

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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2.1.2001

O.A./T.A No. 44/01/2000

R.A/C.P No.....

E.P/M.A No. 44/01/258/2000

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SECTION OFFICER (Judl.)

Sahita
22/12/17

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 402/2000

..... Pradip Das Applicant.

Versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. B.K. Sharma, Sr. Adv.

" S. Sarma,

" U.K. Goswami,

For the Respondents. C.G.S.C.

NOTES OF THE REGISTRAR

DATE

O R D E R

This application is in form
but not in time Condonation

Petition for Condonation

for M.P. 258/2000

for M.P. 258/2000

IPC No. 5039.46

Dated 20.11.00

Dy. Registrar.

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

List on 2.1.2001 for admission
alongwith M.P.258/2000.

Vice-Chairman

pg

All requisites alongwith
envelopes are filed.
Delay & Condonation as
M.P. 258/2000 is attached.

2.1.2001

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

Application is admitted.

Call for the records. Issue
usual notices.

List on 5.2.01 for written
statement and further orders.

Vice-Chairman

mk

5.2. No S.B. Adjudged to 14.2.2001.

14.2.2001

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

Vice-Chairman

nk

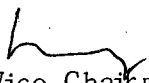
16.3. No S.B. Adjudged to 25.4.2001.

NO N/S has been
filed.

24/4/01

(2)

25.4.2001 Four weeks time allowed to the respondents to file written statement. List for orders on 30.5.01.


Vice-Chairman

nk m

30.4.2001

W/S has been submitted by the Respondents.

30.5.01 Written statement has already been filed by the respondents.

The case now be posted for hearing on 25-7-2001. The applicant may file rejoinder, if any, within two weeks from today.


Vice-Chairman

bb

No. rejoinder has been filed.

~~23.7.01~~

~~List on 3.8.01 to enable the respondents to take necessary instructions in this regard.~~

30.7.01

23.7.01

List on 3.8.01 to enable the respondents to take necessary instructions in this regard.


Vice-Chairman

26.7.2001

Rejoinder to the W/S has been submitted by the applicant.

lm

3.8.01

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


Vice-Chairman

17.8.2001

Copy of the Judgement has been sent to the Office for issuing the same to the Applicant as well as to the S.C. & S.C. for the Respondents.

trd

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 402 of 2000 . of

DATE OF DECISION 3.8.01

Sri Pradip Das

APPLICANT(S)

Mr. S.Sarma

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



CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 402 of 2000

Date of decision : This the 3rd day of August, 2001.

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

Sri Pradip Das,
Son of Sri K.R. Das,
Resident of Uzan Bazar,
Rajbari,
Guwahati-781001
Assam.

....Applicant

By Advocate Mr. S. Sarma.

-versus-

1. Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Personnel,
Personnel Grievance and Training,
New Delhi.
2. The director,
Staff Selection Commission (SSC),
Block No. 12, CGO Complex,
Lodhi Road,
New Delhi-3.
3. The Regional Director, NER,
Staff Selection Commission (SSC),
Rukminigaon, Sangam Lodge,
Guwahati-6.

....Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C.).


The applicant was a casual labour who was granted Temporary Status with effect from 10.9.1993 under the Scheme of Casual Laboures (Grant of Temporary status and regularisation). By order dated 24.6.1997 the service of the applicant was terminated with immediate effect on disciplinary ground. Undisputedly the service of the applicant was terminated on the ground of some alleged misconduct. Besides the impugned order the other materials

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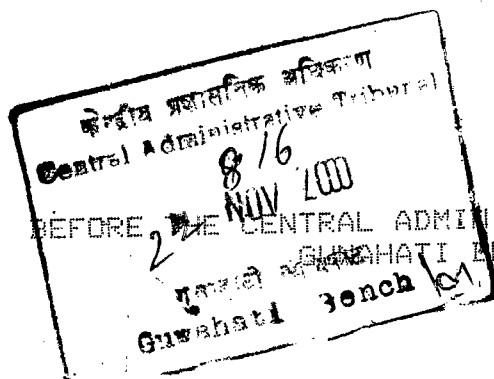
produced by the written statement clearly indicates that the service of the applicant was terminated on the ground of alleged misconduct. The impugned order of termination is not a simplicitor visited with civil consequence.

2. Mr. A. Deb Roy, learned Sr. C.G.S.C. submitted that the conferment of Temporary Status does not preclude the authority to dispense with the service of a casual labour by way of termination. The order had to be passed for maintaining the office discipline and to improve office discipline. The complaints made by his colleagues were of serious nature. Be that as it may, since the impugned order is passed on the alleged misconduct the purported termination of service of the applicant cannot be sustained. Accordingly the impugned order of termination dated 24.6.1997 is set aside and the respondents ^{are} ~~is~~ ordered _{to} to reinstate the applicant in service forthwith. It is made clear that the applicant shall not be paid back wages but he shall be entitled to all other service benefits like seniority etc.

3. The application is allowed to the extent indicated above. There shall, however be no order as to costs.


(D.N.CHOWDHURY)
Vice-Chairman

trd



Title of the case :

O.A. No. 402 of 2000

Between

Shri: Pradip Das Applicant.

AND

Union of India & ors Respondents.

