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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 382/2000

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 382/2000

Sent. Nidra Mazumdar. Applicant.

Versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. B.K. Sharma

Mr. S. Sarma

Mr. U.K. Goowami

For the Respondents. Mr. B.S. Basumatary

Addl. C.G.S.C

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form but not in time. Condonation Petition is filed / not filed C.F. for Rs. 50/- permitted vide IFC/E No 503426 Dated 13.10.2000

Dy. Registrar

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

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

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

List on 13.12.2000 for order.

Vice-Chairman

pg

13-12 no s.b. allowed to 2.1.2001.

21.1.2001

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

Application is admitted.

Call for the records. Issue usual notices.

Mr. B.S. Basumatary, learned Addl. Central Govt Standing Counsel appearing on behalf of respondents seeks for time to file written statement. Prayer allowed.

List on .....

Regisrati 3 copis filed.

9/11/2000

Notice prepared and sent to DLS for issuing the Respondent No 1 to 5 (one by Regd AID) 2,3,4 & 5 by Peon Bosty vide D/No 2734 to 2738 dtd 22/11/00

16/11/00

1-1-2001

① Notice served on R. No. 2, 3 & 5, respondent No. 1 & 4 are still awaited.

② No. show cause has been filed.

24/1/2001

2.1.2001  
CONTD

List on 5.2.2001 for  
written statement and further  
orders.

  
Vice-Chairman

mk

5.2. No S.B. Adjourned to 14.2.2001,

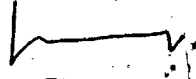
*ml  
A.K.R.  
S.K.*

No. Written Statement  
has been filed.

*By  
13.2.01*

14.2.2001

Four weeks time allowed to the  
respondents to file written statement. List  
for orders on 16.3.01.

  
Vice-Chairman

nkm

16.3. No S.B. Adjourned to 25.4.2001,

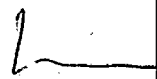
*ml  
A.K.R.  
S.K.*

No. WTS has been  
filed.

*NB  
24/4/01*

25.4.2001

Four weeks time allowed to the respondents  
to file written statement. List for orders on  
1.6.01.

  
Vice-Chairman

nkm

1.6.01

Four weeks time allowed to the respondents to file written statement.  
List on 26-6-2001 for orders.

No. Written Statement  
has been filed.

*By  
28.6.01*

  
Vice-Chairman

bb

2.7.2001

W/S has been  
submitted by the  
Respondents.

29.6.2001

Written statement has been  
filed. Two weeks time allowed to the  
applicant to file rejoinder, if any  
List on 18.7.01.

*phos*

By Order

17.7.2001

No. Rejoinder has been  
submitted.

*phos*

*A.K.R.  
24.6*

Notes of the Registry	Date	Order of the Tribunal
No. rejoinder has been filed. By 16.8.01	18.7.01  lm	Written statement has been filed. On the prayer of Mr.S.Sarma learned counsel for the applicant case is adjourned to 17.8.01 for filing of rejoinder.  K C Usha Member
No. rejoinder has been filed. By 13.9.01	17.8.01  lm 14.9.01	Written statement has been filed. On the prayer of Mr.S.Sarma learned counsel for the applicant case is adjourned to 14.9.01 for filing of rejoinder.  K C Usha Member
No. Rejoinder has been filed. By 20.11.01	  mb 21.11.01	Written statement has been filed. The applicant may file rejoinder, within 10 days from today. List on 21/11/01 for hearing.  Vice-Chairman
No. rejoinder has been filed. By 6.12.01 29.1.2002	  lm 7.12.01	The learned counsel for the parties <sup>are</sup> heard at length. Mr.A.Deb Roy, Sr.C.G.S.C. prays for adjournment to obtain necessary instruction/records. Prayer is allowed. List on 7.12.01 for hearing.  K C Usha Member
Copy of the Judgment has been sent to the Officer for reply the case to the applicant by post and copy of the same handed over to the A.C.G.S. By 30/1/02		Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.  Member (J) K C Usha Member (A)

bb

Notes of the Registry	Date	Order of the Tribunal
1. The first case was decided on 10.1.01.	10.1.01	
2. The second case was decided on 10.2.01.	10.2.01	
3. The third case was decided on 10.3.01.	10.3.01	
4. The fourth case was decided on 10.4.01.	10.4.01	
5. The fifth case was decided on 10.5.01.	10.5.01	
6. The sixth case was decided on 10.6.01.	10.6.01	
7. The seventh case was decided on 10.7.01.	10.7.01	
8. The eighth case was decided on 10.8.01.	10.8.01	
9. The ninth case was decided on 10.9.01.	10.9.01	
10. The tenth case was decided on 10.10.01.	10.10.01	
11. The eleventh case was decided on 10.11.01.	10.11.01	
12. The twelfth case was decided on 10.12.01.	10.12.01	
13. The thirteenth case was decided on 10.1.02.	10.1.02	
14. The fourteenth case was decided on 10.2.02.	10.2.02	
15. The fifteenth case was decided on 10.3.02.	10.3.02	
16. The sixteenth case was decided on 10.4.02.	10.4.02	
17. The seventeenth case was decided on 10.5.02.	10.5.02	
18. The eighteenth case was decided on 10.6.02.	10.6.02	
19. The nineteenth case was decided on 10.7.02.	10.7.02	
20. The twentieth case was decided on 10.8.02.	10.8.02	
21. The twenty-first case was decided on 10.9.02.	10.9.02	
22. The twenty-second case was decided on 10.10.02.	10.10.02	
23. The twenty-third case was decided on 10.11.02.	10.11.02	
24. The twenty-fourth case was decided on 10.12.02.	10.12.02	
25. The twenty-fifth case was decided on 10.1.03.	10.1.03	
26. The twenty-sixth case was decided on 10.2.03.	10.2.03	
27. The twenty-seventh case was decided on 10.3.03.	10.3.03	
28. The twenty-eighth case was decided on 10.4.03.	10.4.03	
29. The twenty-ninth case was decided on 10.5.03.	10.5.03	
30. The thirtieth case was decided on 10.6.03.	10.6.03	
31. The thirty-first case was decided on 10.7.03.	10.7.03	
32. The thirty-second case was decided on 10.8.03.	10.8.03	
33. The thirty-third case was decided on 10.9.03.	10.9.03	
34. The thirty-fourth case was decided on 10.10.03.	10.10.03	
35. The thirty-fifth case was decided on 10.11.03.	10.11.03	
36. The thirty-sixth case was decided on 10.12.03.	10.12.03	
37. The thirty-seventh case was decided on 10.1.04.	10.1.04	
38. The thirty-eighth case was decided on 10.2.04.	10.2.04	
39. The thirty-ninth case was decided on 10.3.04.	10.3.04	
40. The fortieth case was decided on 10.4.04.	10.4.04	
41. The forty-first case was decided on 10.5.04.	10.5.04	
42. The forty-second case was decided on 10.6.04.	10.6.04	
43. The forty-third case was decided on 10.7.04.	10.7.04	
44. The forty-fourth case was decided on 10.8.04.	10.8.04	
45. The forty-fifth case was decided on 10.9.04.	10.9.04	
46. The forty-sixth case was decided on 10.10.04.	10.10.04	
47. The forty-seventh case was decided on 10.11.04.	10.11.04	
48. The forty-eighth case was decided on 10.12.04.	10.12.04	
49. The forty-ninth case was decided on 10.1.05.	10.1.05	
50. The fiftieth case was decided on 10.2.05.	10.2.05	

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 382 of 2000.

