

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 5/2000
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet OA- 5/2000 Pg. 1 to 2
2. Judgment/Order dtd. 11/02/2000 Pg. No. Separat order Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 5/2000 Pg. 1 to 41
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. NIL Pg. to
8. Rejoinder.....Pg. to
9. Reply.....Pg. to
10. Any other Papers.....Pg. to
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 3/2000

OF 199

Applicant(s) Sri Suresh Das and others.

Respondent(s) Union of India and others.

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


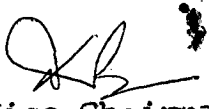
Mr. S. Sarma. Mr. U. K. Gopinami

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>11-1-2000</p> <p>654621</p> <p>65152000</p> <p>AN 7/01/2000</p> <p>15/1/2000</p>	11-1-2000	<p>Present: Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman and Hon'ble Mr. G.L. Sanglyine, Administrative Member.</p> <p>16 applicants have approached this Tribunal by filing a single petition. They have prayed for permission to join in this single application under the Provision of Rule 4(5)(a) of the C.A.T. Procedure Rules 1987. Heard Mr. B.K. Sharma learned counsel for the applicant and Mr. B.C. Pathak, learned Addl. C.G.S.C. Prayer is granted.</p> <p>In this application the applicants have challenged the Annexure 9 order dated 13.8.99 by which the representation of the applicants was rejected. The case of the applicants is that they have been working since 1986 or 1987. But the Annexure 9 order shows that the authority does not have any record to show that the applicants have been working as such.</p>

contd/-

Notes of the Registry	Date	Order of the Tribunal
<p>4.2.2000</p> <p>Copy of the order has been sent to the D/Sec. for issuing the line to the L/Adm. of the parties.</p> <p>Issued vide S.No. 366 & 367 d. 4.2.2000</p>	<p>11-1-2000</p>	<p>Mr.B.K.Sharma submits that this clause is contrary to Annexure 11 chart which eloquently speaks about their working since 1985. Mr.Sharma also submits that they are still working. We have heard Mr.B.C.Pathak, learned Addl.C.G.S.C. also.</p> <p>On hearing counsel for the parties we dispose of the application with direction to the respondents to scrutinise the case and consider the same by giving a reasoned order. The applicants may file separate representations giving details of their case within 15 days from to-day. They may also produce evidence that they have been working since 1986 -87. If such representation is filed that should be considered by taking into consideration of Annexure 11 chart and then dispose of the matter by a reasoned order. This must be done within a period of one month from the date of receipt the representation.</p> <p>Application is disposed of. No order as to costs.</p> <p>Till disposal of the representation status quo as on to-day shall be maintained.</p> <div style="display: flex; justify-content: space-between;"> <div data-bbox="782 1751 941 1860">  Member </div> <div data-bbox="1212 1724 1484 1860">  Vice-Chairman </div> </div>

lm

MS
24/1/2000

Central Admin. Bench
 16 JAN 2000
 গুৱাহাটী কেন্দ্রীয় বেঞ্চ
 Guwahati Bench
 BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of the case : O.A. No. 5 of 2000

Between

Shri. Sujit Das & Ors. ... Applicants.

AND

Union of India & ors Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 17
2.	Verification	18
3.	Annexure - A	19
4.	Annexure - 1	20 & 21
5.	Annexure - 2	22 to 25
6.	Annexure - 3	26
7.	Annexure - 4	27 to 30
8.	Annexure - 5	31
9.	Annexure - 6	32 to 34
10.	Annexure - 7	35
11.	Annexure - 8	36
12.	Annexure - 9	37
13.	Annexure - 10	38
14.	Annexure - 11	39
15.	Annexure - 12	40 & 41

Filed by : Regd. No. :
 File : Sujit Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Filed by:
The Applicants
through
Ukigowarin
Advocate
6-1-2000

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

U.P.No. 5 of 1997

BETWEEN

1. SUJIT DAS
2. KAJAL NATH
3. KAJAL DAS
4. BADAL BANIK
5. NARU CH DAS
6. PARITOSH CH DAS
7. SHYAMAL BISWASH
8. SATYANDRA DAS
9. HAJY KR DAS
10. PARESH MALAKAR
11. PARESH DAS
12. PRATAP MALAKAR
13. PARIMAL MALAKAR
14. SAMBHU DAS
15. MAINUL HAQUE
16. SANKAR ROY

All the 16 applicants are working as casual labour under the Sub Divisional Officer, Telecom, Haflong since 1986 and 1987.

..... Applicants.

VERSUS

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

S. Das

4. The General Manager, Telecom
Silchar SSA, Silchar-1.
5. The Sub Divisional Officer, Telecom
Halflong.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the order dated 13.8.99 by which representations of the applicants have been disposed of. This application is also directed against the action of the respondents in not granting temporary status and regularisation thereafter in total violation of the order dated 31.5.99 of the Hon'ble Tribunal passed in O.A. No.167/99 as well as various schemes prepared to that effect.