I N D E X

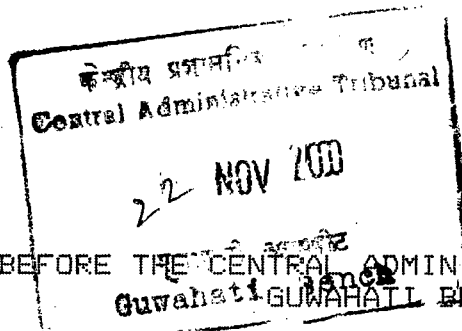
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Filed by :

Regn.No.:

File : PRADIPSSC

Date :



6
Filed by
Siddhanta Sarma
Advocate
21-11-2010.

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

D.A.No. 902 of 2000

BETWEEN

Shri Pradip Das,
son of Sri K.R. Das,
resident of Uzan Bazar,
Rajbari, Guwahati-781001.
Assam.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Personnel, Personnel Grievance and Training.
New Delhi.

2. The Director,,
Staff Selection Commission. (SSC),
Block No 12 , CGO Complex,
Lodhi Road, New Delhi - 3.

3. The Regional Director NER,
Staff Selection Commission, (SSC).
Chesikuthi Road Guwahati-781008.

Rukmi gaon, Sangam Lodge, Ghy-6.

..... Respondents.

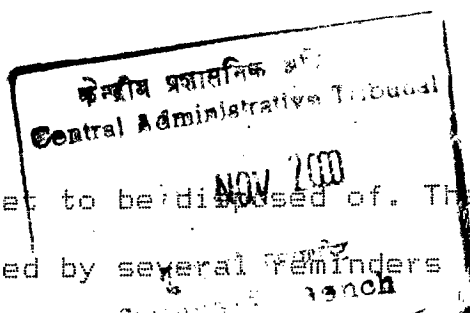
PARTICULARS OF THE APPLICATION

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

This present application is directed against the order dated 24.6.97 issued by the Regional Director NER, SSC terminating the service of the applicant on disciplinary ground. This application is also directed against the action of the respondents in not disposing of the appeal dated 14.7.97 against the order of termination dated 24.6.97 .

2. LIMITATION:

The applicant begs to state that he has preferred an appeal on 14.7.97 against the order of termination dated 24.6.97



but the same is yet to be disposed of. The said appeal dated 14.7.97 was followed by several reminders but till date nothing has been done so far in the matter. In the mean time the mother of the applicant who was long suffering from cancer died and as such he could not approach the Hon'ble Tribunal at the earliest. Apart from that he being the only bread earner of his family could not arrange even the cost of the application as such the delay if any in approaching the Hon'ble Tribunal may be condoned as the aforesaid delay does not construed to be the negligence on the part of the applicant. In fact he has been pursuing the matter before the respondents but since no reply in affirmative has been furnished to him, there was no other alternative than to approach the Hon'ble Tribunal.

It is therefore in view of the of the aforesaid circumstances the applicant has approached the Hon'ble Tribunal seeking an appropriate relief with a further prayer for condonation of the delay in filing the said application. However, for abandon question the, applicant has also filed a separate delay condonation petition along with the O.A.

3. JURISDICTION:

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

4. FACTS OF THE CASE:

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

10
Regional Director
Control Administration Tribunal

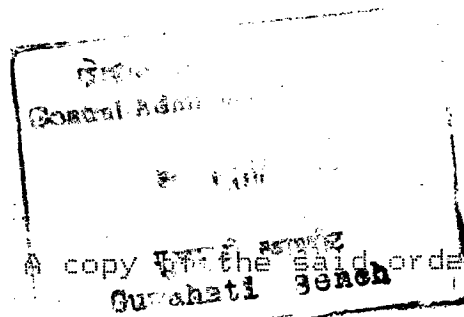
4.2. That the applicant entered the services under the respondents as a casual worker. His each casual employment was pursuant to a duly constituted selection processes. The respondents to that effect placed their indents to the local Employment Exchange and the said Employment Exchange sponsored the name of the applicant for the said post of Casual worker. The respondents, i.e, the Regional Director NER to that effect issued an order dated 21.4.92 to the applicant intimating about his willingness as well the date of the written test scheduled to be held on 2-5-92.

A copy of the said letter dated 21.4.92 is annexed herewith and marked as ANNEXURE-A.

4.3. That the applicant thereafter appeared in the said written examination and cleared the same. The regional director issued a letter to the applicant dated 25.5.92 informing about the result of the written test and asked him to appear in the personality test scheduled to be held on 9.6.92. Accordingly the applicant appeared in the said personality test and also cleared the same. Thereafter the applicant joined the post on 15.6.92 as casual worker.

A copy of the order dated 25.5.92 is annexed herewith and marked as ANNEXURE-B.

4.4 That after such appointment the applicant continued to serve in the said capacity to the best of his ability and to the satisfaction of all concerned. Thereafter the Regional Director issued an order vide No SOCG-A.12024/1/90 by which temporary status has been conferred on the applicant w,e,f, 10.9.93, on the basis of the D.M. dated 1.9.93. Thereafter the said respondents issued various orders by which the other benefits of the said D.M. has been granted to the applicant.



A copy of the said order granting temporary status to the applicant is annexed herewith and marked as ANNEXURE-C.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the orders mentioned above at the time of hearing of the case.

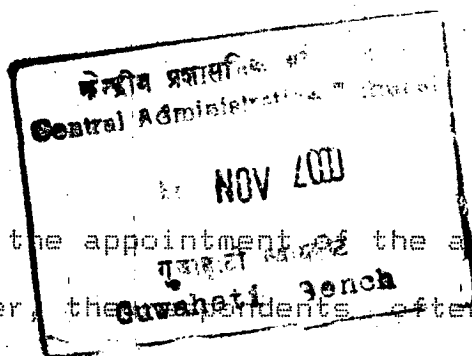
4.5. That the applicant thereafter received a letter vide No. SBCE-11021/1195-Admn./1295 dated 24.6.97 issued by the Regional Director (NER) by which the service of the applicant has been terminated with immediate effect on disciplinary ground, without holding regular Departmental proceedings.

