Circle, but the case of the applicants deliberately ignored by the respondents in spite of the specific order passed by the Learned Tribunal on 31.8.99 in O.A. No. 120/98. In the compelling circumstances the applicants find no other alternative approaching this Hon'ble Tribunal once again for redressal of their grievances. It is also relevant to mention here that they have been paid wages during the period of their contingent service in the form of ACG but now the respondents denying to issue any certificate regarding their past casual service rendered under the department of Telecommunication. Therefore the Hon'ble Tribunal be pleased to call for the records particularly the payment made by the casual workers in the ACG form from the respective Sub division in that event it would be evident that they have been paid wages through ACG form, on monthly basis. In spite of their best efforts the applicants could not obtain any certificate or payment vouchers/documents. The applicants also urged before the Hon'ble Tribunal that those Lineman and JTO who has issued the certificates may be called as a witness to ascertain the truth regarding their engagement.

Copy of the judgement & order dated 31.8.98 and the representations of the applicants are annexed as Annexure-3 and 4 (series), respectively.

Kamala Kantaray

more than 60% of

4.9 That your applicants beg to state that/the posts sanctioned by the Directorate of Telecommunication for grant of temporary status has already been distributed in different divisions and sub divisions and the remaining posts is also likely to be filled by the respondents, therefore in the peculiar facts and circumstances the applicants finding no other alterantive and apprehending that all the posts may be filled up by the respondents within a very short time, approaching this Hon'ble Tribunal once again praying direction to the respondents to confer temporary status to the present applicants and also for reinstatement in service in their respective sub-divisional office as stated above.

4.10 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provision(s).

5.1 For that the applicants having acquired a valuable and legal right for grant of temporary status in terms of casual labourers (Grant of Temporary Status and Regularisation) scheme of the Department of of Telecommunication, 1989.

5.2 For that all the applicants have fulfilled the criteria laid down in paragraph 5(1) of the provision laid down in casual labourers (Grant of Temporary Status and Regularisation) Schemes, 1989.

5.3 For that applicants have completed the requisite number of days in terms of provision laid down in paragraph 5(i) of the casual labourers (For grant of temporary status and regularisation Scheme 1989).

Contd...

Kamala Kanta Das

- 5.4 For that the applicants are continuously working since their initial engagement without any break.
- 5.5 For that the work performing ~~by~~ the applicants are of permanent nature.
- 5.6 For that the present applicants are entrusted with the similar nature of works which are being performed by the regular Mazdoor of the department of Telecommunications.
- 5.7 For that the benefit of Grant of Temporary Status have been conferred to ~~sixth~~ other similarly situated casual Mazdoor with effect from 17.12.1993 in the Department of Telecommunications.
- 5.8 For that the applicants are legally entitled to grant of temporary status in terms of Para 5(i) of the provision laid down in Casual Labourers (Grant of Temporary Status and Regularisation) Schemes, 1989.
- 5.9 For that the similar matter has been decided by the Ernakulam Bench of the Hon'ble Central Administrative Tribunal in O.A. No. 750/94 on 13.3.95 in favour of the applicants.
- 5.10 For that the applicants approached the authorities on number of occasions for grant of Temporary Status and regularisation of their services.
- 5.11 For that the applicants have acquired valuable and legal rights in view of their long services rendered to the Department of Telecommunication for grant of Temporary status as well as for regularisation.

Contd...

Kamala Kanta Das

- 5.12 For that denial of regularisation of their services and temporary status is violative of Article 14 and 16 of the Constitution.
13. For that the impugned letter dated 20.5.98 did not disclose the reasons for termination of the services of the applicants w.e.f. 1.6.98
- 5.14 For that impugned letter dated 20.5.98 have been issued on the dictation of the higher authorities without assigning any reasons.
- 5.15 For that the workload which are entrusted to the applicants has not been reduced rather the same has been tremendously increased in the recent past due to undertaking of various development programme for expansion of Telecommunication facilities.
- 5.16 For that the Hon'ble Tribunal passed order directing the respondents to dispose of the representation of the applicants by a reasoned order within a period of six months but the said order has not been complied with by the respondents.
- 5.17 For that the representation submitted by the applicant No.4 has not been accepted by the S.D.O., Borjhar in spite of the direction of the Hon'ble Tribunal dated 31.8.99 passed in O.A. No. 120/98.
- 5.18 For that large number of vacancies have been sanctioned by the Directorare of Telecommunication for grant of temporary status to the casual workers serving in different Divisions/Sub-divisions under the Assam Telecom Circle and the said benefit of Temporary status have already been granted to some of the similarly situated casual workers but the

sri kamala kanta saig

same has not been extended to the applicants, as such the action of the respondents is violative of Article 14 and 16 of the Constitution.