2. LIMITATION:

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

3. JURISDICTION:

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

4. /FACTS OF THE CASE:

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

4.2. / That the applicants are presently working as casual labour under the Department of Telecommunication since 1986 and 1987 and till date they are continuing in the said post without

SD
S. Das

any break. The applicant No 2,3 and 5 entered the service of the respondents in the year 1986 and the rests in the year 1987, as casual workers. The applicants through this application has prayed for granting of temporary status and regularisation as directed by the Hon'ble Tribunal and in the light of the scheme prepared in the year 1989 and the subsequent clarifications issued from time to time. The relief claimed by the applicants is common and the cause of action is also same for all the applicants and hence they pray before the Hon'ble Tribunal to allow them to join together in a single application, invoking rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules 1987.

The applicants for better appreciation of factual position regarding their service particulars has annexed a list and same is marked as Annexure-A.

4.3. That the casual labours of the Deptt. of Posts preferred a writ petition before the Hon'ble Supreme Court claiming the similar benefit of regularisation like that of the present applicants. The Hon'ble Supreme Court after hearing the parties was pleased to allow the said writ petition directing the respondents thereto to prepare a scheme on rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Deptt. Claiming the similar benefit some of the casual labourers working under the Telecom Department filed a writ petition vide No. Writ petition (C) No. 1280 of 1989 (Ram Gopal & Ors vs. U.O.I. & Ors). The Hon'ble Supreme Court on 17.4.90 was pleased to dispose of the said writ petition along with other connected matters directing the respondents thereto to prepare a scheme on rational basis for absorption of casual labourers who have continuously worked for more than one year in the Telecom Department.

ment. For better appreciation of the factual position the operative part of the said judgment and order dated 17.4.90 is quoted below :

" 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 contest at the time of hearing though they have filed a counter affidavit."

A copy of the judgment passed by the Hon'ble Apex Court is annexed herewith and marked as ANNEXURE-1.

4.4. That pursuant to the judgment passed by the Hon'ble Apex Court, the respondents have prepared a scheme in the name and style " Casual Labour grant of temporary status and regulari-

sation " Scheme 1989. The aforesaid scheme has been circulated by an order dated 7.11.89 issued by the Dept. of Telecommunication. In the said scheme it has been categorically mentioned that the same will be effective from 1.10.89 onwards and the same will be applicable to the casual workers employed by the Dept. of Telecommunication.

A copy of the said scheme is annexed herewith and marked as ANNEXURE-2.

4.5. That the applicants beg to state that the applicant Nos 2,3 and 5 were appointed as casual worker in the year 1986 and the rests got their appointment in the year 1987. It is pertinent to mention here that the all the applicants prior to their such appointment the respondents have placed indent before the District Employment Exchange, Haflong and the name of the applicants have been sponsored by the said Employment Exchange.

A copy of one of such sponsorship letter dated 30.4.87 is annexed herewith and marked as Annexure-3.

4.6 That the applicant begs to state that after issuance of the Annexure-3 letter dated 30.4.87 interview was held for the said post of Mazdoor and they were selected for the said post by the said duly constituted interview board. It is pertinent to mention here that till date they are continuing in their respective posts without any break and each year they have completed more than 240 days of work in a calender year. It is also pertinent to mention here that all of them were recruited prior to issuance of the letter dated 7.11.89 by which the scheme of 1989 for grant of Temporary Status and Regularisation has been circulated. In view of the criteria laid down in the said scheme the applicants are entitled to Temporary Status and subsequent Regularisation just after 7.11.89 i.e, the date on which the aforesaid scheme was circulated. The respondents however, ignoring their claim have

10

been denied the said benefit and till date they have not been conferred with temporary status and subsequent regularisation.

4.7 That after the issuance of the aforesaid scheme of 1989 the respondents have been issuing various clarifications in regard to the cut-off date mentioned in the said scheme. To that effect mention may be made of letter dated 17.12.1993 by which the said benefit was extended to the recruitees of 30.3.1985 to 22.6.88. Thereafter some of the later recruitees approached the Hon'ble Central Administrative Tribunal, Ernakulam Bench, by way of filing O.A. No.750/94 and pursuant to an order dated 13.3.95 passed by the said Hon'ble Tribunal the respondents have issued an order dated 1.11.1995, extending the said cut-off date up to recruitees of 10.9.1993.

The applicant craves leave of this Hon'ble Tribunal to produce the letters dated 22.6.88, and 1.11.95 at the time of hearing of this case.

4.8 That the applicant begs to state that in view of the aforesaid clarifications, as well as the order of the Hon'ble Central Administrative Tribunal, Ernakulam Bench referred above, they are entitled to get the benefit of the said scheme of 1989. It is further stated that the respondents thereafter issued various orders by which it has been clarified that the benefit of the scheme shall be extended to the recruiters of 31.3.1997. To that effect Department of Telecommunication issued a letter in the month of February, 1999, by which the said benefit has been extended to the recruiters of 31.3.1997.

The applicants in spite of their best efforts could not collect an authenticated copy of the said order and hence prays before this Hon'ble Tribunal for a direction to the respondents to produce the same before the Tribunal at the time of hearing of this case.