A copy of the said order dated 24.6.97 is annexed herewith and marked as Annexure-D.

4.6. That the applicant begs to state that the reason behind the issuance of termination order dated 24.6.97 begins with the issuance of a memorandum dated 8.4.96 by the Regional Director (NER). In the said memorandum the applicant has been asked to submit an explanation in regard to certain allegation namely wrinkling in the attendance register of casual worker of 2.4.96 resulting damage in the cover bore. The applicant immediately after receipt of the said memorandum submitted his written explanation on 10.4.96.

Copies of the memorandum dated 8.4.96 and written explanation dated 10.4.96 are annexed herewith and marked as Annexure-E & F respectively.

4.7. That the respondents thereafter kept the matter pending for along time and while the applicant inquired about the matter he was told that the charge has been dropped. The applicant as before has been performing his duties to the best of his abili-



ty. Although the appointment of the applicant has been made as casual however, the respondents often asked to perform higher responsibility such as collection of venue lists, name of question paper receiver, etc in relation to recruitments of other officials staff, of which mention may be made of order dated 14/8/96 and 24/9/96 issued by the regional Director (NER).

The applicant craves leave of this Hon'ble Tribunal to produce the aforesaid orders at the time of hearing of the case.

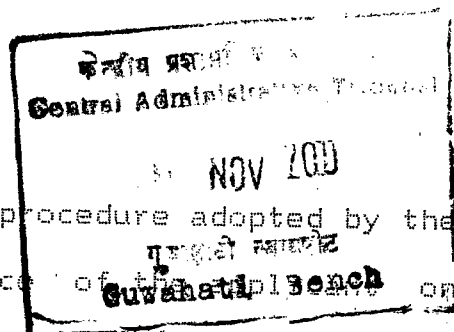
4.8. That the applicant begs to state that in the order of termination dated 24.6.97 (Annexure-D) there has been a mention that the same has been issued on disciplinary ground. However, the respondents have not conducted any enquiry in to the matter. The applicant immediately on receipt of the aforesaid order dated 24.6.97 made an appeal highlighting the factual position on 14.7.97, but same is yet to yield any result in affirmative.

A copy of the appeal filed by the applicant dated 14.7.97 is annexed herewith and marked as Annexure-G.

4.9. That the applicant pursuing the matter before the concerned authority that when no result came out he was constrained to remind the matter to the respondents by filing the reminder dated 14.8.97. But as usual the respondents kept the matter in the cold storage without disposing of his appeal.

A copy of the reminder dated 14.8.97 is annexed herewith and marked as Annexure-H.

4.10. That the applicant begs to state that the respondents have acted illegally in issuing the impugned termination order dated 24.6.97 without resorting to any regular enquiry. The law is well settled that termination order can only be issued to a temporary employee after holding regular departmental enquiry.



The method and procedure adopted by the respondents in terminating the service of the applicant on disciplinary ground in contrary to the rules guiding the field.

4.11. That the applicant being a temporary employee of the respondents, the method and procedure should have been followed in conducting the regular enquiry in to the matter as per the prescribed rule. The respondents even have not yet disposed of his appeal dated 14.7.97 (Annexure-G) and no reason has been assigned for such delay in disposal as required under the rules. In view of the above the impugned order of termination is liable to be set aside and quashed.

4.12. That the applicant begs to state that the memorandum has been issued to him on 8.4.96 and on 10.4.96 he submitted his written explanation but after more than a year i.e. on 24.6.97 the impugned order of termination has been issued allegedly on disciplinary ground without quoting the memorandum dated 8.4.96. It is therefore, can not be presumed that the impugned termination order issued to the applicant is a direct result of the aforesaid memorandum dated 8.4.96, since there has been no mention in the impugned order regarding the memo, and same can be treated as non-speaking order. In fact on enquiry in to the matter before issuance of termination order the applicant was told that the charges leveled against him has been dropped taking in to consideration his written explanation dated 14.7.97.

In that view of the matter the applicant craves leave of this Hon'ble Tribunal for a direction to the respondents to produce all the relevant records at the time of hearing of the case.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action of the respondents in issuing the

NOV 200

order of termination without resorting to regular departmental enquiry as prescribed under the rules is illegal, arbitrary and same is not sustainable in the eye of law.

5.2. For that the action of the respondents in not disposing of the appeal filed by the applicant is per-se-illegal and on that score alone the impugned order of termination is liable to be set aside and quashed.

5.3. For that the action of the respondents in issuing the impugned order without quoting anything regarding the memo as well as his findings of the matter is illegal and same can be treated as a non-speaking order and hence same is liable to be set aside and quashed.

5.4. For that from the impugned order of termination which has been issued after a delay about one year of issuance of the memorandum that to without quoting any previous reference, it is very difficult to presume as to its originality and same being a non-speaking order liable to be set aside and quashed.