6. Details of remedies exhausted.

That the applicants state that they have no other alternate remedy or other efficacious remedy than to file this application before the Hon'ble Tribunal

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

The applicants further declare that they had previously file an application before the Hon'ble Tribunal and the same was registered as O.A. No. 120/98. The said O.A. was decided on 31.8.99 with a direction to dispose of the representation of the individual applicant by a reasoned order withint six months but the same has not been disposed of till filing of this application. The applicants further declare that no such application writ petition or suit is pending before any Court or any other Tribunal .

8. Relief(s) sought for :

Under the facts and circumstances stated in paragraph 4 of this application the applicants pray for the following reliefs :

- 8.1 That the respondents be directed to grant the benefit of the scheme named as Casual Labourer (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication 1989.
- 8.2 ~~That~~ the respondents be directed to consider the case of the applicants for regularisation of their services with immediate effect.

Kumala Kantappa

8.3 That the respondents be directed to reinstate the applicants in service till the benefit of temporary status and regularisation are granted.

8.4 Costs of the Application.

8.5 To pass any other order or orders as deemed fit and proper by the Hon'ble Tribunal.

9. Interim reliefs prayed for :

7. During the pendency of this application the applicant pray for the following relief under the facts and circumstances as stated in paragraph 4 of this application :

9.1 That the respondents be directed to reinstate the applicant in service till final disposal of the Original Application.

The above interim reliefs are prayed on the grounds explained in paragraph 5 of this application.

10.

This application is filed through Advocate.

11. Details of Postal Order :

- i. Postal Order No. : 26502937
- ii. Date of Issue : 26/9/20
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. List of enclosures

As stated in the Index.

....Verification

Contd...

Kamala Kanta Das

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

I, Sri Kamala Kanta Das, son of Shri Doga Ram Das, resident of village Uparhali, P.O. Uparhali, P.S. Palashbari, District Kamrup, applicant in the instant application and I have been duly authorised by the other applicants to sign this verification, accordingly I do hereby ~~xxxxxxx~~ verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of October, 2000.

Sri Kamala Kanta Das
Signature

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

No. 66-52/92-SPB/1

Dated 1.11.95

I am directed to refer to the Scheme on the above subject issued by this Office vide letters No.45-95/87, SPB-1 dated 12.4.91 and No.66-9/91-SPB-1 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 others eligibility conditions.

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

It has been decided that full time casual labourers recruit after 29.11.89 and upto 10.9.93 may also be considered for the grant of benefits under the scheme.

2. This issued with the approval of T.S. and F.A. vide Dy. No. 2423/95 dated 9.10.95.

Attested

Kamala Kanta Das

CORRESPONDENCE

JOURNAL OF

ALL INDIA TELECOM EMPLOYEES UNION - CLASS III CHQA

Editor : V.A.N. Namboudiri

Vol. XXXIX

MAY 1996

Casual Labourers recruited after 29.11.89 & upto 10.9.1993 are also be conferred Temporary Status".

I am directed to refer to the scheme on the above subject issued by this office vide letters No.4-95/87 -SPB-I dated 12.4.91 and No. 66-9/91-SPB-I, dated 30.11.92 (Sl. Nos. 284).

308 of Swamy's Annual 1991 and 1992 respectively as per which full time casual labourers who were in employment after 29.11.89 were eligible to be conferred temporary status satisfying other eligibility conditions.

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

It has been decided that full time casual labourers recruited after 29.11.89 and upto 10.9.1993 may also be considered for the grant of benefits under the scheme.

This issues with the approval of IS and PA vide by No. 2423/95 dated 9.10.95.

Attested :

Kamala Kanta Das

Annexure-2

DEPARTMENT OF TELECOMMUNICATIONS

From
SDOP (Eng)
Guwahati

To
Sri U.B. Singh
L/man
O/o the SDOP ~~(Eng)~~ (E&I)
Guwahati

No.N/E-11/98-99 Dated at Guwahati the 20.5.98

Sub : Casual Mazdoor.

In view of Departmental instruction, to continue existing maintenance and development works with regular staff only. There is a possibility of discontinuation of engagement of M/R Mazdoor w.e.f 1.6.98. Hence you are instructed not to engage Casual Mazdoor without the prior approval from the undersigned.

Sd/-Illegible
SDOP (E-I)
GHY.