4.9 That the applicants beg to state that claiming similar benefit the Union namely, All India Telecom Employees Union, had approached the Hon'ble Tribunal by way of filing O.A. Nos. 299 and 302 of 1996. The Hon'ble Tribunal on 13.8.97 after hearing the parties to the proceeding was pleased to allow the said Original Application in favour of the applicants directing the respondents to extend the benefit of the said scheme of 1989. It is pertinent to mention here that the applicant in the aforesaid OAs have also prayed for a direction to treat them at par with the casual workers of Postal Deptt. as the scheme prepared in their respect was more beneficiary than that of the Telecom Deptt. The Hon'ble Tribunal while disposing of the said OAs was also pleased to grant the aforesaid relief by directing the respondents therein to treat them at par with the casual workers of Postal Deptt.

A copy of the said order of the Hon'ble Tribunal dated 13.8.97 is annexed herewith and marked as Annexure-4

4.10 That the applicants state that the said order dated 13.8.97 has been passed in respect of the applicant No.1 of the said Original Application i.e. All India Telecom Employees Union and hence the benefit of the said judgment and order dated 13.8.97 is also applicable to the members of the said Union including the present applicants. Needless to say here that when a judgment is pronounced by any court of law in respect of a particular set of employees, the principle laid down in the said judgment is required to be extended to the other similarly situated employees of the department. On the other hand the respondents being a model employer should deny the said benefit to the employees who could not approach the door of the court for want of money etc. It is the duty of the respondents to treat all the employees of a particular group or grade at par with the other group or grade

who got the benefit of certain judgment in their favour.

~~A copy of the order dated 13.8.97 is annexed herewith and marked as Annexure-5.~~

4.11 That the applicants beg to state that even after the judgment and order dated 13.8.97 the respondents have not done anything in regard to the granting of Temporary Status pursuant to the scheme mentioned above as well as the clarifications issued by the respondents to that effect. It is stated that being aggrieved some similarly situated employees like that of applicants have approached the Hon'ble Tribunal by way of filing various Original Applications before the Hon'ble Tribunal and the Hon'ble Tribunal after hearing was pleased to direct the respondents to consider their cases for grant of temporary status and regularisation. The respondents thereafter issued various orders by which direction has been issued to the local Head Offices for furnishing particulars of the casual labourers working under them. To that effect mention may be made of one of such order dated 27.8.98 by which particulars of the casual labourers like that of applicants have been asked for to grant Temporary Status and Regularisation.

A copy of the said letter dated 27.8.98 is annexed herewith and marked as Annexure-6

4.12 The applicants being aggrieved by the aforesaid action of the respondents for not granting Temporary Status to them were constrained to move this Hon'ble Tribunal by way of filing O.A. No. 167/99. The Hon'ble Tribunal on 31.5.99 was pleased to dispose of the said Original Application with direction to the respondents to dispose of the representation of the applicants by a reasoned order.

A copy of the said Order dated 31.5.99 referred above is annexed herewith and the same is marked as Annexure-7.

SD

S. 80

13

4.13 That pursuant to the aforesaid Annexure-7 order the applicants filed detailed representation individually on 16.6.99 praying for grant of Temporary Status and Regularisation in the light of the Scheme of 1989 prepared by the respondents as well as the clarifications issued from time to time.

A copy of one of such identical representations is annexed herewith and marked as Annexure-8.

4.14 That the respondents after receipt of the representation filed by the applicants has issued an identical order to each applicant on 13.8.99 by which the individual representation has been disposed of. In the said order the respondents while rejecting the claim of the applicants, have mentioned five grounds and the applicants beg to reply the same as follows :

(a) As regard the contention mentioned in the said order at sl. no. 1 is that the representation filed by the applicants was vague and without requisite and vital information and particulars, the applicants beg to state that in the representation filed by them contained the letters dated 7.1.89, by which the scheme for grant of Temporary Status and Regularisation has been circulated and the said order has been issued by the Assistant Director General, STN to the Chief General Manager, and all the Heads of Administrative Units. It is therefore not correct say on the part of the respondents that the applicants have suppressed certain factual matters in their representations.

(b) As regard the contention made in para 2 of the said letter dated 13.8.99 that the representations filed by the applicants were not supported by documents, the applicants beg to state that in their representations they have mentioned the letters and schemes issued by the respondents themselves and hence there is no necessity to support the contention by documents again and again. It is further stated that the contention

M

is not true as in the above noted original application the main supporting document has been the letter dated 7.11.89 by which the scheme of 1989 was circulated and the respondents cannot shift their responsibility placing their ignorance about the said letter dated 7.11.89.

(c) As regards the contention made in para 3 of the said letter dated 13.8.99 the applicants beg to state that for grant of Temporary Status and Regularisation the basic criteria is the date of engagement and the days of work in a particular year. To that effect Annexure-3 letter issued by the Employment Officer, Haflong is quite clear regarding the date of engagement of the applicants.