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

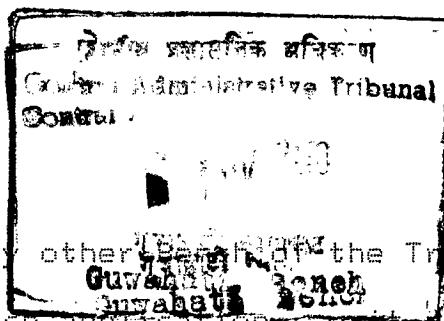
That the applicant craves leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before



any other court or any other Bench of the Tribunal or any other authority nor any such application, petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

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

- 8.1. To set aside and quash Annexure-D order of termination dated 24.6.97 and to reinstate him with retrospective effect i.e, from the date of termination, with all consequential service benefits including arrear salaries etc.
- 8.2. Cost of the application.
- 8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Considering the facts and circumstances of the case the applicant does not pray for any interim relief at this stage, however he prays before this Hon'ble Tribunal to fix the matter for hearing at an early date.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 26,503944
2. Date : 20-11-2000
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

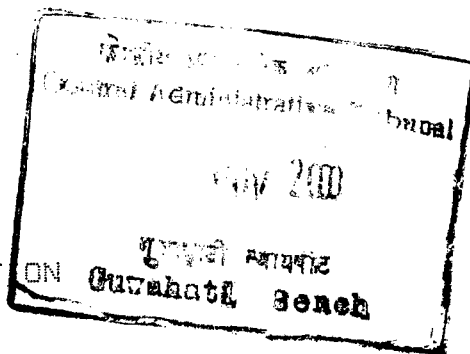
As stated in the Index.

VERIFICAT

ON

Guwahati

Seneh



I, Shri Pradip Das, son of Shri K.R.Das, aged about 32 years, resident of Uzanbazar, Rajbari, Guwahati-1, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4.1, 4.7, 4.10-4.12 and 5 to 12 are true to my knowledge and those made in paragraphs 4.2-4.6, 4.8 & 4.9 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 21st day of Nov 2000.

Signature.

Pradip Das.

6set
- 10 - K/L - (13) A
No.SSCG.A/12024/1/90-Admn/

Government of India
Staff Selection Commission
Ministry of Personnel & Trg. etc.

ANNEXURE-A

Regional Office
Nabagraha Road
Chenikuthi Hilside
Guwahati-781 003

21st April, 1992

To,

_____ Pradip Das _____
_____ Uzan - Bazar _____
_____ J. Rajbari _____
_____ ghy. - 1 _____

Sub:- Recruitment of Casual Workers - regarding.

Sir/Madam,

The Staff Selection Commission is pleased to inform you that your name has been forwarded by the District Employment Exchange, Guwahati for the post of 'Casual Worker' to be filled up shortly in this Regional Office on the following conditions-

1. The appointment is purely temporary for 120 days only and can be terminated at any time without prior notice.
2. The post carries a wage of Rs. 25/- per day on NO WORK NO PAY basis.
3. There will be no claim for regularisation and any claim in this regard will not be entertained.

If you are interested for the post on the conditions stipulated you may report for a Written Test on 02-05-1992 at 10-00 A.M to the Commission. Please bring your original certificates relating to educational qualifications, experience etc. along with pen/pencil.

Yours faithfully,

S. N. Bhuy.
(S.N. BHUYAN)
Regional Director (NER)

No. SSCG.A-12024/1/90-Admn/1909
Government of India
Staff Selection Commission
Ministry of Personnel, PG & Pension

Regional Office (NER)
Nabagraha Road,
Chenikuthi Hilside
Guwahati-781 003

Date: 25th May '92

To,

Shri/Smti. Pandip Das
Guwahati-1

Sub:- Recruitment to the post of Casual Worker - Interview regarding
Sir/Madam,

With reference to your candidature for the post of Casual
Worker in this Regional Office and on the basis of your performance
in the written test held on 2nd May, 1992 you are hereby directed to
appear for the personality test to be held on 9th June, 1992 in the
Regional Office at 10-00 A.M.

While appearing the interview you are to bring the following
documents in original :-

- (1) Date of Birth Certificate
- (2) Qualification Certificate from Matriculation onwards.
- (3) Experience Certificate, if any
- (4) SC/ST certificate
- (5) Recent Passport size photograph.

Yours faithfully,

S. N. Bhuyan
(S.N. BHUYAN)
Regional Director (NER)

GOVERNMENT OF INDIA
STAFF SELECTION COMMISSION
REGIONAL OFFICE (NER)
CHENIKUTHI HILL SIDE
NABAGRAHA ROAD
GUWAHATI - 781 003.

No.SSCG-A.12024/1/90-Admn/13

OFFICE ORDER

Subject:-Casual Labourers (Grant of Temporary status and regularisation) Scheme of the Government of India, 1993.

In pursuance of the Ministry of Personnel, Public Grievances & Pensions, (Department of Personnel & Training) O.M. No. 51016/2/90-Estt (c) dated 10th September, 1993, on the above subject, the following nine Casual Workers are hereby granted temporary status W.e.f. 1st September, 1993, on the terms and conditions specified in the said O.M.

<u>Sl.No.</u>	<u>Name of the daily wager</u>
1.	Ms. Bandana Mandal
2.	Shri Tarun Kumar Das
3.	" Bhabesh Kumar
4.	" Sourabh Kumar Rabha
5.	" Arijit Chakrabarty
6.	" Pradip Das
7.	Mrs. Jamini Deka
8.	" Namita Baruah
9.	Shri Kuku Basfor

S. N. Bhuyan
(S. N. BHUYAN)
Regional Director(NER).

Copy to :-

1. Under Secretary (A), Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi-3.
2. Pay & Accounts Officer, (Department of Personnel & Training) Lok Nayak Bhawan, 3rd Floor 'B' Wing, Khan Market, New Delhi - 110 003.
3. All daily Wagers concerned.
4. Accounts Section, Staff Selection Commission, (NER), Guwahati - 781 003.

REGIONAL DIRECTOR(NER)

F.No. SSCG-C-11021/1/95-Admn. // 15
Government of India
Staff Selection Commission

30/8/96 Comm* by Jann, dlc
(3 Com)

9
24/6/97

Regional Office(NER),
Rukmini Nagar,
P.O. Assam Sachivalaya,
Guwahati - 781006.