Date of Decision. 7.12.2001

Smt. Nidra Mazumdar

Petitioner(S)

Mr. S. Sarma

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. K. K. SHARMA, ADMINISTRATIVE MEMBER

THE HON'BLE MRS. BHARATI RAY, JUDICIAL 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 : Administrative Member.

K. K. Sharma

N

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.382 of 2000.

Date of Order : This the 7th Day of December, 2001.

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

THE HON'BLE MRS. BHARATI RAY, JUDICIAL MEMBER.

Smt. Nidra Mazumdar  
Wife of Sri Subroto Dhar  
Resident of BBC, Colony, Pandu  
Guwahati.

. . . Applicant.

By Mr.S.Sarma, learned Counsel.

- Vs -

1. Union of India  
Represented by the Secretary to the  
Govt. of India, Ministry of Communication  
Sansar Bhawan, New Delhi-1.
  2. The Chief General Manager, Telecom  
Assam Telecom Circle  
Ulubari, Guwahati-7.
  3. The Chief General Manager, Task Force  
Silpukhuri, Guwahati-3.
  4. The Director Optical Fibre Project  
Bhangagarh, Guwahati-5.
  5. The Director (Administration) Telecom  
Silpukhuri, Guwahati-3.
- . . . Respondents.

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

O R D E R

K.K.SHARMA, ADMN.MEMBER :

By this O.A. under section 19 of the Administrative Tribunals Act, 1985, the applicant has claimed the benefit of temporary status and has also sought direction for resumption of duty.

2. The applicant has been engaged as casual Mazdoor cum Typist by the respondents from time to time. It appears that the applicant is out of job since December, 1997. The applicant was one of the parties in O.A.112/98, which had come before this Tribunal with a series of O.A.s for consideration on the issue of grant of temporary status. The series of O.A.s were disposed by a common

1c Ushah

Contd.. 2

order dated 31.8.1999 in O.A.107 of 1998 and Others similar applications. By the said order the applicant was directed to file individual representation before the respondents and the respondents were also directed to dispose of the same within a period of six months from the receipt of their representations and pass a reasoned order. Pursuant to the direction of the Tribunal the applicant made a number of representations before the respondents, the last one dated 29.9.1999. It is admitted fact that the respondents had not yet disposed of her representations.

3. We have heard Mr.S.Sarma, learned Counsel appearing for the applicant and Mr.A.Deb Roy, Learned Sr.C.G.S.C. for the respondents at length.

4. Upon hearing the learned counsels for the parties and on consideration of the facts and circumstances of the case, we are of the view that ends of justice will be met if a direction given to the respondents to dispose of the representations of the applicant. Accordingly, we direct to the respondents to dispose of the representation of the applicant and pass a reasoned order within a period of three months from the receipt of this order.

Subject to the observations made above, the application stands allowed.

There shall, however, be no order as to costs.

*Bharati Ray,*  
( MRS. BHARATI RAY )  
JUDICIAL MEMBER

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



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গুৱাহাটী বেন্চ  
Guwahati BenchBEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Title of the case :

D.A. No. 382 of 2000

BETWEEN

Smt. Nidra Mazumdar

..... Applicant.

AND

Union of India &amp; ors.

..... Respondents.

I N D E X

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Filed by : U k Goswami  
Advocate

File : WS 7/Nidra

Regn.No.: 382/2000

Date : 8-11-2000

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 382 of 20000

BETWEEN

Smt. Nidra Mazumdar,  
Wife of Sri Subroto Dhar,  
Resident of BBC, Colony, Pandu.  
Guwahati.

... Applicant.

- AND -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Sansar Bhawan, New Delhi-1.
2. The Chief General Manager, Telecom, Assam Telecom Circle, Ulubari, Guwahati-7.
3. The Chief General Manager, Task Force, Silpukhuri Guwahati-3.
4. The Director Optical Fibre Project, Bhangagarh Guwahati-5.
5. The Director (Administration) Telecom, Silpukhuri, Guwahati-3.

- ... Respondents

DETAILS OF THE APPLICATION.

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

The present application is directed against the action of the respondents in not considering the case of the applicant for grant of temporary status and regularisation in the light of Apex Court Direction as well as the schemes prepared by the Dept. and its subsequent clarifications. The applicant through this application prays for an appropriate direction to the respondents to consider her case and to extend the benefit of the scheme as well as its subsequent clarifications by granting temporary status and subsequent regularisation taking in to consideration the facts narrated in the following paragraphs.

Filed by  
the Applicant  
through  
Official Secy. Guwahati  
Advocate  
8-11-2000

## 2. JURISDICTION OF THE TRIBUNAL

That the Applicant declares that the subject matter of the present application is well within the Jurisdiction of this Hon'ble Tribunal.

## 3. LIMITATION

The Applicant declares that the present application have been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

## 4. FACTS OF THE CASE

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

4.2 That the applicant is a graduate having passed B.A. examination in the year 1987 from L.C. Bharali College Guwahati. In addition to her aforesaid educational qualification, she has obtained diploma in Shorthand (English) and Type Writing from Govt. Affiliated Institute. The applicant on search of job submitted her candidature in the office of the respondents. Thereafter the applicant was selected as Steno-typist (Casual) by a duly constituted DPC headed by the Divisional Engineer Optical Fibre Project. Pursuant to the aforesaid selection, she was attached to the office of the Director Optical Fibre Project Guwahati w.e.f. 30.4.92.

Copies of Certificates in respect of educational as well as technical qualification are annexed herewith and marked as Annexure-1 colly.

4.3 That the applicant after her aforesaid appointment w.e.f.

30.4.92 has been continuously performing her duty as Steno-Typist. Although her initial appointment as Steno Typist was on casual basis but in fact her said appointment was against a clear vacant post which was sanctioned by the higher authority. During her service tenure she has been performing duties of higher responsibilities like P.A. and all along has been attached in the office of the Director Optical Fibre Project, Chenikuthi, Guwahati. It is noteworthy to mention here that since her date of appointment i.e. 30.4.92 she has been looking after the post of P.A. a higher post and which was lying vacant for a long time. In this connection certificate issued to her by the concerned authority appreciating her sincere and devoted service will bear the testimony.

Copies of the certificates dated 2.4.94, 12.9.95 and 11.10.96 are annexed herewith and marked as Annexure-2,3, & 4.