(d) As regards the contention made in paragraph 4 of the said letter dated 13.8.99 the applicants beg to state that non-maintenance of Register or Records in regular basis is not the fault of the applicants rather same highlights the callousness of the respondents in maintaining the proper records. It is stated that the applicants somehow could collect some of the documents by which it can be ascertained that they have been working since their date of joining without any break and each year they have completed more than 240 days of continuous service under the respondents.

(e) As regards to the contention made in paragraph 5 of the said letter dated 13.8.99 the applicants beg to state that in fact there was no ban on recruitment of casual labourers after 30.3.1985 and the aforesaid fact is clear from the Annexure-3 letter dated 30.4.1987 by which the name of the applicants have been sponsored by the local Employment Exchange.

A copy of the order dated 13.8.99 is annexed herewith and marked as Annexure-9.

4.15 That the applicants beg to state that from the above Annex-

ure-9 order dated 13.8.99 it is crystal clear that the respondents have not maintained any record in respect of the applicants with regard to their services which shows total non-application of mind of the respondents. It is emphatically stated that in fact there are various records in the office of the respondents to show that the applicants have been working since their date of joining without any break.

The applicants after the issuance of Annexure-9 order dated 13.8.99 collected certain documents which are as follows :

- i. Letter N. AMT/CH/U-17/RJCM/91-92 dated 12.6.1991 issued by the Assistant Director Telecom in the name of Area Director Telecom Guwahati in which name of the applicants found place. The aforesaid letter dated 12.6.1991 has been issued in regard to non-payment of some arrears to the casual mazdoors of Haflong.
- ii. Letter No. M-1/CM/SDOT/HFL/94-95 dated 17.8.94 issued by the SDOT, Haflong. In the said letter clarification has been issued regarding the date of engagement of the casual mazdoors, and objections were also invited regarding alteration of their date of engagement if any. In the said order the name of all the sixteen applicants found place along with their date of engagement and days of work till 1993 i.e. till the date of issue of the said order.

Apart from these letters, mentioned above, the applicants are in possession of some copies of payment bills including A.C.G.-17 Pay Bill and attendance register counter signed by the authority concerned and pray before this Hon'ble Tribunal to produce the same before the Hon'ble Tribunal at the time of hearing.

Copies of order dated 12.6.91 and 17.8.94 are annexed herewith and the same are marked as Annexure 10 and 11 respectively.

4.16 That the applicants beg to state that from a reliable source

16

the could come to know that as many as 300 posts of regular mazdoor has been sanctioned by the Ministry of Communication, Department of Telecommunication to Assam Circle, Telecom. It is also learnt from the said source that some of the posts have already been allotted to the casual labourers like that of the applicants under the respondents ignoring the claim of the present applicants.

4.17 That the applicants beg to state that the contention raised by the respondents in the impugned Annexure-9 order dated 13.8.99 that the applicants do not fulfill the minimum criteria for granting Temporary Status is not based on records mentioned above. In fact the respondents have not consulted with the records maintained by themselves and issued the impugned order dated 13.8.99 without application of mind. It is pertinent to mention here that the respondents very recently issued another order dated 1.9.99 by which the benefit of the scheme of 1989 for grant of Temporary Status and Regularisation has been extended to the recruitees up to 12.2.1999. In view of the aforesaid order dated 1.9.99 the applicants are entitled to get the benefit of the said scheme even if their recruitment is not taken from 1986 and 1987. In fact the applicants got their appointment in the year 1986 and 1987 as reflected in the Annexure-A list.

A copy of the order dated 1.9.99 is annexed herewith and marked as Annexure-12.

4.18 That the applicants beg to state that after issuance of the Annexure-9 order dated 13.8.99, they preferred another representation highlighted the grievances. The said representation has been filed by the each applicant on 9.9.99 addressing to the General Manager, Telecom, Silchar. The said representation is still pending before the respondents and till date no reply has been communicated to the applicants. In the said representation

17

the applicant while controverting the statements made in the order dated 13.8.99 has also enclosed all the relevant documents mentioned above.

The applicants crave leave of the Hon'ble Tribunal that the contentions raised in the representation dated 9.9.99 may be treated as part of the present Original Application.

A copy of the representation (identical) filed by each applicant is annexed herewith and marked as Annexure-13.

4.19 That the applicants beg to state that as stated above at least 300 posts of Regular Mazdoor has been allotted to Assam Circle, Telecom, and some of them have already been filled up by the respondents ignoring the bona fide claim of applicants. It is stated that the respondents by issuing the impugned order has sought to nullify the claim of the applicants only to fill up the said posts by their nearer and dearer. Presently move is going on to fill up the said posts of Regular Mazdoors by some outsiders and hence the applicants having no other alternative approaching the Hon'ble Tribunal praying for setting aside of Annexure-9 order dated 13.8.99 and for grant of Temporary Status and Regularisation in the light of the Scheme as well as the clarification issued by the respondents from time to time.