Date : 24.06.97 +

OFFICE ORDER

47

Shri Pradip Kr. Das, a daily casual worker has been terminated from his service with immediate effect on disciplinary ground.

(M. BORGHAIN)
Regional Director(NER).

Copy to :-

1. ✓ Shri Pradip Kr. Das, Casual Worker
2. ✓ Administration Section, SSC, NER, Guwahati.
3. Accounts Section, SSC, NER, Guwahati.
4. Deputy Director, SSC, NER, Guwahati.
5. Assistant Director(A), SSC, NER, Guwahati.
6. Assistant Director(E), SSC, NER, Guwahati.
7. Personal File of Shri Pradip Kr. Das.

Attested
Signature
Admn.



-14-

ANNEXURE - E

No. SSCG-C-11012/1/95-Admn.

कर्मचारी चयन आयोग

क्षेत्रीय कार्यालय (उ० पू०)

TELEX NO-2352478 S.S.C.O.
TELEGRAPHIC ADDRESS: STASFCOM,
TELEPHONE-45270

TELEX NO-2352478 S.S.C.O.
TELEGRAPHIC ADDRESS: STASFCOM,
TELEPHONE-45270

STAFF SELECTION COMMISSION

INDIA

REGIONAL OFFICE (NER)

10 B, DR. THILL HILL, MADAGASIHARA ROAD,
CHENNAI-600 008.

Date : 08.04.96

M E M O R A N D U M

It has been reported that Shri Pradip Das, Casual Worker has wrinkled the Attendance Register of Casual Workers on 2.4.96. As result of it some portion of the Attendance Register especially the cover bore damaging marks. This type of action is quite unbecoming on the part of Casual as well Regular employees as it reflects lack of decorum and decency in the office.

Shri Pradip Das is therefore hereby directed to submit explanation within 3 days of receipt of this memo, as to why disciplinary action should not be taken against him for his unbecoming behaviour and action in the office, failing which necessary disciplinary action as deemed fit should be taken against him.

(M. BORGOHAIN)
Regional Director (NER).

Copy to :-

1. Shri Pradip Das
2. Personal file of Shri Das.



To,

The Regional Director(NER)
Staff Selection Commission,
Guwahati - 781 003.

Sir,

With due respect I beg to submit the following in reply of your memo. No. SSG-C-11012/1/95- Admn. dt. 08/04/96.

That sir, The allegation raised in above memo. is not true, on 02/04/96. I was present myself in the official duty and according I have signed my arrival and departure in proper time. I donot know when the allegation of Wrinkled of Attendance Register had been made, or who had done this. It may stated that I was on leave on 3rd & 4th of April, on 8th April 1996 I have rejoined on my duty.

That sir, If the Attendance Register has been Wrinkled and danaged than I may be asked that how the same has been continue to be used.

In view of the above, I pary your goodself to look into the case and please see that no disceplinary action taken against me as the allegation is purely untrue.

Pragve
Vague

Yours faithfully

Dated : * 10th April, 1996

(PRADIP DAS)
C.w.
SSc Guwahati- 3

To
The Regional Director N.E.R. Staff
Selection Commission, Govt. of India
Guwahati-781006.

Sub:- RE-INSTATE OF SERVICE

Ref:- R.No. SSCGC 110214/1/95-Admn/1295 dated 24-6-97.

Sir,

With due honour and humble submission and reference to the office order cited above, I am to state the following few lines for favour of your kind consideration and sympathetic order.

Sir, I have been appointed under your kind disposal on 15-6-92 as casual labour. Since then I discharge my duty sincerely till 24-6-97. But on 24-6-97 I received the above office order of termination of my service. Now, I have already crossed the age limit to apply in other departments.

Moreover, there is no service holder in my family to look after my old parents and younger brothers and sisters. In this connection, I beg apology for my any omission or commission done by me without my knowledge.

Under the circumstances stated above, I request your honour to consider my appointment and to save my family members. I shall remain ever grateful to you by cancelling the above order and oblige.

Yours faithfully,

Pradipt Das

(PRADIPT DAS)

Casual Worker with
Station.

14-7-97

20/8
21/8

To
The Regional Director (N.E.R)
Staff Selection Commission
Guwahati - 781006.

DI 14-8-97

Sub: Re-instate of Service

Ref: SSCG-C-11021/1/95-Adan/1295
dt. 24-06-97

Sir,

In continuation my representation dt. 14-7-97,
I beg to state that after laps of one month I have not
received any communication from your good office.

As you know sir, that there is no any service
holder except me in my family. I have look after my old
parents and younger brother and sister as I am not getting
any pay or there is no other source of income since my
termination. I am facing severe financial crisis.

Under the above circumstances I again request
you kindly to consider my re-instatement to said me as well
as my family member from the acute financial crisis.

Thanking you sir,

Your's faithfully

Pradip Das

)(Pradip Das.)

Casual Worker with T/S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. No. 402 OF 2000

Shri Pradip Das

-Vs-

Union of India & others

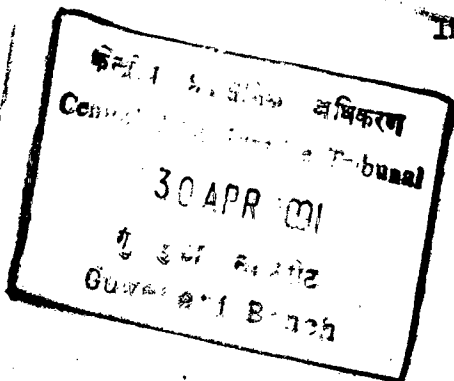
IN THE MATTER OF

Written statement submitted
by the respondents.