4.4. That the applicant on December 1995 got married with Shri Sibroto Dhar who is also a resident of Guwahati. Due to the wedlock the applicant conceived her first baby but unfortunately she could not bear the baby as she did not follow the advise of the Doctor. Similarly she could not bear her second baby as she could not follow the advice of the Doctor. However fortunately in the year 1997 she conceived for third time and immediately she took the advice of the Doctor without fail. According to the advice of the doctor she took maternity leave w.e.f December 1997 and by telegraphic message same has been intimated to the concerned authority for taking necessary steps. In the month of March 1998 she delivered a male baby.

A copy of the Discharge Certificate dated 10.4.98 is annexed herewith and marked as Annexure-5.

The applicant craves leave of this Hon'ble Tribunal to produce all the relevant medical documents at the time of hearing

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of this case.

4.5. That the applicant after availing the aforesaid maternity leave, submitted her joining report through a representation dated 6.7.98 which was received by the respondents on 10.7.98. However, inspite of repeated request made by the applicant she has not been allowed to resume her duty. Having no other alternative applicant submitted representations dated 21.1.99 and 29.9.99. It is noteworthy to mention here that till date the post held by the applicant is lying vacant.

Copies of the representations dated 6.7.98, 21.1.99 and 29.9.99 are annexed herewith and marked as Annexure-6, 7 & 8 respectively.

4.6. That on receipt of the Annexure-6 representation dated 6.7.98 the Director Optical Fibre Project issued a letter vide No.DIR/OF/GH/E-2/Part/98-99/2 dated 14.7.98 to the Director Administration highlighting the facts that the office has been running without regular Steno-Typist and accordingly the applicant may be allowed to re-engage as Steno-Typist. The content of the letter clearly indicates the need and necessity of her service in the office of the respondents. The aforesaid letter dated 14.7.98 issued by the Director Optical Fibre Project was followed by another three letters dated 21.1.99, 20.8.99 and 9.5.2000 in which there has been a clear cut reference of vacant post of Steno Typist which was holding by the applicant and also recommendation regarding her placement in the said post.

Copies of the letters dated 14.7.98, 21.1.99, 20.8.99 and 9.5.2000 are annexed herewith and marked as Annexures-9, 10, 11 and 12, respectively.

4.7. That the applicant begs to state that after submitting her first representation dated 6.7.98 she approached the union for redressal of her grievances. Thereafter union took up the

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matter and along with some other casual workers they approached the Hon'ble Tribunal by way of filing OA-112/96. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A. vide its order dated 31.8.99.

A copy of the judgement and order dated 31.8.99 is annexed herewith and marked as Annexure-13.

4.8. That the applicant begs to state that in Annexure-10 dated 21.1.99 the Director, Optical Fibre Project made a request to the Director Administration regarding her re-engagement as Steno-Typist. It is noteworthy to mention here that the Director Optical Fibre Project has also mentioned in the said order that one post of steno-typist is presently lying vacant.

4.9 That the applicant begs to state that some of the casual workers of the Department of Post had approached this Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the parties was pleased to issue a direction to the official Respondents thereto to prepare a scheme. Claiming similar benefit another set of casual workers working in the Telecommunication department also approached the Hon'ble Supreme Court seeking a similar direction and the said matter was also disposed of by a similar order and direction has been issued to the Respondents to prepare a scheme on rational basis for the casual workers who has been working continuously for one year and who have completed 240 days of continuous service.

A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure-14.

4.10 That the applicant begs to state that the Respondents thereafter issued an order vide No. 269-10/89-STN dated 7.11.89 by which a scheme in the name and style "casual laborers" (grant

*N. Majumdar*

of temporary status and regularisation scheme 1989) has been communicated to all heads of Departments. As per the said scheme certain benefit have been granted to the casual workers such as conferment of temporary status, wages and daily rates etc.

A copy of the scheme dated 7.11.89 is annexed herewith and marked as Annexure-15.

4.11 That the applicant states that as per the direction contained in Annexure-14 judgment of the Hon'ble Supreme Court and Annexure-15 schemes she is entitled to take a benefit including temporary status and subsequent regularisation. The Applicant fulfills required qualifications mentioned in the said judgment and as such is entitled to all the benefits as described in the aforesaid scheme.

4.12. That the Applicant begs to state that after issuance of Annexure-15 schemes dated 7.11.89 the Respondents issued an order vide No. 269-4/93-STN-II dated 17.12.93 by which the benefit conferred to the casual workers by the said scheme has been clarified.

4.13. That the Applicant begs to state that of the Respondents thereafter have issued various orders by which modification/clarifications has been made in the aforesaid Annexure-15 scheme dated 7.11.89. By the aforesaid clarifications the Respondents have made the scheme applicable to almost all the casual workers who have completed 240 days continuous service in a year. To that effect mention may be made order dated 1.9.99 issued by the Government of India Department of Telecommunication by which the benefit of the scheme has been extended the recruitees up to 1.8.98.

A copy of the said order dated 1.9.99 is annexed and marked as Annexure-16.

N Majumdar

4.14. That the applicant begs to state that some of the similarly situated employees like that of the Applicant had approached this Hon'ble Tribunal by way of filing DA No. 299/96 and 302/96 and the Hon'ble Tribunal was pleased to pass an order dated 13.8.97 directing the Respondent to extend the benefit of the said scheme.

A copy of the order dated 13.8.97 is annexed herewith and marked as Annexure-17.

4.15 That the applicant beg to state that their cases are covered by the various judgement of this Hon'ble Tribunal. It is stated that pursuant to the aforesaid judgment and order dated 31.8.99 (Annexure-13) the Respondents have initiated a large scale proceeding for fill up at least 900 posts of DEM under Assam Circle. However, the applicant could come to know that her case will not be considered only on the ground tht she was absent from duty for a long time due to maternity leave. The Respondents have only taken into consideration the cases of those casual labourers who has been working for 240 days as on 1.8.99. The applicant has been pursuing the matter before the Respondents but the Respondents have shown their helplessness in absence of any order of this Hon'ble Tribunal. It is therefore the applicants have come under the protective hands of this Hon'ble Tribunal, praying for an appropriate direction from this Hon'ble Tribunal to the Respondents to consider her case for grant of temporary status and regularisation in accordance with the verdict of the Hon'ble Apex Court as well as the scheme and its subsequent clarifications issued from time to time.

4.16 That the applicant begs to state that the Respondents have acted illegally in not considering the case of the applicants

N Majumdar



only on the ground of not having worked as on 1.8.99 and there has been no order from the an order from this Hon'ble Tribunal condoning the aforesaid period . The law is well settled that in a given case if any law is laid down for one set of employees, same is applicable to all the similarly situated employees. However, in the present case the Respondents have acted illegally in differentiating the applicant with others and for that the entire action of the Respondents is liable to be set aside and quashed.

4.17 That the applicant begs to state that as per the direction of the Hon'ble Apex Court she is entitled to all the benefits described in the scheme dated 7.11.89. The direction of the Hon'ble Apex Court is very clear and Respondents now cannot shift their burden by taking the ground of not having any order from this Hon'ble Tribunal. The judgment and order of the Hon'ble Apex Court is applicable to all the casual employees working under the Telecommunication departments and as such the applicant is also entitled to all the benefits as has been granted to others similarly situated employees like that of her.