4.20 That the applicants beg to state that the respondents are now likely to issue order of termination of their services only on the ground they have approached the Hon'ble Tribunal seeking redressal of their genuine grievances. It is stated that the respondents may also issue such order of termination also on the ground of eligibility criteria as has been mentioned in the impugned order dated 13.8.99 without taking into consideration the past services rendered by the applicants who have by now completed more than 14 years of service as Mazdoor under the respondents on casual basis.

14

In view of the aforesaid facts and circumstances and the apprehending an order of termination from service the applicants pray before the Hon'ble Tribunal for an interim order protecting their interests, directing the respondents not to disengage them from the service and allow them to continue in their respective service.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of the benefit of the scheme to the applicants in the instant case by the respondents is prima facie illegal, arbitrary, and violative of Articles 14 and 16 of the Constitution and hence the action of the respondents are liable to be set aside.

5.2. For that it is a settled principles of law that some principles have been laid down in any judgment extending certain benefit to a set of employees, same is require to be extended to other similarly situated employees without requiring them to approach the doors of the court again and again.

5.3. For that For that the discrimination meted out to the applicants is not based on any intelligible differentia and the same is violative of Articles 14 and 16 of the Constitution of India.

5.4. For that the benefit which the casual labourers working in the Department of Posts are deriving having been based on Supreme Court judgment and the similar judgment relying on the said judgment having been delivered in the cases of Casual Labourers of the Department of Telecommunication and more so, both the Departments are under the same Ministry, there is no earthly reason as to why the said benefit should not be extended to the present applicants.

5.5 For that the issuance of the order dated 13.9.99 is illegal,

11

arbitrary and the same depicts non application of mind of the respondents.

5.6 For that the contention raised by the respondents in the Annexure-9 order dated 13.8.99 by which the representation claiming grant of Temporary Status has been rejected is not at all tenable in view of existence of the records i.e. Annexure-3, -10, 11, and the same is liable to be set aside and quashed.

5.7 For that the contentions raised by the respondents in the Annexure-9 order dated 13.9.99 regarding non-fulfillment of minimum requisite qualification as prescribed in the Scheme for grant of Temporary Status and Regularisation is not sustainable in view of existence of order dated 1.9.99 issued by the Department of Telecommunication and hence the same is not sustainable in the eye of law.

5.8 For that the contention of the respondents in regard to ban on recruitment as mentioned in the impugned order dated 13.8.99 is not sustainable as the respondents themselves have placed the indent for filling up the said post of casual mazdoors to the local Employment Exchange and now by issuing the said impugned order and raising the claim of ban on recruitment, the respondents cannot shift their responsibility, and therefore the entire action of the respondents are liable to be set aside and quashed.

5.9. 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.

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

20
remedy available to them.

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

The applicants further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully pray 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 applicants:-

8.1. To set aside and quash the Annexure-9 order dated 13.8.99 with a further direction to the respondents to extend the benefit of the said scheme of 1989 as well as the subsequent clarifications issued from time to time for grant of Temporary Status and Regularisation.

8.2. To direct the respondents allow the applicants to work continuously and after granting the Temporary Status to regularise their service with all consequential service benefits.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicants 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:

Pending disposal of the application the applicants pray for an interim order directing the respondents not to disengage them from service and allow them to work in their respective post.

10.

.....
This application is filed through Advocate.

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

- 1. I.P.O. No. : OG 454621
- 2. Date : 6-1-2000
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

12

VERIFICATION

I, Shri ,Sujit Das, son of Ananta Das, aged about 30 years, at present working as Casual Mazdoor, under Sub Divisional Officer, Telecom, Haflong, do hereby solemnly affirm and verify that the statements made in paragraphs 4.1, 4.6 to 4.8, 4.10, 4.16, 4.19 & 4.20 are true to my knowledge and those made in paragraphs 4.2 to 4.5, 4.9, 4.11 to 4.15, 4.17 & 4.18 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.

I am the applicant No.1 in the instant application and well acquainted with the facts and circumstances of the case and am competent to sign this verification on behalf of other applicants.

And I sign on this the Verification on this the 6th day of January. of 2000 on authorisation by the others.

Sujit Das

Signature.

SL NO	NAME	WORKING UNDER	WORKING SINCE.
1.	SUJIT DAS	S.D.O.T. HALFLONG	1.1.87
2.	KAJAL NATH	-DO-	1.1.86.
3.	KAJAL DAS	-DO-	1.1.86.
4.	BADAL BANIK	-DO-	1.1.87.
5.	NARU CH DAS.	-DO-	1.1.86.
6.	PARITOSH CH DAS	-DO-	1.1.87.
7.	SHYAMAL BISWASH	-DO-	1.1.87.
8.	SATYANDRA DAS	-DO-	1.1.87.
9.	HAIY KR DAS	-DO-	1.1.87.
10.	PARESH MALAKAR	-DO-	1.1.87
11.	PARESH DAS	-DO-	1.1.87
12.	PRATAP MALAKAR	-DO-	1.1.87.
13.	PARIMAL MALAKAR	-DO-	1.1.87.
14.	SAMBHU DAS	-DO-	1.1.87.
15.	MAINUL HAQUE	-DO-	1.1.87.
16.	SANKAR ROY	-DO-	1.1.87.