The respondents beg to submit the written statement as follows :-

1. That with regard to para 1 the respondents beg to state that the services of the applicant was terminated as he made the life of the lady employees miserable and jeopardised the working environment of the office. The representation dated 14.7.97 (Annexure G of the O.A.) has been considered but not acceded to as he admitted his guilt saying he committed the offence and for saving the life and dignity of the women employees of the office. ✓

2. That with regard to para 2 the respondents beg to state that as regards this representation dated 14.7.97 (Annexure G of the O.A.) against the order of termination dated 24.6.97, it is stated that the petitioner himself admitted that he committed the offence. By saying



20
Regd
27/4/01
Dr. C. S. S. C.

26
this he has admitted his guilt. As such his representation dated 14.7.97 was considered and rejected being devoid of merit.

3. That with regard to para 3 the respondents beg to offer no comment.

4. That with regard to para 4.1 to 4.4 the respondents beg to offer no comments.

5. That with regard to para 4.5 the respondents beg to state that on 24.6.97, inside the office, the petitioner pulled a lady employee from the section and beat her to which the staff members are witness. On this incident all the lady employee becoem panicky for their safety and honour in the office. This was not the first time that he conducted himself in such vulgar manner but on many other occassion in the past also he misbehaved with the ladies. Every time a lenient view was taken and he was verbally instructed on 24.9.1996 not to repeat such act in the future. Besides petitioner has himself admitted his guilt in his representation dated 14.7.97. Thus keeping in view his past misconduct, his admission of guilt and immediate need to restore official discipline and decoram and safety and dignity of the lady employee it was not considered necessary to hold any separate departmental proceedings to establish charge against him, which he had himself admitted as stated above.

Copy of note dated 24.9.96

is annexed and marked as

ANNEXURE- A.

6. That with regard to para 4.6 the respondents beg to state that the contention of the petitioner is not correct. Petitioner was in the habit of doing mischiefs one after another. He was warned verbally several time. Actually the termination became inevitable in public interest when almost all the lady employees of the office of the respondent submitted written complaint against him on 30.8.96.

Copies of the complaint
and the notes of the Officer
concerned in this regard are
annexed hereto and marked as
ANNEXURE- B (series)

7. That with regard to para 4.7 the respondents beg to state that the contention of the petitioner is not agreed to. No matter was kept pending. In no point of time the petitioner was told that the matter has been dropped. The duties regarding collection of venues etc. have nothing to do with the offence committed by him for which his services were terminated.

8. That with regard to para 4.8 the respondents beg to state that as explained in reply to para 4.5 above.

9. That with regard to para 4.9 the respondents beg to state that in view of the gravity of the offence committed by the petitioner which he was admitted himself and keeping in view the safety and honour of the lady employees it was not considered necessary to reply to his representation dated 14.7.97/14.8.97.

10. That with regard to para 4.10 and 4.11 the respondents as explained in reply to para 4.5 above.

11. That with regard to para 4.12 the respondents beg to state that the disciplinary ground on which the services of the petitioner has been terminated is the very serious act of misbehaviour of the petitioner towards the female employee of this office which has been duly elaborated in reply to para 4.5 above. As regards non-speaking order it may be stated that it was not found desirable to elaborate the incident in the order itself to the prejudice of the dignity/honour of the female employee of this office.

12. That with regard to para 5.12 to 5.14 the respondents already explained in the preceding paragraphs.

13. That with regard to para 5.5 it is submitted that the action taken by the respondents against the petitioner is not illegal. Such action became necessary to save the dignity and honour of the female employees. The respondent have not acted illegally.

Contd....5/-

14. That with regard to para 6 and 7 the respondents beg to offer no comments.

15. That with regard to para 8.1 to 8.3 the respondents beg to state that in view of disgraceful, barbarous and inhuman offence committed by the petitioner towards the lady employees of this office as narrated in reply to proceeding paras and in order to save the life/dignity of the women employees of this office, it is prayed that the petition be dismissed with costs.

16. That with regard to para 9 to 12 the respondents beg to offer no comments.


VERIFICATION

I Shri BUDHIN BORAH

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

And I sign this verification on this _____

26th day of April, 2001.


DECLARANT
(D. BORAH)
Accounts Officer
Staff Selection Commission (WB)
Government of India,
Gachhati-701001

placed below are the complaints made by Ms. Jernani Sika, Ms. Chandrakulde Das and Ms. Namita Barmah. ^{only wages,} against Shri Pradip Das, also a daily wages of Exam. section for speaking abusive words to the above mentioned 3 ladies on 30.8.96 during office hours. As it pertains to administrative matters, administration side may please take necessary steps in the matter.

[Signature]
ADE/9/96

DD

Strong action may be taken against Sri Das, LWA (wage) to maintain discipline.

[Signature]
23/09/96

R/D

Pradip Das may be instructed not to repeat such behaviour in future.

[Signature]
24/9

Am(10)

31

3.

Sir,

[illegible]

Yours faithfully
Bundana Mandal
24.6.57.

* English version enclosed.

To

.....

Sir,

I Smt. Bandana Mandal is a casual worker in your office. Another casual worker Shri Pradip Das physically assaulted me. Today, at around 2 PM, when I was sitting on my table, Pradip Das who was sitting in AD(E)'s room, came to my room and snatched my bag and opened the same. When I tried to keep the bag with me, he (Pradip Das) held my neck and forcibly took me to AD(E)'s room. At that time, Malaker was sitting in that room. After that, he (Pradip Das) dragged me to the first floor.

So, I kindly request you to take necessary action at your end.

Sd/- Bandana Mandal

24.6.97

...

- 9 - 38

To

The Regional Director(NER),
Staff Selection Commission
Guwahati.