4.18. That the applicant begs to state that the respondents have failed to take into consideration the leave period of the applicant and their action for not allowing her to resume duty is illegal arbitrary and liable to be set aside and appropriate direction may be issued for her reinstatement as well as other consequential benefits like temporary status and consequent regularisation.

4.19 That the applicant begs to state that presently she is suffering a tremendous financial loss because of the illegal action of the respondents in not allowing her to join duty. It is therefore stated that the Hon'ble Tribunal may be pleased to pass an appropriate interim order directing the respondents to allow

N Majumdar

her to resume duty on the vacant post of Steno-Typist on casual basis during the pendency of the O.A.

5. GROUNDS WITH LEGAL PROVISIONS

5.1. For that the action of the respondents in not allowing her to resume duty as Steno-Typist after availing the maternity leave is illegal and violative of article 14 and 16 of the Constitution of India and same is liable to be set aside and quashed.

5.2. For that there having been no order of termination of her service nor any notice to that effect and hence the respondents are duty bound to re-engage the applicant and the respondents having not done so have violated the settled principles of law warranting interference of this Hon'ble Tribunal.

5.3 For that the entire action on the part of the Respondents in not granting the temporary status to the Applicant violating the provisions contained in the judgment and order passed by the Hon'ble Apex Court is illegal and arbitrary and same are liable to be set aside and quashed.

5.4 For that action of the Respondents in treating the Applicant not at par with the other similarly situated employees to whom the benefit of the scheme has already been granted is violative of Article 14 and 16 of the Constitution of India. The Respondents being a model employer should have extended the said benefit to the Applicant without requiring her to approach this Hon'ble Tribunal, more so whereas themselves have allowed the said benefit to one set of their employees. In any case the Respondents cannot differentiate their employees in regard to employment as has been done in the instant case. Hence the entire action of the Respondents is illegal and not sustainable in the eye of law.

*N. Majumdar*

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5.5 For that the Respondents have acted illegally in not considering the case of the applicants for grant of temporary status in view of order dated 1.9.99 as well as judgment and order dated 31.8.99 passed in similar matters and hence same is liable to set aside and quashed with a further direction to the Respondents to extend the benefits of the said scheme to the applicants including all other consequential benefits.

5.6 For that in any view of the matter the action on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

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

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the applicants declares that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than to approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declare that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the applicants pray that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

19

8.1. To direct the respondents to allow her to resume duty in the said vacant post of Steno-Typist immediately with all consequential benefits including arrear salary etc.

8.2. To direct the Respondents to extend the benefit of the scheme and to grant them temporary status as has been granted to the other similarly situated employees like that of him with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.3. To direct the respondents to allow the applicants to continue in her present post after granting temporary status and regularisation..

8.4. Cost of the application.

8.5.- Any other relief/reliefs to which the present Applicant are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicant prays for interim order directing the Respondents to allow her to resume duty as Steno-Typist on casual basis in the said vacant post during the pendency of the O.A.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(I) I.P.D. No.: 26 503426

(ii) Date: 15-10-2000

(iii) payable at Guwahati

12. LIST OF ENCLOSURES : As stated in the Index.

N. Majumdar

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### VERIFICATION

I, Smt. Nidra Mazumdar, W/o Sri Subroto Dhar, aged about 34 years, resident of BBC Colony, Pandu, Guwahati, do here by solemnly affirm and state that the statement made in this petition from paragraph 4'1, 4'8, 4'11, 4'12, 4'15-4'19 are true to my knowledge and those made in paragraphs 4'2-4'7, 4'9, 4'10, 4'13 & 4'14 are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 7th day of NOV, 2000.

*Mrs. Nidra Mazumdar*

# GAUHATI UNIVERSITY



No 012900

## B. A. (Two Year Degree) Examination Marks

The following are the marks obtained by Nidra Mazumder  
Roll No. Q/1315 of L. C. Bhareli College at the B. A. Examination, 19... 87

HONOURS								PASS SUBJECTS																		TOTAL	Minimum for a Class I Minimum for a Class II Minimum for a Distinction	
								English			Modern Indian Language or Alternative English			Written				Written				Science Subjects						
																						Practical						
Full marks (Arts Subjects) --- 600								Full marks 200			Full marks 200			Full marks 300				Full marks 300				Full marks 100						
Honours : --- 240								Pass marks 66			Pass marks 66			Pass marks 99				Pass marks 99				Pass marks 40						
Theoretical Full marks (Sc. Subjects) --- 400																						Theoretical						
Pass marks : --- 120																						Full marks 200						
Practical Full marks --- 200																						Pass marks 60						
Pass marks --- 80																						Theo.						
Honours --- 240																						Prac.						

23 - 13A-

ANNEXURE - 1 Colly  
(Co)

No 102465

# GAUHATI UNIVERSITY

## Pre-University Examination in Arts

The following are the marks obtained by Nidra Majumder Roll No. K 4752  
of Pandu College at the Pre-University Examination in Arts 1981.

English			36/100 MIL or Alt. English	ec			p. sc			ed			Science Subject			Commerce Subject		900 Total Without Additional	Additional Subject (bsl)					10 Excess Marks	335	DIVISION			III	
1st Paper	100			1st Paper	100		1st Paper	100		1st Paper	100		Theoretical	20/50		Book Keeping	30/100		1st Paper	2nd paper	Total	Practical	20/50				1st Division	2nd Division		3rd Division below
Total	72/200			Total	60/200		Total	60/200		Total	60/200		Total	45/150		Total	65/200		Com. Arith or Business Method, or Com. Geography	30/100	Total	200								
50	28	78	36	35	35	70	38	39	77	31	33	64							325	40	30	70			10	335	III			

Rs. 4.00

Attended  
1st year  
Admission

First Tabulator  
Date 22/6

Second Tabulator  
Date 19/6

Asstt. Registrar (Examinations)  
Date 19/6  
Gauhati University

Form No. 54

0. 52333

Board of Secondary



Education, Assam

GAUHATI

Date 1979

## MARK SHEET (New Course)

This is to certify that Sichra Majumder Roll 847 No. 423 ofVidyasiketan High School, has secured marks as detailed below, in the High School Leaving Certificate Examination, 1979.