Copy to :

1. The J.T.O. (Phones for information.

Attested :

Sri Advoca

Kamala Kanta Das

32

To Whom to Concerned

Certified that Sri Kamala Kanta Das, S/o Sri Dagoram Das, Vill-Uparhali, P.O. Uparhali, P/S ~~Das~~ Palashbari, Dist-Kamrup (Assam) is known to me. He was working at Bijohnagar Telephone Exchange O/D & I/D on A.C.G. 17 basis from May 1996 to May 1998.

He is a good warker.

Sd/- Illegible
Telephone Office,
Bijohnagar

TO WHO TO CONCERNED

Certified that Sri Kamala Kanta Das S/o Sri
Dagoram Das, Vill-Uparhali, P.O. Uparhali, P/S
Palashbari, Dist. Kamrup (Assam) is known to me.
He was working at Bijoy Nagar Telephone Exchange
O/D & I/D on A.C.G.-17 basis from 1991 August to
1995 March as.

He is a good worker.

Sd/- Illegible

Sub Divisional Engineer,
Borjhar Telephone Exchange
Guwahati-781015

Annexure-3 (Contd.)

To Whom to concerned

Certified that Sri Kmala Kanta Das, S/o Sri Dagoram Das, village-Uparhali, P.O. Uparhali, P/S Palashbari, Dist. Kamrup (Assam) is known to me. He was working at Bijaynagar Telephone Exchange O/D & I/D on A.C.G.-17 basis from 1995 April to 1996 April.

He is a good worker.

Sd/-Illegible
Telephone Exchange,
Bijaynagar

Annexure-3 (Series)

Certified that ~~sxxx~~ Md. G_aniulla Seikh, S/o
Md. Abdul Ali village Simina P.O. Palasbari (Mirza)
Dist. Kamrup (Assam) is known to me. He was working
as Casual Mazdoor from January '96 to December '97
on A.C.G. 17 bills. He is a good worker.

Sd/- Rajat Ch. Thakuria
Phone Mechanic
Bijoynagar

Annexure-3 (Series)

Certified that Md. Ganiulla Seikh, S/o
Md. Abdul Ali, Village Simina P.O. Palasbari (Mirza)
Dist. Kamrup (Assam) is known to me. He was working
as Casual Mazdoor from Jan'97 to 4th June'98 on A.C.G.
17 bill. He is a good worker.

Sd/- Illegible

TO WHOM IT MAY CONCERN

This is certify that Md. Ganiullah Sheikh,
Son of Md. Abdul Ali inhabitant of village Simina
under Palashbari P.S. in the district of Kamrup was
engaged on A.C.G.17 (on daily wage casual labour) of
the following record

1. Feb'92 - 25 days
2. March - 20 days
3. April - 25 days
4. May - 21 days
5. Jan'93 - 25 days
6. Feb'93 - 20 days
7. March'93 20 days

Sd/- Illegible
13.3.93

Telephone Inspector
Bijoynagar Telephone Exchange
Bijaynagar-781 122

Certified that Sri Naba Mazumdar S/o Rajat Mazumdar of village Bijohnagar P.O. Bijohnagar P/S Palashbari in the Dist. Kamrup (Assam) is know to me. He was working as a casual Mazdoor from January 1996 to May 1998 on A.C.G. 17 Bills.

He is a good worker.

Sd/- Rajat Ch. Thakuria
Phone Mechanic
Bijohnagar

Annexure-3 (Series)

Certified that Sri Naba Mazumdar, S/o Sri Rajat Mazumdar of village Bijohnagar, P.O. Bijohnagar, P.S. Plalashbari in the Dist. Kamrup (Assam) is known to me. He was working as a Casual Mazdoor for January 1990 to December 1995 on A.C.G. 17. Bills. He is a good worker.

Sd/- Illegible
Lineman, Bijohnagar

To whom it may concern

It is certified that Sri Sanjay Balmiki is Part time worker of Bijohnagar Telephone Exchange. He may be allowed to come to the Exchange in duty.

(B. Choudhury)
J.T.O. (Group-Is)
Telephone Exchange
Bijohnagar

TO WHOM IT MAY CONCERN

Shri Sanjay Balmiki, Son of Sri Gour Shankar Balmiki of village & P.O. Bijohnagar, Bijohnagar Telephone Exchange since last 7 (seven) years uptil now as part time cleaner.

He is a good and sincere and obidient worker. I wish him success in his life.