Through the Deputy Director, SSC, Guwahati

Dated: 30.08.1996.

Sir,

With due respect and humble submission we beg to inform you that while we are busy with our normal works, Mr. Pradip Das came over to our ladies room and unprovokedly scolded us like anything is started uttering abusive languages which are simply unexpressible and the words were against the dignity of the women folk.

In view of the above circumstances we fervently appear to your benign self to take some administrative steps so that we the women working in this office continue our day to day work with prestige and dignity.

This is for your information and for immediate administrative action please.

With highest regard and sincere faith in your good offices.

Yours faithfully,

Jamini Deka

(JAMINI DEKA)

10 34
To

The Regional Director(NER),
Staff Selection Commission
Guwahati.

[Through the Deputy Director, SSC,Guwahati]

Dated: 30.08.1996.

Sir,

With due respect and humble submission we beg to inform you that while we are busy with our normal works, Mr. Pradip Das came over to our ladies room and unprovokedly scolded us like anything is started uttering abusive languages which are simply unexpressible and the words were against the dignity of the women folk.

In view of the above circumstances we fervently appear to your benign self to take some administrative steps so that we the women working in this office continue our day to day work with prestige and dignity.

This is for your information and for immediate administrative action please.

With highest regard and sincere faith in your good offices.

Yours faithfully,

Chandra Lekha Das

(CHANDRALEKHA DAS)

To

The Regional Director(NER).
Staff Selection Commission
Guwahati.

[Through the Deputy Director, SSC,Guwahati]

Dated: 30.08.1996.

Sir,

With due respect and humble submission we beg to inform you that while we are busy with our normal works, Mr. Pradip Das came over to our ladies room and unprovokedly scolded us like anything is started uttering abusive languages which are simply unexpressible and the words were against the dignity of the women folk.

In view of the above circumstances we fervently appear to your benign self to take some administrative steps so that we the women working in this office continue our day to day work with prestige and dignity.

This is for your information and for immediate administrative action please.

With highest regard and sincere faith in your good offices.

Yours faithfully,
Namita Baruah

(NAMITA BARUAH)

12

RD/DD, the report against Sri Pradip Das (casual worker) may kindly be seen! —

Sri Pradip Das (CW) of this office is beating Miss Bandana Mandal (CW) in the Examination Section roughly and daily and he is pulling Miss Bandana Mandal from Examination Section to Administration Section forcefully. I have seen them today.

This is for information and necessary action immediately please.
 ~~Otherwise the office decorum will be finished.~~
 24/11/92. DD

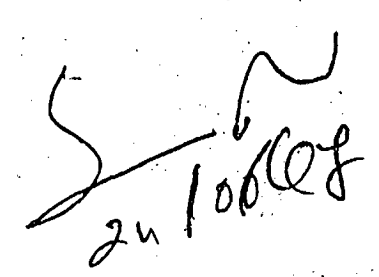
1) As this particular CW is involved in misbehavior with other ladies also in earlier occasion we have to take a very strong action against him. He had earlier also beaten Miss Mandal several times.

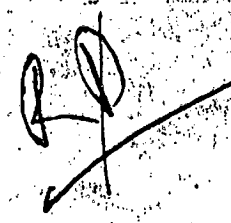
2) At least in one occasion, I had recommended very strong action against Sri Pradip Das, CW for his misbehavior with other ladies colleagues. But unfortunately Admin. has not taken any action due

reason best known to Admin.
③ I sincerely hope, this time some
long action will be taken by Admin.

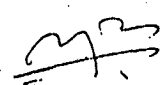
④ If this time Admin. fails to take
any action against Sir Das, Sir Das
will be again encouraged to do
anything in the office premises at
his sweet will. Further, it will
erode the moral of our staff.

Submitted to RD for na.


24/06/97

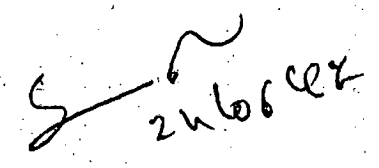


Pl. see whether all staff, especially
examination section are witness to this
incident or not.

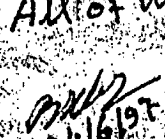


DA AD(E) on leave

dekan/Tarun/Tamini/Vamika


24/06/97

All of us have seen the incident.


24/6/97
Tarun AS
24/6/97
Vamika param.
24.6.97
Tamini Deka
24/6/97
Sougaleh Babbar
24-6-97

Staff Selection Commission (N.E.R.)
Guwahati

Today on 24.6.97 at around 1.55 P.M. a report has been received from Shri Babul Malakar, Assistant in the Examination Section of this office about the misbehaviour of Shri Pradip Das Casual Worker of this office. It is reported that he pulled and beat Miss Bandana Mandal from Examination Section up to Shri Sonowal's room. The matter was also reported to the Deputy Director that also stated that Shri Pradip Das had beaten Miss Bandana Mandal several times.

On 30th August, 1996, serious complaints were received on record from Smt. Jamini Deka, Chandralekha Das, and Namita Baruah Casual Workers of this office about indecent behaviours of Shri Pradip Das.

Shri Pradip Das was instructed verbally by all the officers of this office not to behave in such a way in future. He has not at all taken the advice/instructions of these officers seriously. As such his continuation in this office will jeopardise the office decorum and working environment of this office and the staff as a whole.

All the staff in the Examination Section of this office has witnessed the tragic incident. In view of the above tragic and disgraceful incidents happenings in the office, on account of Pradip Das, the authority have no option but to terminate the services of Shri Pradip Das, Casual Worker of this office with immediate effect.

Necessary orders to this effect may kindly be issued.