CORE SUBJECTS										Elective			Addl.—I		Addl.—II		1st Division : 510 and above 2nd Division : 382—508 3rd Division : 255—381		Remarks								
First Language				Language in lieu of first Language		Second Language ENGLISH		GENERAL SCIENCE Full marks 100 Pass marks 30	GENERAL MATHEMATICS Full marks 100 Pass marks 30	SOCIAL STUDIES Full marks 100 Pass marks 30	WORK EXPERIENCE Full marks 100 Pass marks 30	Without Practical Full marks 100 Pass marks 30	With Practical		With Practical		GRAND TOTAL Full marks 850	Without Practical Full marks 100 Pass marks 30		With Practical							
SECOND PAPER Group A Full marks 50	SECOND PAPER Group B/C Full marks 50	SECOND PAPER TOTAL Full marks 100	TOTAL Full marks 200 Pass marks 60	Full marks 100 Pass marks 30	Full marks 100 Pass marks 30	FIRST PAPER Full marks 75	SECOND PAPER Full marks 75						TOTAL Full marks 150 Pass marks 45	Total Full marks 100 Pass marks 30	Theoretical	Practical			Total Full marks 100 Pass marks 30	Theoretical	Practical	Total Full marks 100 Pass marks 30	Excess over (Added to Total)	30%.	100 Full marks 30 Pass marks	100 Full marks 30 Pass marks	Total Full marks 100 Pass marks 30
27	23	—	97			34	39	73	32	25 +5	37	74	55				393 +5	35	15	398						111	
Pass marks																											

Marks entered

Date

Marks compared

Date

HOME SCIENCE :

Theoretical— 70 21

Practical— 30 9

CRAFTS :

Theoretical— 60 15

Practical— 60 15

AGRICULTURE :

Theoretical— 60 18

Practical— 40 12

DANCE, MUSIC &amp; FINE ARTS :

Theoretical— 30 9

Practical— 70 21

Adv. Sc.

Theoretical— 60 15

Practical— 60 15

Controller of Examinations

Attested  
by  
Asst. Secy  
certified to be true



# ASSAM COMMERCIAL INSTITUTE

AMERICAN COLONY, PANDU,

Gauhati-781012 (Assam)

No. 970

GOVT. REGD.

Date : 28.2.1989

( Regn. No. 155 of 1972-73 )

**DIPLOMA**

Certified that Sri/Srimati.....NIDRA MAJUMDAR.....son/daughter  
of Sri Krishna Lal Majumdar.....has completed the DIPLOMA Course  
in the following subject(s) at this institution and passed the examination held  
in the month of.....January.....1989.

~~TYPEWRITING~~ (ENGLISH)  
SHORTHAND' (ENGLISH)

He/She has attained a speed of.....100(One hundred).....and.....x  
words per minute in ~~Typewriting~~ and Shorthand respectively.

He/She has acquired the knowledge of using and taking care of the Typewriter.

124  
SUPERINTENDENT



13  
PRINCIPAL

Advocate  
Advocate

# GEORGE INSTITUTION OF COMMERCE & TELEGRAPHY

## COOCH BEHAR.

( GOVT. AFFILIATED )

### Deploma For English Shorthand

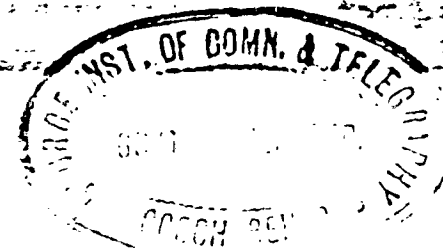
Certified that Miss. Nidra Majunder  
 son/daughter/wife of Sj. Krishna Lal Majunder of  
 GEORGE INSTITUTION OF COMMERCE & TELEGRAPHY at Pandu (Assam)  
 duly passed the final examination shorthand (English) at 80.0 (Eighty)  
 words per minute.

I CONSIDER HIM/HER QUALIFIED TO UNDERTAKE THE DUTIES OF A STENOGRAPHER.

Dated, Cooch Behar.

The.....29.7.87..... 19

Principal  
G. I. C. T.



*[Signature]*  
SUPERINTENDENT OF BOARD OF EXAMINATION  
G. I. C. T.

*Attested  
Upyousan  
Advocate*

# GEORGE INSTITUTION OF COMMERCE & TELEGRAPHY

## COOCH BEHAR

No. 9213

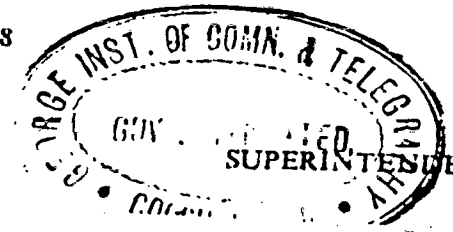
( Govt. Affiliated )  
Proficiency Certificate for  
Type Writing ENGLISH

CERTIFIED that I have Examined Miss. Nidra Majumder  
Son/daughter/Wife of Sj. Krishna Lal Majumder Who has been trained in the  
George Institution of Commerce & Telegraphy at Pandu (Assam) in  
Type-writing ( Blind ) and can type 40.0 (Forty) words per minute.  
He/She has a fair knowledge in Tabulating works.  
I consider him/her qualified to undertake the duties of a Typist.

Dated, Cooch Behar  
The 5.11.86 198

*[Signature]*  
Principal

G. I. C. T.



SUPERINTENDENT OF BOARD OF EXAMINATION  
G. I. C. T.

*Attested  
W. J. Suman  
Advocate  
Certified to be true*

Annexure-2

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE DIRECTOR OPTICAL FIBRE PROJECT  
CHENIKUTHI :: GUWAHATI, 781003.

TO WHOM IT MAY CONCERN

This is to certify that Miss Nidra Majumder, Daughter of Shri Krishna Lal Majumder of New Colony, P.O. Pandu, Guwahati-12, District Kamrup, Assam is continuously working as (Casual) Steno-Typist (attached to Director and looking after the post of P.A.) in the office of the Director Optical Fibre Cable Project, Chenikuthi, Guwahati-781003 since 30th April 1992 to till date. She is very sincere, hard working, punctual and energetic girl and she also possesses very amiable behaviour.

I wish her all success in life.

Dated at Guwahati,  
the 2nd April 1994.

Sd/-  
Assistant Engineer  
Optical Fibre Cable Project  
Chenikuthi, Guwahati-781003.

*Attested  
W. G. G. Advokat*

Annexure-3

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE DIRECTOR OPTICAL FIBRE PROJECT  
CHENIKUTHI :: GUWAHATI 781003.

TO WHOM IT MAY CONCERN

This is to certify that Miss Nidra Majumder, daughter of Shri Krishna Lal Majumder of New Colony, P.O. Pandu, Guwahati-12, District Kamrup, Assam is continuously working as (Casual) Sten-Typist (attached to Director and looking after the post of P.A.) in the office of the Director Optical Fibre Cable Project, Chenikuthi, Guwahati-3 since 28.5.1994 to till date. She is very sincere, hard working, punctual and she also possesses very amiable behaviour.

I wish her all success in life.

Dated at Guwahati,  
the 12th Sept.'95.

Sd/-  
Director  
Optical Fibre Project  
Chenikuthi, Guwahati-781003.

*Attested  
Uthayana  
Advocate  
certified to be true*

Annexure-4

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE DIRECTOR OPTICAL FIBRE PROJECT  
K.K. Bhatta Road, Chenikuthi  
GUWAHATI 781003.

FAX : 0361-522335

No.DIR/OF/GH/

Dated at Guwahati, the

TO WHOM IT MAY CONCERN

This is to certify that Miss Nidra Majumder, daughter of Shri Krishna Lal Majumder of New Colony, P.O. Pandu, Guwahati-12, District Kamrup, Assam is continuously working as (Casual) Steno-Typist (attached to Director (O.F.P.) and looking after the post of P.A.) in the office of the Director (Optical Fibre Project), Chenikuthi, Guwahati-781003 since 19th September 1995 to till date. She is very sincere, hard working, punctual and she also possesses very amiable behaviour.