Sd/- Illegible. 13.6.96
In-Charge, Telephone
Exchange, Bijohnagar,
Bijohnagar

Certificate

Certified that Sri Satya Kalita, S/o Sri Lalit Kalita, Vill-Algjari, PS/PO Chhaygaon, Dist. Kamrup (Assam). He is working at Bijohnagar & Chhaygaon Telephone Exg. ACE-3 basis from 1989 January to 1992 December,. He is a good worker.

sd/- Illegible,
Lineman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH

Original Application No. 107 of 1998 and others

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

The Hon'ble Mr. 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 Advocates 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 & Others

...Respondents

By Advocate 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 & Others

...Respondents

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

~~...Respondents~~

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.

Contd...

*Attested
S.N. Adh*

-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.Gowami

-versus-

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

6. O.A. No.131/1998

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

-versus-

The Union of India & 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.

Contd...

9. O.A. No.141/1998

All India Telecom Employees Union, ..Applicants
Line Staff and Group 'D' and another

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

-versus-

The Union of India & 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, Adl.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 & OthersRespondents

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 U.K.Nair.

-versus-

The Union of India and others ...Respondents

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

13. O.A. No.223/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another ..Applicants

By Advocate Mr. B.K.Sharma and Mr. S.Sharma.

-versus-

Contd...

46

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, ... Applicants
Line Staff and Group 'D' and another

By Advocates Mr. B.K. Sharma, 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. C.G.S.C.

15. O.A. No. 293/1998

All India Telecom Employees Union, ... Applicants
Line Staff and Group 'D' and another

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

-versus-

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

.....

O R D E R

BARUAH (J) (V.C.)

All the above applications involve common questions 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 applications were submitted by the said Union, namely, the Line Staff and Group 'D' employees and some other applications 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 application, 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 7.11.1989, to the casual Mazdoord concerned. Of the aforesaid 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 service 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 in their service in different offices of the Department of Telecommunication under the Assam Circle and N.E.Circle. The Government 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. 260-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Lateron,

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 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.1993 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 benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual 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 and 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.As were applicants in O.A. No. 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.A.s.

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.A.s 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 servants are not eligible to become members of office bearers of 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 into 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.A.s 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 cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents

further 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.s 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. No.s 302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr. B.K.Sharma, Mr. J.L.Sarkar, Mr. I Hussain and Mr. B. 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 Addl. 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 upto 1989 and then extended upto 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 counsel for the applicants also submit that the respondents cannot 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 scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

Sd/- VICE-CHAIRMAN

SD/- MEMBER (A)

Attested

Dr. Adv.

To
The General Manager,
Kamrup Telecom District,
Ulubari
Guwahati- 7

(Through the SDE (O), Borjhar Telephone Exchange,
Guwahati-15).

Sub : Submission of representation in terms of the Hon'ble Tribunal's Judgement and order dated 31.8.1999 passed in O.A. No. 120/98 and praying for grant of benefit of temporary status and regularisation of casual service in the light of the 1989 scheme of temporary status and regularisation issued by the Department of Telecommunication, New Delhi.

Sir,

Most humbly and respectfully I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through the Original Application No. 120/98 praying for a direction for grant of benefits and facilities of temporary status sanctioned under the scheme named as 'Casual Labourers (Grant of Temporary Status and Regularisation Scheme 1989) and also prayed for a direction for regularisation of my service, the application also made against the decision of discontinuation of casual workers taken by the Telecom Authority. The said Original Application was duly admitted by the Hon'ble Tribunal and the same was disposed of on 31.8.1999 with the direction to the respondents to examine the case of each applicant and also granted liberty to file representation individually by the each applicant within a period of one month from the date of receipt of the order and if such representation is filed individually the respondents shall scrutinize and examine each in consultation with the records and thereafter passa reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any

Contd...

Annexure-4 (Contd.)

of the cases shall remain in force till disposal of the representation. The relevant portion of the Judgement and order passed in O.A. No. 120/98 is quoted below :

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

In terms of the above directions passed by the Hon'ble Tribunal I am submitting herewith this representation stating detail of my pas service rendered as casual worker in the department of Telecommunication. In this connection it is stated that I was initially appointed as casual worker in the month of August 1991 on daily wages basis. Since then I was allowed to work continuously without any break till May 1998 under the SDE (O) Borjhar. On 8.6.98 I approached the Hon'ble Tribunal through the O.A. No. 120/98 and the Hon'ble Tribunal ~~through the O.A. No. 120/98 and the Hon~~ was pleased to grant status quo as on 8.6.98. Even then I was not allowed to work by the authority. It is stated that although I have served nearly 8 years in the department of Telecommunication under the

Annexure-4 (Contd.)