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

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

-versus-

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

ORDER

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

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30 th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in

case of Casual Employees of Posts and Telegraphs Department. It

is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers, Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

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

posts and Telegraphs Department".

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore

the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom. Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

ANNEXURE-2

15/11/89 dated 27/11/89.

Necessary for CIRCULAR (NO. 2122) for implementation of the scheme as, GOVERNMENT OF INDIA for affairs of DEPARTMENT OF TELECOMMUNICATIONS arranged before 1.12.89.

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.
B. Chairman

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

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

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

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

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

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

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

SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (8) / 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 - 2 Cont.

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 of at least one year, out of which they must have been engaged in 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 anywhere within the recruitment unit/territorial circles on the basis of availability of work.

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

6. Temporary status would entitle the casual labourers to the following benefits :

i) Wages at daily rates with reference to the minimum of the pay scale of regular Gr.D officials including DA, HRA, and CCA.

ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.

iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.

iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.

v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.

vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the industrial Disputes Act. 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.



GOVT. OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE:
HAFLONG:

NOT ORIGINAL
To: 13187-1-967-1012 / Dated Haflong, the 30-4-1987

Shri/Shrimati Sujit
c/o Ananta Das, AEN. Office
N.F. Rly, Po. Haflong N.C. Hills

Sub:-

Recruitment of Mazdoor
interview there of :-

Sri,

Your particulars have been forwarded to the
Asst Engineer, N.C. Hills Haflong
against the post of Mazdoor

The interview will be held on 7/5/87 at 11.00 AM
at Telephone Exchange, Haflong

Your are therefore, directed to appear for inter-
view to the employer on the date and time and at the venue
inciaded above with the Employment Registration Card, this
letter original certificates and testimonials etc sharp in time.

No. T.A. / D.A. is admissible for the the journeys
in this connection.

Yours faithfully,

30/4/87
Employment Officer,
District Employment Exchange,
Haflong.

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

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

Handwritten signature/initials

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

Writ
or
in

Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application. 34

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.

- 30 -

ANNEXURE - 6

Department of Telecommunications
Office of the Chief General Manager, Assam Telecom Circle,
Ulubari, Guwahati - 781 007.

No. ESTT-9/12/

Dated the 27th Aug., 1998

To

Y/B

1. Sri J.D. Yadav, GM, Kamrup Telecom. Dist., Guwahati.
2. Sri S. S. Ghosh, TDM, Bongaigaon.
3. Sri B. K. Goswami, TDM, Tezpur.
4. Sri B. N. Singh, TDM, Dibrugarh.
5. Sri K. Mani, TDM, Jorhat.
6. Sri S. Rajhans, TDM, Nagaon.
7. Sri S. K. Samanta, TDM, Silchar.

Sub:- Case for grant of Temporary Status of the Casual Mazdoors
(full time) working the SSAs.

Kindly submit the information regarding the number of casual labourers working, not yet conferred Temporary Status, for a period of more than 240 days in your SSA as per authenticated records in the enclosed proforma. The detail particulars of such casual labourers may also be furnished as indicated below:-

1. Name of Casual Labourer
2. Fauther's Name
3. Educational Qualification
4. Date of Engagment
5. Whether working in the job of
regular nature or casual/
seasonal nature
6. Date of sponsorship
7. Official/officer who engaged
the casual labourer
8. Particulars of service rendered
since engagement
Year
Total no. of days worked

You are also requested to furnish a certificate signed by IFA and Head of the SSA to the extent that it has been verified/checked from the authenticated records for the enlisted casual labourers for the period they worked in the Department.

The information must be submitted latest by 9.9.98.

9/9
27/8

82 (M)

5.9.98

(R. S. Tripathi)
Dy. G.M. (Admin), Guwahati-7.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.163 of 1999, 167 of 1999 &
168 of 1999.

Date of Order: This the 31st Day of May 1999.

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

HON'BLE MR.G.L.SANGLYINE, ADMINISTRATIVE MEMBER

O.A. 163 of 99

1. Shri Anu Kharkhunger, Casual Worker,
At present working under Microwave Project,
Division Shillong, N.E.Task Force)

2. All India Telecom Employees Union,
Line Staff and Group 'D' employees,
Assam Circle, Guwahati.

-Vs-

Union of India & Ors.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma for the applicant

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

O.A. No.167 of 1999

1. Shri Sujit Das Applicants.
Casual Worker,

At present working under S.D.O.T. Haflong,
(Sub Divisional Officer of the Telecom)

2. All India Telecom Employees Union,
Line Staff and Group 'D' employees,
Assam Circle, Guwahati.

(Represented by Shri J.N.Mishra, Circle Secretary)

-Vs-

1. Union of India & Ors.

Mr.B.K.Sharma, Mr.S.Sarma, Advocate for the respondents.

Mr.B.C.Pathak Addl.C.G.S.C. for the respondents.