I wish her all success in life.

Dated at Guwahati,  
the 11.10.96.

Sd/-

(A.C. DE)

Director

Optical Fibre Project  
Chenikuthi, Guwahati-781003.

*Attended  
W.K. Gohain  
Advocate*

**GURUCHARAN POLYCLINIC**  
CUM  
**NURSING HOME**  
Md. Shah Road : : Paltan Bazar  
GUWAHATI-781008

Attending Doctor Dr. J. P. Meur, M.D., D.M.B (O.R.G.)

**DISCHARGE CERTIFICATE**

Name of the Patient MRS. NIDRA DHON

Date of Admission 29.3.98 Date of Discharge 10.4.98

Regd. No. : 2002 / 77 98

Diagnosis : Pot O<sub>2</sub> T. P. & P.R.O.M

Treatment : L.C.C.S. done (Ind. P.R.O.M. B.O.H)  
Rate 13200/-

Investigation : Enclosed

Advice : (1) ... (2) ...

Adm. Date : Monday  
As advised by ...

*Attended  
Nidra  
As advised  
Certificate to be true O.M.*

10/4/98

[Signature]  
Signature of Attending Doctor

Annexure-6

To  
The Director,  
Optical Fibre Project,  
Guwahati.

Sub: Resumption on duty.

Sir,

I beg to lay a few lines in regard to subject matter for your kind information and necessary action.

That sir, I was selected as Steno-Typist (casual) by the then Divisional Engineer, Guwahati and attached to Director (O.F.) Project, Guwahati with effect from 30.4.1992.

That Sir, since 30.4.1992, I have been continuously performing my duty under the kind control of different officers with their full satisfaction. Performance certificates obtained from them are also enclosed (photocopy) for your kind perusal.

That Sir, on December 1995, I was married with Sri Subrata Dhar of Pandu, Guwahati-12. Unfortunately, I like to mention here that I could not bear child two times. In each case, Doctor's advised me to take rest. Doctor's term are as Bed rest, Absolute rest and Avoid journey (Doctor's certificates enclosed).

That Sir, for the sake of my service, I could not follow the Doctor's instructions for which misfortune followed me.

That Sir, when I conceived the third time, I went to my father-in-Law house at Siliguri during Durga Puja Festival of 1997 for treatment, where I was under the treatment of a Doctor there.

That Sir, Doctor of Siliguri also advised me to take similar rest as prescribed by Doctor's Guwahati. As such, I telegraphical informed my officer that I was under the treatment of a Doctor at Siliguri (Copy of the Telegraph is enclosed).

That Sir, in view of the circumstances stated above, I could not attend office since November 1997.

That Sir, fortunately by the grace of God I have become a mother of male baby on 31st March 1998.

That Sir, my baby has become 4 months old and I like to resume my duty as usual.

Under this circumstances stated above, I request you to kindly allow me to resume duty for which I shall remain ever grateful to you and obliged.

Thanking you.

Dated: 6.7.1998  
Encl : As stated above

Yours faithfully  
Mrs. Nidra Dhar  
Pandur, Guwahati-12.

*Attended  
Wk. 1998  
Advocate*



To  
The Director,  
O.F.Project,  
Guwahati.

Sub: Resumption on duty.

Sir,

I beg to lay a few lines in regard to subject matter for your kind information and necessary action.

That sir, I was selected as Steno-Typist (casual) by the then Divisional Engineer, Guwahati and attached to Director (O.F.) Project, Guwahati with effect from 30.4.1992.

That Sir, since 30.4.1992, I have been continuously performing my duty under the kind control of different officers with their full satisfaction. Performance certificates obtained from them are also enclosed (photocopy) for your kind perusal.

That Sir, on December 1995, I was married with Sri Subrata Dhar of Pandu, Guwahati-12. Unfortunately, I like to mention here that I could not bear child two times. In each case, Doctor's advised me to take rest. Doctor's term are as Bed rest, Absolute rest and Avoid journey (Doctor's certificates enclosed).

That Sir, for the sake of my service, I could not follow the Doctor's instructions for which misfortune followed me.

That Sir, when I conceived the third time, I went to my father-in-Law house at Siliguri during Durga Puja Festival of 1997 for treatment, where I was under the treatment of a Doctor there.

That Sir, Doctor of Siliguri also advised me to take similar rest as prescribed by Doctor's Guwahati. As such, I telegraphical informed my officer that I was under the treatment of a Doctor at Siliguri (Copy of the Telegraph is enclosed).

That Sir, in view of the circumstances stated above, I could not attend office since November 1997.

That Sir, fortunately by the grace of God I have become a mother of male baby on 31st March 1998.

That Sir, when my baby has become 4 months old, I came to office to resume my duty on 6th July 1998. But I was unfortunately refused to join to my duty.

However, as per Honourable Guwahati Court case No.112/98 dtd 29.5.98 and DOT legal adviser letter No.STES-21/160/26 dtd at Guwahati the 16.10.98. I may be allowed to join to my duty and obliged.

Thanking you.

dtd 21.01.1999

Yours faithfully

*Attached  
14/1/99  
Advocate*

Mrs.N.Mazumdar  
21.01.1999  
Steno-Typist (casual)  
Guwahati.

Copy to :-  
1.DE (OFC) Project, Guwahati.

Annexure-8

The Director  
Optical Fibre Project  
Task Force  
Guwahati.

Sub: Resumption on duty & settlement of DA payment.

Sir,

With due respect, I beg to state that I had been continuously working as Steno-Typist (DRM) in your office since Apr.'92 to 14th Oct.'97. But from 15th Oct.'97 I had to take maternity leave which informed to this office by Telegram (copy enclosed) dtd 3rd Nov.'97 from my home.

After completing my maternity course, when I wanted to join in the office again, I was not allowed to do so till date.

In this connection, my representation dtd 6th July, '98 and representation regarding arrear payment of D.A. from 1st Jan'96 to Oct.'97, dtd. 13th Aug. 98 may kindly be referred. Copies of the same is enclosed herewith for ready reference.

I would, therefore, request you to kindly allow me to join my duty in the light of Hon'ble CAT's decision and settle my DA arrear payment. For this act of your kindness, I shall remain grateful to you.

Encl. : as above.

Yours faithfully

(Nidra Majumder)  
DRM Steno-Typist.

Dtd. at Guwahati,  
the 29th Sept.'99.

*Attended  
Wkly  
Associate*

ANNEXURE-9

GOVERNMENT OF INDIA  
Department of Telecommunications  
OFFICE OF THE DIRECTOR, OPTICAL FIBRE PROJECT  
Arunprakash Mansion (3rd floor), G.S.Road, Bhangagarh  
GUWAHATI-781005

Ph.0361-546766  
Fax:0361-529335

No.DIR/OF/GH/E-2/Part/98-99/2      Dated at Guwahati, the 14/7/98.