SDE(O), Borjhar but I was not granted the benefit under the scheme issued by the Department of Telecommunication, Govt. of India, It is relevant to mention here that the facts of my casual employment would be evident from the payment roll of casual workers made under A.C.G Form by the office of the SDE(O), Borjhar, during the period from August, 1991 to May 1998. Moreover I am also enclosing certificates issued by the concerned authorities under whose supervision I have carried out the work. My service is being utilised specially in regular nature of job such as cable construction, cable laying, internal wiring, fault repairing, cable maintenance, line work, over head line maintenance, line testing, cleaning etc. I also submit that I may be granted a reasonable opportunity of personal hearing particularly at the time of verification of my service records. It is pertinent to mention here that in view of my long casual service rendered under the SDE(O), Borjhar I have acquired a valuable and legal right for grant of benefit of temporary status and regularisation scheme 1989 issued by the department of Telecommunication. It is further stated that in the recent past the Directorate of Telecommunication also issued an order for grant of temporary status to the casual workers engaged after 1988 i.e. for the period between 22.6.88 and 31.3.1997. I would like to request you that in view of the long casual service rendered in the department of Telecommunication my case for extension of benefit and facilities specified in the temporary status and regularisation scheme referred above may kindly be extended to me and also praying to consider my case for regularisation in the light of the 1989 scheme.

Contd...

Annexure-4 Series (Contd.)

I am also submitting herewith that the other service documents relating to my engagement as Casual Worker duly signed by the appropriate authorities of the department of Telecommunication for your kind perusal. I would therefore like to request you to kindly consider my case for the benefit of temporary status scheme 1989 in view of the order dated 12.3.1996 and to consider my case for regularisation with immediate effect.

Thanking you,

Enclo : As stated above.

Date : 15.11.99

Yours faithfully,

Sd/- Kamala Kanta Das

(KAMALA KANTA DAS)

Village Uparhali, P.O.
Upahali, District Kamrup,
Assam

To
The General Manager,
Kamrup Telecom District
Ulubari
Guwahati-781007

(Through the SDE (O), Borjhar Telephone Exchange,
Guwahati-15).

Sub : Submission of representation in terms of the Hon'ble Tribunal's Judgement and Order dated 31.8.1999 passed in O.A. No.120/98, praying for grant of Temporary Status and Regularisation of casual service in the light of the 1989 Scheme of temporary status and regularisation issued by the Department of Telecommunication New Delhi.

Respected Sir,

Most humbly and respectfully I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through Original Application No. 120/98 praying for a direction for grant of benefits and facilities of temporary status sanction under the scheme named as 'Casual Labourers (Grant of Temporary Status and Regularisation Scheme of the Department of Telecommunication 1989) and also prayed for a direction for regularisation of my service, the application was also made against the decision of discontinuation of casual workers taken by the Telecom authority. The said Original Application was admitted by the Hon'ble Tribunal and the same was disposed of on 31.8.1999 with the direction to the respondents to examine the case of each applicant and also granted liberty to file representation individually by the each applicant within a period of one month from the date of receipt of the order and if such representation is 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. The relevant portion of the Judgement and Order dated 31.8.1999 passed in O.A. No. 120/98 is quoted below :

" 8. In view of the above ~~the~~ 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."

In terms of the above directions passed by the Hon'ble Tribunal I am submitting herewith this representation stating detail of my service as casual worker rendered in the Telecommunication Department. In this connection it is stated that initially I was appointed as casual worker in the month of January, 1989 in the Vijay Nagar Telephone Exchange and since then I was allowed to work continuously without any break till May 1998 and the mode of payment was on daily wages basis in the A.C.G. Form from the office of the SDE(O), Borjhar. This fact would be evident from the certificates issued by the Telephone Exchange, Vijay Nagar. It is further stated that if the payment records which were made through A.C.G. Form is

88

-47-
~~-36-~~

Annexure-4 (Series)

verified for the period from January 1989 to May in that case my engagement as casual labour may be established beyond all doubts. I also submit that I may be granted reasonable opportunity of personal hearing particularly at the time of verification of my service records. It is pertinent to mention here that in view of my long casual service rendered in the Vijay Nagar Telephone Exchange under SDE(O) Borjhar I have acquired a valuable and legal right for grant of the benefit of Temporary status and regularisation of casual workers in terms of the Temporary Status and Regularisation Scheme 1989 issued by the Department of Telecommunication.