O.A.No.168 of 99

1. Shri Naba Kumar Das

2. Sri Kandarpa Das

3. Shri Tinku Mandal

4. Shri Kaml Kalita.

All of them are presently working as Casual Worker,
under the Divisional Engineer,

-Vs-

1. Union of India & Ors.

By Advocate Mr. B. K. Sharma, Mr. S. Sarma for the applicant.
By Advocate Mr. B. S. Basumatary, for the respondents.

O R D E R.

BARUAH J(VC):

These Original Applications involve common questions of law and similar facts. Therefore, we propose to dispose of these application by this common order. The applicants are casual labourers in the Department of Telecommunication and posted at different stations in the Assam Circle and N.E. Circle. Some of the applicants have been working for more than ten years. The Government of India prepared a scheme for granting temporary status to the casual labourers. The scheme is known as Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989. As per the said scheme those casual employees who had completed more than 240 days of service should be given temporary status. Later on, the Office Memorandum dated 12-2-1999, Annexure 10 in O.A.No.163 of 1989, was issued extending the benefit of the said scheme to those persons who completed the requisite period up to 31-3-1997. As per the said office Memorandum dated. 12.2.99 the applicants who had completed requisite period of service in 1997 are also entitled to get the temporary status. The applicant's grievance is that they have not been granted temporary status. According to the applicants as per the Office Memorandum dated. 12.2.99 the applicants are entitled to get the temporary status and subsequent regularisation of their services. As the applicants were denied temporary status they have approached this Tribunal without submitting any representation.

contd/-

We have heard Mr. S. Sarma, learned counsel for the applicants and Mr. B. C. Pathak learned Addl. C.G.S.C. as well as Mr. B. S. Basumatary for the respondents. As per the decision of the Apex Court dated 17-4-99 (Annexure 1) the case of the applicants is required to be considered. The applicants have approached this Tribunal without submitting any representation. Normally this Tribunal may not entertain any application if departmental remedy is not exhausted. As the facts are not available before us we dispose of the Applications with direction to the applicants to submit representation within a period of one month from to-day. If such representation is filed the respondents shall consider the same as per observations made above. If the applicants are entitled to get the temporary status as under the scheme and or any guideline they shall consider the same. This must be done as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Application is disposed of. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (J)

कायदा अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायपीठ, गुवाहाटी-8

To,
The Chief General Manager, Telecom

Assam Circle, Nulbari, GH

Sub :- Order dated 31.5.99 passed in O.A. Nos 163, 167 & 168/99.

Sir,

With due deference and profound submission I beg to state the few following lines before your Honour for kind consideration and necessary action thereof.

That being aggrieved by the non granting of temporary status and regularisation of my services, I was constrained to move the Hon'ble Tribunal by way of filing O.A. mentioned above with a prayer for grant of temporary status and regularisation. The Hon'ble Tribunal having found prima facie case was pleased to dispose of the said OAs with a direction to dispose of the representation with a speaking order and hence this representation. (Copy enclosed).

That I am a casual worker working under your organisation since long. My juniors have been granted with temporary status as per the scheme of grant of temporary status and regularisation. It is pertinent to mention here that some of the casual workers have already approached this Hon'ble Tribunal by way of filing various OAs and the same has been allowed by the Hon'ble Tribunal. Even some juniors mainly under the SDOT Kamrup as well as SDOT Rangia have been granted with temporary status and thereafter their service have been regularised much before.

That in this connection mention may be made of scheme circulated vide 7.11.89 letter issued by your Honour by which temporary status has been granted to many of us excluding me. My office record/as well as documents pertaining to my date of engagement has been produced in the court. From the same it is crystal clear that my case is required to be considered against the said scheme. It is pertinent to mention here that now a new order has come and as per the said order dated 12.2.99 my case is required to be considered for grant of temporary status and regularisation.

That in view of the aforesaid facts and circumstances I pray before your Honour to consider my case for grant of temporary status and regularisation with immediate effect.

Thanking you.

Sincerely yours.

.....

16.9.99

Copy to .

1. The Direktor Dept. of Telecommunication.
Sanchar Bhawan New Delhi.



-35- ANNEXURE - 9

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM.
SILCHAR SSA : SILCHAR - I

No. E-20/SKD/13

Dated at Silchar, the 13th August '99

To
✓ Sri Sujit Das
Haffong Telephone Exchange

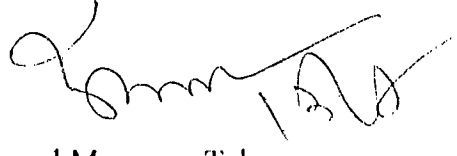
Ref : Your representation dated 16-6-99. 15-6-99

Sub : Grant of Temporary status

With reference to above, you are hereby intimated that your representation has been examined thoroughly in view of the judgement and observation of Honourable C.A.T. Guwahati dated 31-05-99 in O.A. No. 167 of 1999 and observed that :-

1. Your representation dated 15-6-99 is vague and without requisite and vital information and particulars.
2. It is not supported with copies of documents filed before the C.A.T. Guwahati in connection with cited case.
3. Available records at this end do not fulfil the minimum criteria for granting you as temporary status.
4. No register or record in regular basis is maintained for casual labourers. Hence, in absence of concrete documentary evidence, it can not be checked and cross - checked at our end.
5. Ban on recruitment of casual labourer after 30.3.85 still in force.