To  
The Director (Admn),  
O/o the Chief General Manager,  
N.E. Task Force,  
Silpukhuri, Guwahati-3.

Sub: Engagement of casual Mazdoor.

Please find enclosed one application received from Mrs.Nidra Dhar (Mazumdar) for engagement as Casual Mazdoor (Typist) in this office. This office is running without a regular steno-cum-typist which has hampered official work in this office.

Therefore, approval for engagement one casual mazdoor (Typist) may kindly be accorded or alternatively a regular steno-cum-typist may please be posted at the earliest. It may be mentioned that name of applicant appears at Sl.No.112, but has left since Oct.97.

Encl: Application along with  
related documents.

Director.  
Optical Fibre Project  
Bhangagarh, Guwahati-781005

*Accepted  
W.P.  
Associate*

## Department of Telecommunications

OFFICE OF THE DIRECTOR, OPTICAL FIBRE PROJECT

Arunprakash Mansion (3 rd Floor), G.S.R.D., Bhangagarh

GUWAHATI-781005

Ph: 0361-546766

FAX: 0361-527335

No. DIR/OF/GH/E-2/Vol-II/98-99

/31

Dated at Guwahati, the 21/1/99.

To

The Director (Admn),  
O/o CGM, Task Force,  
Silpukhuri, Guwahati-3.

Sub : Re-engagement of Casual Mazdoor.

Ref : 1) TF/NE/Genl-29/9 dtd.3/7/98.

2) CAT, Guwahati order No.112/98  
dtd.29/5/98.

3) TF/NE/Genl-29/DRM/15 dtd.4/9/98.

4) DE/OFC/GH/E-2/Vol-II/98-99/22  
dtd.30/11/98.

Please find enclosed one representation received from Mrs. Nidra Majumder for re-engagement as Casual Mazdoor (Steno Typist), who had worked in this office upto 12th Oct '97. Kindly refer this office letter No. DIR/OF/GH/E-2/Part/98-99/2 dtd 14-7-98 in this regard (copy enclosed).

In view of CAT orders, legal advice from DOT, Representation from Staff Union as stated under reference ~~for~~ enclosed herewith, You are requested to confirm whether she can be re-engaged in this office as casual labour (Steno Typist), (The applicant's name appear in Sl.No.112 of Annexure of CAT order No.112/98 dtd.29/5/98).

In this context it is mentioned that one post of steno typist is lying vacant in this office as per CGM, T/F Guwahati letter No.TF/NE/Est-4/Group C&D/Vol-V/98-99/121 dtd.12/6/98.

As the applicant is pressing hard, so a clarification from your end may please be conveyed at the earliest.

Encl : 1) Letters under reference.  
2) Application from Candidate with related documents.

Director,  
Optical Fibre Project,  
Bhangagarh, Guwahati-781005.

Attended  
by  
[Signature]  
[Signature]

Ion,  
J03.

28 - ANNEXURE-11

36

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE DIRECTOR OPTICAL FIBRE PROJECT  
ARUN PRAKASH ANANDON :: 3RD FLOOR  
ROAD :: BHANGAGARI :: GUWAHATI :: 781 005.

No. DIR/OF/GH/E-2/Vol-II/99-2000

Dated : 20/8/99.

RE M I N D E R

To  
The Divisional Engineer (Estt.),  
O/o C.G.M. Task Force,  
Silpukhuri, Guwahati-3.

Sub : Re-engagement of Casual labour.

Ref: 1. This office letter No.  
DIR/OF/GH/E-2/Vol-II/98-99/31  
dtd. 21-1-99 & dtd. 11-5-99.

2. Your office letter No.  
TF/NE/Staff-4/CM dtd. 17-3-99.

With reference to the subject & letter No.  
cited above, no reply has been received from your end  
till date. As the applicant i.e. Mrs. Nidra Majumdar is  
pressing hard for re-engagement, so a reply may please  
be issued at the earliest to settle the case.

It is for favour of early necessary action  
at your end please.

Attested  
W. K. S. S. S.  
Advocate

Director,  
Optical Fibre Project,  
Bhangagari, Guwahati-781005.

\*\*\*\*\*

-29-

ANNEXURE-12

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATION  
OFFICE OF THE ADMINISTRATOR, TASK FORCE  
PANBAZAR : GUWAHATI-1

No. DIR/OF/GH/E-2/Vol.II/99-2000

Guwahati the 9-5-2000

To


✓ The Director (Admn)  
O/O. the Chief General Manager  
N.E Task Force  
Guwahati.

Sub :- Re-engagement of Casual Labour.

Ref :- This office letter of even Dated 21-1-99 and 11-5-99.

Kindly refer to this office letter Nos. cited under reference on the above subject under which your valuable suggestions was sought for the re-engagement of casual labour after her absent from duty due to maternity ground.

Now I request you to convey your decision regarding re-engagement of her service as DRH at the earliest so as to settle the case as Mrs. Nidra Majumdar is pressing very hard for her re-engagement.

  
Area Director  
Task Force  
Panbazar, Guwahati-781001

*Attended  
11/5/00  
As per*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

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

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

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

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- versus -
- The Union of India and others. .... Respondents.  
By Advocate Mr. B.C. Patha, Addl.C.G.S.C.  
.....
7. D.A.No.135/98  
All India Telecom Employees Union,  
Line Staff and Group-D and 6 others. .... Applicants.  
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and  
Mr.U.K.Nair.  
- versus -  
The Union of India and others . . . Respondents.,  
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.  
.....
8. D.A.No.136/1998  
All India Telecom Employees Union,  
Line Staff and Group-D and 6 others. .... Applicants.  
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
.....
9. D.A.No.141/1998  
All India Telecom Employees Union,  
Line Staff and Group-D and another. .... Applicants.  
By Advocates Mr.B.K.Sharma, Mr.S.Sarma  
and Mr.U.K.Nair.  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
.....
10. D.A. No.142/1998  
All India Telecom Employees Union,  
Civil Wing Branch. . .... Applicants.  
By Advocate Mr.B.Malakkar  
- versus -  
The Union of India and others. .... Respondents.  
By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.  
.....
11. D.A. No.145/1998  
Shri Dhani Ram Deka and 10 others. .... Applicants  
By Advocate Mr.I.Hussain.  
- versus -  
The Union of India and others. .... Respondents..  
By Advocate Mr.A,Deb Roy, Sr. C.G.S.C.  
.....
12. D.A.No. 192/1998  
All India Telecom Employees Union,  
Line Staff and Group-D and another. .... Applicants  
By Advocates Mr.B.K. Sharma, Mr.S.Sarma  
and Mr.U.K.Nair.  
-versus-  
The Union of India and others..... Respondents  
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.  
.....

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.

.....

ORDER

BARUAH.J. (V.C.)

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

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the respondents be directed not to implement the decision of termi-

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A. J. J. J.*

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 (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

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

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

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the 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 O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

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

Hussain and Mr.B.Malakkar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel 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 in to consideration of the submissions of the learned counsel for the applicants.

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

*Attested  
V. K. G. S. Advocate*

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

In the Supreme Court of India  
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. .... Petitioners.