It is further stated that in the recent past the Directorate of Telecommunication also issued an order for grant of temporary status to the casual workers engaged after 1988 i.s. for the period between 22.6.1988 and 31.3.1997. But unfortunately my engagement as casual worker was not brought to the notice of the Directorate of Telecommunication by the local authority and perhaps due to this reason my case for consideration for grant of temporary status has not been approved by the Directorate of Telecommunication. Therefore I would like to request you that in view of long casual service rendered in the Telecommunication department my case may kindly be considered for grant of temporary status as well as regularisation of my service in terms of the casual labourer (Grant of Temporary Status and Regularisation Scheme 1989). It is further stated that although there was an interim order passed by the Hon'ble Tribunal on 8.6.98 granting status quo as on 8.6.98 but even thereafter I have not been

allowed to resume my duty as casual worker. Therefore I also like to request you that necessary order may be passed as an interim measure to allow me to resume my duty during the pendency of my representation.

A copy of the judgement and order dated 31.8.99 passed in O.A. No. 120/98 and certificates in support of my casual service rendered in the department are enclosed for your ready reference.

Thanking you,

Yours faithfully,

Enclo : As stated above

Dated 29.10.99

Sd/- Satya Kalita

Son of Sri Lalik Kalita,
Office of the Chhaygaon Telephone
Exchange, P.O. & P.S. Chhaygaon
District-Kamrup

To
The General Manager
Kamrup Telecom District
Ulubari
Guwahati-7

(Through the SDE(O), Borjhar Telephone Exchange,
Guwahati-5).

Sub : Submission of representation in terms of the Hon'ble Tribunal's Judgement and order dated 31.8.99 passed in O.A. No. 120/98 and praying for grant of benefit of Temporary status and Regularisation of casual service in the light of the 1989 Scheme of Temporary Status and Regularisation issued by the Department of Telecommunication, New Delhi.

Sir,

Most humbly and respectfully I beg to state that I have approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati through the Original Application No. 120/98 praying for a direction for grant of benefits and facilities of temporary status sanctioned under the scheme named as 'Casual Labourers (Grant of Temporary Status and Regularisation Scheme 1989) and also prayed for a direction for regularisation of my service, the application also made against the decision of discontinuation of casual workers taken by the Telecom Authority. The said Original Application was duly admitted by the Hon'ble Tribunal and the same was disposed of on 31.8.1999 with the direction to the respondents to examine the case of each applicant and also granted liberty to file representation individually by the each applicant within a period of one month from the date of receipt of the order and if such representation is filed individually the respondents shall scrutinise and examine each in consultation with the records and thereafter pass a reason 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

Contd...

disposal of the representation. The relevant portion of the judgement and order dated 31.8.1999 passed in O.A. No.120/99 is quoted below :

"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."

In terms of the above directions passed by the Hon'ble Tribunal I am submitting herewith this representation stating detail of my past service rendered as casual worker in the department of Telecommunication. In this connection it is stated that I was initially appointed as Casual worker in the month of January, 1991 on daily wages basis. Since then I was allowed to work continuously without any break till May, 1998 under the SDE (Ø) Borjhar. On 8.6.98 I approached the Hon'ble Tribunal through the O.A. No. 120/98 and the Hon'ble Tribunal was pleased to grant status quo as on 8.6.98. Even then I was not allowed to work by the authority. It is stated that although I have served nearly 9 years in the department of Telecommunication under

the SDE(O), Borjhar but I was not granted the benefit under the scheme issued by the Department of Telecommunication, Government of India, It is relevant to mention here that the facts of my casual employment would be evident from the ~~payment~~ payment roll of casual workers made under A.C.G. Form by the office of the SDE(O), Borjhar, during the period from January, 1991 to May 1998. Moreover, I am also enclosing documents issued by the concerned authorities under whose supervision I have carried out the work. My service is being utilised specially in regular nature of job such as cable construction, cable laying, internal wiring, fault repairing, cable maintenance, line work, over head line maintenance, line testing, cleaning etc. I also submit that I may be granted a reasonable opportunity of personal hearing particularly at the time of verification of my service records. It is pertinent to mention here that in view of my long casual service rendered under the SDE(O), Borjhar I have acquired a valuable and legal right for grant of benefit of temporary status and regularisation Scheme 1989 issued by the department of Telecommunication. It is further stated that in the recent past the Directorate of Telecommunication also issued an order for grant of Temporary status to the casual workers engaged after 1988 i.e. for the period between 22.6.88 and 31.3.1997. I would like to request you that in view of the long casual service rendered in the department of Telecommunication my case for extension of benefits and facilities specified in the temporary status and regularisation scheme referred to above may kindly be extended to me and also praying to consider my case for regularisation in the light of the 1989 Scheme.