(R.S. Phungsini)
Assistant Director (A)

~~DD~~
A.D.

24/6/97

As proposed. Pl. issue the order today itself.

24/6/97

24/6/97

order to this effect is placed below for issue to the person concerned, which may be issued to him.

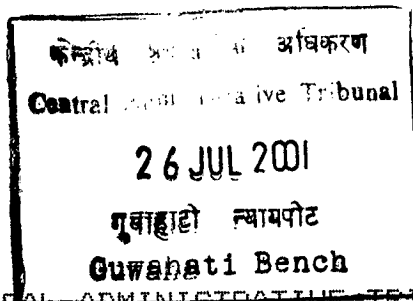
24/6/97

RD may pl. issue and issue the order

24/6/97

RD

24/6/97



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.

31
Filed by
Sudhakar Sen

OA No.402/2000

Sri Pradip Das.

-vs-

Union of India & Ors.

Rejoinder to the written statement.

1. That the applicant has received the copy of the written statement and gone through the same. Save and except the statements which are not specifically admitted herein below, may the treated as total denial, and rests are the humble submission before the Hon'ble Tribunal.

2. That with regard to the statement made in para 1 of the written statement the applicant categorically denies the correctness of the same and begs to state that the respondents have casted stigma on the present applicant without affording him any opportunity of hearing. Annexure -4 representation is a simple representation praying for setting aside the order of termination. Nothing has been admitted by the applicant the applicant further denies that the correctness of the statement that anything adverse has happened against the dignity of woman employee. In fact nothing has been communicated to the present applicant during his service tenure questioning about dignity of women employee. It is only for the first time the applicant could come to know such wild allegation, which are baseless. Admittedly the respondents basing on such baseless and un-communicated allegation terminated his service without holding any enquiry and without affording him any scope to place his say in the matter. All the allegations are after thought of the respondents.

- 240

3. That with regard to the statement made in para 2 of the written statement The applicant denies the correctness of the same and begs to state that Annexure -4 is a simple representation praying for restoration of his service and nothing has been admitted by the applicant. It is further denied that the said Annexure -4 representation dated 14.7.97 has been disposed of. The respondents have not yet considered the said representation dated 14.7.97 (Annexure-4) and same is yet to be disposed of.

4. That with regard to the statement made in para 3 & 4 of the written statement the applicant offers no comment on it.

5. That with regard to the statement made in para 5 of the written statement the applicant while reiterating and reaffirming the statement made above as well as in the OA and begs to state that no such incident took place amounting panicky to the Lady Employees. The respondents taking the shelter of Lady employees wanted to remove the applicant . In fact earlier the respondents have never made any whisper about any such incident. Till date nothing (complaint) has been communicated to the present applicant, enabling him to place his say. Again the applicant begs to state that Annexure -4 is the representation praying for restoration of his service, nothing more than that. Admittedly no inquiry has been made by the respondents to find out the truth of allegation. Apart from that he was also not made aware of the factual position as to why his service has been terminated. It is only for the first time the respondents have narrated the fact of misconduct, (past misconduct) basing on which his order of termination has been issued.

6. That with regard to the statement made in para 6 of the written statement the applicant reiterates and reaffirms the statement made above as well as in the OA and begs to state that

3 11

he has not done any thing (Mischief) as stated by the respondents. The respondents taking the aid of terminology "Complaint made by lady employee" terminated his service casting stigma on him. Till date the applicant has not been served with any such complaint. The respondents without making any inquiry into the matter terminated his service basing on the said purported and un-communicated complaints. The Annexure-B (series) complaints are the after thought of the respondents and same has been used as an weapon to show the public interest and to project an ugly picture of the applicants behavior so that to draw sympathy of the Hon'ble Tribunal. Not a Single copy (Annexure-B) colly has been served on the applicant basing on which his service has been terminated. Every thing has been done behind his back and now only in the present written statement, the respondents have narrated all these facts.

7. That with regard to the statement made in para 7 of the written statement the applicant denies the correctness of the same and begs to state that earlier the respondents have issued a memorandum dated 8.4.96 regarding certain baseless allegation of wrinkling the attendance register damaging the cover board, and he was asked to make representation. Accordingly applicant on 10.4.96 made a representation (Annexure-F) which was followed by another two representations dated 14.7.97 and 14.8.97. The respondents however, without taking into consideration the representations preferred by the applicant terminated his service orally taking into consideration the baseless allegation made against him.

8. That with regard to the statement made in para 8 of the written statement the applicant reiterates and reaffirms the statements made above as well as in the OA.

9. That with regard to the statement made in para 9 & 10 of the

- 4 -
W2

written statement the applicant while denying the contentions made therein reiterates and reaffirms the statement made above and begs to state that admittedly the respondents have not thought it proper to consider his representation and terminated his service without following the prescribed procedure.

10. That with regard to the statement made in para 11, 12, 13, 14, 15 & 16 of the written statement the applicant denies the correctness of the same and begs to state that arbitrariness is the foundation of termination of the service of the applicant without affording him any opportunity of hearing.

In view of the above it is crystal clear that the respondents have terminated the service of the applicant arbitrarily and without following the procedure prescribed under the rules and therefore the entire action on the part of the respondents are liable to be set aside and quashed.

- 5 -
UP

VERIFICATION

I, Shri Pradip Das, son of Shri K.R.Das, aged about 33 years, resident of Uzanbazar, Rajbari, Guwahati-1, do hereby solemnly affirm and verify that the statements made in paragraphs 3 and 7 are true to my knowledge and those made in paragraphs 1, 2, 4 to 6 and 8 to 10 are true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 22nd day of July. of 2001.

Pradip Das