-versus-

Union of India & ors ..... Respondents.

With

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

Jant Singh & ors etc. etc. .... Petitioners.

-versus-

Union of India & ors. .... Respondents.

ORDER

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

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

By the said Judgment this Court said :

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

Attested  
Wk. J. J. J.  
Advocate  
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posts and Telegraphs Department".

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

Sd/-

( Ranganath Mishra ) J.

New Delhi

April 17, 1990.

Sd/-

( Kuldeep Singh ) J.

*Attested  
Ukayomani  
Advocate  
Certified to be true*

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

*Noted  
W. J. G. S. S.  
Advocate  
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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.  
MCG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

ANNEXURE

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

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

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

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

Temporary Status.

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

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

iii) Conferment of temporary status on a casual 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.

*Accepted  
M. G. S. S. S.  
12.10.89*

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 quite 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.

@@@

*Attended  
Wagonni  
Adwani  
Certified to be true copy*

ANNEXURE.16

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

Dated 1.9.99.

To

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

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

Sir,

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

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

Yours faithfully

(HARDAS SINGH)  
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)  
ASSISTANT DIRECTOR GENERAL (STN)

*Attested  
W. G. Suman  
Advocate*

ANNEXURE-17.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

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

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

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

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J.(V.C.)

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

*Attested  
Advocate  
certified to be true.*

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

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

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



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

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

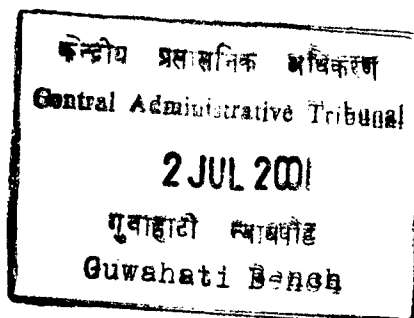
3. O.A.299/96 is also of similar facts. The grievances of the applicants are also same.

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

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

Sd/- Vice Chairman.

*Accepted  
11/11/96  
H.S. Sate*



ST 17/6/01  
Regd  
29/6/01  
(A. DEB ROY)  
Sr. C. G. S. C.  
A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 382 OF 2000

Mrs. Nidra Majumdar

-Vs-

Union of India & Others.

-And-

In the matter of :

Written Statement submitted by  
the Respondents

The respondents Most Respectfully beg to submit  
the Written statement as follows :

1. That with regard to para 1 the respondents beg to state that as per DOT's guidelines, payment of Mrs. Nidra Majumdar was verified and seen that as per DOT ~~xxx~~ norms, the applicant is not entitled for Temporary Status. She was absent from 01.01.98 to till date.

Copy of Biodata and payment particulars are annexed herewith and marked as Annexure-1.

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

3. That with regard to para 4.1 , the respondents beg to offer no comments.

4. That with regard to para 4.2, the respondents beg to state that regarding qualification there is no comments.

But regarding, selection, as claimed by the applicant is not correct. The Departmental Promotion Committee is held in case of promotion of departmental regular staff. In this department Steno typist is recruited through staff selection Commission. She was engaged for time to time as no works no pay basis, not on regular measure.

5. That with regard to para 4.3, the respondents beg to state that the Task Force Organisation is entrusted with installation jobs she was engaged under Director, O.F.C., Guwahati on purely temporary basis for the typing work only.

6. That with regard to para 4.4, the respondents beg to ~~state~~ offer no comments on her personal problems. But no information has been received so far for her Maternity leave and further correspondence is also not required as she was engaged on casual basis on no work no pay basis. In this connection it may be mentioned here that the maternity leave is admissible to the regular staff only.

7. That with regard to para 4.5, the respondents beg to state that no leave is admissible in case of casual labourer. It is applicable in case of regular employees only. The Content of applicant is not correct as post of Director, O.F.C. Guwahati is purely on temporary basis. The post is already been abolished. So, the question of post steno typist does not arise.

8. That with regard to para 4.6, the respondents beg to state that Reference 4.5

9. That with regard to para 4.7, the respondents beg to state that the name of applicant was in the list of DRM along with the other casual workers in the CAT, Guwahati Case No. 112/89 but the said Mr. N. Majumdar was not on duty at that time. The Honourable Tribunal after hearing the parties to the proceeding was pleased to dispose the said O.A. vide its order dated 31.08.99. Due honour has been given to the order of the Hon'ble Tribunal for all the cases including her case but she could not report. At this moment the consideration for her case does not arise.

10. That with regard to para 4.8, the respondents beg to state that reference 4.5 is same .

11. That with regard to para 4.9, the respondents beg to state that the Department has prepared a scheme and issued vide No. 269-10/89-STN Dated 07.11.89.

12. That with regard to para 4.10, the respondents beg to offer no comments.

13. That with regard to paras 4.11 to 4.17, the respondents beg to state that as per letter No. 269-10/89-STN dated 01.11.89 and 269-13/99-STN-II dated 01.09.99. The applicant is not entitled for TSM. She has break in service w.e.f. 15.10.99.

14. That with regard to ~~the~~ para 4.18, the respondents beg to state that the Department is acting as per DOT norms.

15. That with regard to para 4.19, the respondents beg to state that the claim of the applicant is not correct, the office of the Director, O.F.C. Guwahati has already been wound up, the question of allowing her to join duty in the vacant post of Steno typist does not arise being a Casual labourer on no work no pay basis.

16. That with regard to para 5.1, the respondents beg to state that the claim of applicant is not correct, the applicant was engaged on purely temporary basis for time to time typing work in the purely temporary office of the Director, O.F.C., Guwahati which has already been wound up and hence the question of resumption of duty as well as violation of the article 14 and 16 of the Consitution of India do not arise.

17. That with regard to para 5.2 the respondents beg to state that the applicant kept herself absent from duty w.e.f. 15.10.97 till to date and the question of order of termination of her service on any notice to this effect and re-engagement of the application does not arise and also the settled principles of the law have not been violated.

18. That with regard to para 5.3 to 5.6, the respondents beg to state that the department has not violated the article 14 and 16 of the Consitution. The contents of the applicant is not correct. Due honour has been given to the eligibel DRM's who have fulfilled criteria for conferring the Temporary Status keeping in view the spirit of the scheme issjed by DOT vide No. 269-10/89-STN dated 07.11.89 and 269-13/99-STN-II dated 01.09.99 wherein it has already mentioned that those who are currently

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employed and have completed a continuous service of at least one year or 240 days as on 01.08.98 are eligible for conferring Temporary Status. But in this case she has not fulfilled the same and hence her request to grant Temporary Status as per scheme cannot be considered to. ✓

19. That with regard to paras 6 and 7, the respondents beg to offer no comments.

20. That with regard to para 8 the respondents beg to state that the contents of the application are not correct ~~of~~ for the facts and circumstances of the case at Para 5.1 and 5.3 to 5.6.


21. That with regard to paras 9 and 11, the respondents beg to offer no comments.

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

I, Shri Purna Boro DE(E&H)/V.O.

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 ~~fa~~ fact.

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

  
Declarant.