Contd....

Annexure4 (series) Contd.

I am also submitting herewith that the other service documents relating to my engagement as Casual Worker duly signed by the appropriate authorities of the department of Telecommunication for your kind perusal. I would therefore like to request you to kindly consider my case for the benefit of temporary status scheme 1989 in view of the order dated 12.3.1996 and to consider my case for regularisation with immediate effect.

Thanking you,

A copy of the Judgement and Order dated 31.8.99 passed in O.A. No. 120/98 and the relevant documents referred to above are enclosed for your ready reference.

Enclo : As stated above

Date : 13.01.2000

Yours faithfully,

Sd/ Md. Ganiullah Sheikh

Son of Md. Abdul Ali, Vill-Sininia
P.O. Palashbari (Mirza), Kamrup

To
The General Manager,
Kamrup Telecom District,
Ulubari,
Guwahati-781007

Through the SDE(O), Borjhar Telephone Exchange,
Guwahati-15.

Sub : Submission of representation in terms of the Hon'ble Tribunal's Judgement and order dated 31.8.99 passed in O.A. No. 120/98, praying for grant of Temporary Status and Regularisation of casual service in the light of the 1989 scheme of Temporary Status and Regularisation issued by the Department of Telecommunication, New Delhi.

Respected Sir,

Most humbly and respectfully I beg to state that I have approached the Central Administrative Tribunal, Guwahati Bench, Guwahati through Original Application No.120/98 praying for a direction for grant of benefits and facilities of temporary status sanctioned under the Scheme named as 'Casual Labourers (Grant of Temporary Status and Regularisation 1989) and also prayed for a direction for regularisation of my service, the application was also made against the decision of discontinuation of casual workers taken by the Telecom Authority. The said Original Application was admitted by the Hon'ble Tribunal and the same was disposed of on 31.8.1999 with the direction to the respondents to examine the case of each applicant and also granted liberty to file representation individually by the each applicant within a period of one month from the date of receipt of the order and if such representation is filed individually the respondents shall make scrutiny 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. The relevant portion of the Judgement and Order dated 31.8.1999 passed in O.A. No. 120/98 is quoted below :

"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 order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations."

In terms of the above directions passed by the Hon'ble Tribunal I am submitting herewith this representation stating detail of my service as casual worker rendered in the Telecommunication Department. In this connection it is stated that initially I was appointed as casual worker in the month of June, 1990 in Vijay Nagar Telephone Exchange particularly for cleaning/safai works and since then I was allowed to work continuously without any break till May 1998 and the mode of payment was on daily wages basis in the A.C.G. Form from the office of the SDE), Borjhar. This fact would be evident from the identity card issued by the JTO Group-In-Charge, Telephone Exchange, Vijay Nagar,

Shri B. Chowdhury and this fact would be further evident from the certificate issued on 13.6.96. It is further stated that if the payment records which were made through A.C.G Form is verified for the period from June 1990 to May 1998 in that case my engagement as casual labour may be established beyond all doubts. I also submit that I may be granted reasonable opportunity of personal hearing particularly at the time of verification of my service records. It is pertinent to mention here that in view of my long casual service rendered in the Vijay Nagar Telephone Exchange under SDE(O) Borjhar I have acquired a valuable and legal right for grant of the benefit of Temporary Status and regularisation of casual workers in terms of the Temporary status and regularisation Scheme 1989 issued by the Department of Telecommunication.

It is further stated that in the recent past the Directorate of Telecommunication also issued an order for grant of temporary status to the casual workers engaged after 1988 i.e. for the period between 22.6.88 and 31.3.97 But unfortunately my engagement as casual worker was not brought to the notice of the Directorate of Telecommunication by the local authority and perhaps due to this reason my case for consideration for grant of temporary status has not been approved by the Directorate of Telecommunication. Therefore I would like to request you that in view of my long casual service rendered in the Telecommunication department my case may kindly be considered for grant of temporary status as well regularisation of my service in terms of the casual labourer (Grant of temporary Status of Regularisation Scheme 1989). It is further stated that although there was an interim order passed by the Hon'ble Tribunal on 8.6.98 granting status quo as on 8.6.98 but

even thereafter I have not been allowed to resume my duty as casual worker. Therefore I also like to request you that necessary order may be passed as an interim measure to allow me to resume my duty during the pendency of my representation.

I also like to inform you that after the verbal order of termination of my service on 20.5.98 the authority have engaged another lady subsequently for safai work in the Vijay Nagar Telephone Exchange on daily wages basis. This decision of the authority is arbitrary and the same is an unfair labour practice. Therefore I request you to pass necessary order for my re-engagement as casual worker under the Vijay Nagar Telephone Exchange immediately.

A copy of the judgement and order dated 31.8.99 passed in O.A. No. 120/98 and certificates in support of my casual service are enclosed for your ready reference.

Thanking you,

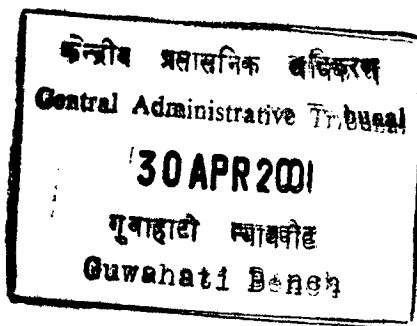
Enclo : A stated above

Date: 28.10.99

Yours faithfully,

Sd/- Sanjay Balmiki

Son of Gouri Sankar Tiwari, resident of
village Vijaynagar, P.O. Vijay Nagar
District-Kamrup, Assam



Recd by 68
27/4/01
S.C.S.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 350 OF 2000

Shri Kamala Kanta Das & Others

- Vs -

Union of India & Others.

- And -

In the matter of :

Written Statement submitted by
the Respondents

The respondents beg to submit the written statement as follows :

1. That with regard to para 4.1 and 4.2, the respondents beg to offer no comments.
2. That with regard to para 4.3, the respondents beg to state that none of the mazdoors mentioned in the O.A. have been appointed as Casual Mazdoors by the Department. They did not work as Casual Mazdoors.
3. That with regard to para 4.4, the respondents beg to state that the applicants were never entrusted regular nature of job. As per the Reports of SDOP/Borjhar they were never engaged as casual Mazdoors.
4. That with regard to para 4.5, the respondents beg to state that the applicants are not covered by the regularisation scheme of the Department as they were never engaged.

5. That with regard to para 4.6, the respondents beg to state that the applicants do not have parity with the Mazdoors W of O.A. No. 750/94 as they were not engaged by the Department.

6. That with regard to para 4.7, the respondents beg to state that the letter mentioned here has no relevance as the applicants were not engaged by the Department.

7. That with regard to para 4.8, the respondents beg to state that as per reports of DE (Ext-II) dated 17.02.01 the applicants were not engaged in the Department neither temporary nor permanent basis as such claims of applicant are denied .

Copy of the letter dated 17.02.2000 is annexed herewith and marked as Annexure - 1.

8. That with regard to para 4.9, the respondents beg to state that the sub para 1 to 4 relates to order of Hon'ble CAT/GH and matter of records as such no comments.

Further it is also mentioned that on receipt of order of CAT/GH in O.A. No. 120/98 the cases of applicants were taken up alongwith the cases of other mazdoors. A Committee for verification of engagement particulars of all the mazdoors who worked under Kamrup Telecom District was set up which functioned w.e.f. April 2000 to August '2000. List of Mazdoors pertaining to various court cases was prepared by Assam Telecom Circle and in List-B. (Annexure-B), the names of all these applicants were there at sl. No. 79 to 85. The verification committee first issued notice to all field

Field Officers to direct to Mazdoors to appear before the Verification Committee on 05.04.2000.

Copy of the letter with list enclosed herewith and marked as Annexure - 2.

The verification Committee ater processing most of the cases observed that 67 applicants of various cases did not appear before the Committee as such issued 2nd Notice to all Field Officers to direct the left out claimants to appear before the Committee on 12.6.2000.

Copy of 2nd letter with list of left out cases is enclosed herewith and marked as Annexure - 3.

But it is mentioned that applicants of this O.A. ~~XXXXXXXXXXXXXXXXXXXX~~ have not appeared before the Committee.

It is needless to state that Department has acted as per order of humble CAT/GH in O.A. No.120/98 and tried to comply with the order and above actions of the Department reflect clear intention and desire to settle the claims. So the contention of the applicants that CAT/order has not been followed is not correct and seems to be motivated.

9. That with regard to para 4.9, the respondents beg to state that so far the question of posts are concerned, they same have been filled up as per norms of the Department. But since the applicants have not been engaged as Casual Mazdoors by the Department, their claim is not justified. The unit officers have submitted reports contradictory to the claims of the applicants and stated that the applicants of this O.A. have never been engaged by them.

In view of the facts above, the claims of applicant are not proper and are liable to set aside.

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

I, Shri Keshy Nandan yadav, Asst. Director (OL & Legal) 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 27th day of April, 2000.

Keshy Nandan yadav
Declarant.