Under the circumstances, stated above your request for grant of temporary status can not be entertained and as such your representation stands rejected.


General Manager, Telecom
Silchar SSA, Silchar-788001

Attested
by
Assistant

68
Attention are invited for staff and C.M. regarding clarification objection against the particulars of engagement C.M. in this Sub-Division, stated below w.e.f. 85 to till date.

The objection clarification or any the quarry to this effect may be forwarded to this office in written on or before 15.8.94 for further scrutiny.

ANNEXURE-11

No: M-1/CM/SDOT/HFL/94-55/

Sub-Divisional Officer Telegraphs
Haflong-788819

Sl.No.	Name of Casual Labourer	Caste	Date of Birth	Date of engagement	Days worked year wise							Sponsor	Reason for engagement	Office who approved the engagement
					1988	1989	1990	1991	1992	1993	1994			
1.	Sri Sankar Ray	Hindu S/C	31.10.70	Jan '87	15	247	246	250	242	252	253	Up to July 140	part-time work 485/94 dt. 7.4.94	SDOT/HFL
2.	Sri Ajoy Kr. Das	Hindu	27.10.68	Jan '87	320	281	268	323	349	251	269	164	241/87 dt. 23.5.87	Mtcc & Development Works
3.	Sri Parimal - Malakar,	Hindu S/C	1-7-67	Jan '87	269	244	289	272	268	254	250	148	1285/- dt. 17.11.87.	--- do ---
4.	Pratap Malakar	Hindu S/C	22.11.73	Jan '1987	271	245	269	243	243	247	257	196	66/92 dt. 10.2.92.	--- do ---
5.	Parsah Malakar	Hindu S/C	28.2.65	Jan '86	250	255	246	250	249	247	244	136	240/87 dt. 23.5.87	Development works SDOT/HFL
6.	Sambu Das	Hindu	Jan '87	317	305	308	344	250	271	280	164		--- do ---	--- do ---
7.	Sujit Das	Hindu	Jan '87	232	117	121								--- do ---
8.	Paritosh Das	Hindu S/C	Jan '87	244	247	323	248	255	270	259	156		--- do ---	--- do ---

No: M-1/CM/SDOT/HFL/94-95/

Cept to :- 1) Notice Bd. O/O the SDOT/HFL 2) Notice Bd. Telephone Xge/Hailong 3) J.F.O(T)/H

-37-

RCFD

74

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE AREA DIRECTOR TELECOM. RAJGARH ROAD, GUWAHATI,
GUWAHATI-781007.

NO. AMT/CH/U 17/RJCM/91-92/

Dated at Guwahati the 12/6/91.

TO

The Telecom. Dist. Engineer,
Silchar.Sub :- Non-payment of arrear to the Casual Mazdoor under
A.E. Wireless, Hailong.Ref :- C.G.M.T. Letter No. UNSI-2/VCL-III/90 Dtd. at
Guwahati the 20.5.91.

I am directed to intimate you that telephonic confirmation
by you regarding payment of arrear to casual mazdoor under A.E., W/L,
Hailong is not correct.

As per V.O.'S report the following casual mazdoors under
the control of A.E. Wireless Hailong were not paid arrear for which it
is included in the agenda of RJCM Meeting.

So, you are hereby requested to make the payment of pending
arrear of the C/Mazdoors under A.E. Wireless, Hailong immediately of
proper verification of the same and confirm telegraphically. Matter
most urgent.

1. Sri Boloram Roy, S/O Sri Bipul Roy Dec. 87.

2. " Barun Ch. Sarkar, S/O Sri Satish Ch. Sarkar, Dec. 87 & March 88

3. " Haridas Roy, S/O Late Satish Ch. Roy, March /88

✓ 4. " Kamaruddin Barbhuiya S/O Sri Magbal Ali.

Barbhuiya for 3/87, 7/87, 8/87, 9/87, 10/87, 11/87, 12/87, 1/88,
2/88, 3/88, under Mustering official Sri M. Singh (1/8) 4/87, 5/87.
6/87, under mustering official Sri L.K. Goswami 5/9.

5. Sri Kajal Ch. Das S/O Sri Kirtiram Das for 6/87.

✓ 6. " Kajal Nath S/O Sri Bipin Ch. Nath for 12/87.

7. " Madhab Ch. Paul S/O Sri Gandhi Paul, for 12/87

8. " Parash Ch. Das S/O Sri Promod Ch. Das for 3/88

✓ 9. " Paritosh Das S/O Sri Sarda Das 3/87 & 6/87

10. " Ramjan Khan, S/O Sri Allaadin Khan 9/87/12/87

11. " Satyendra Das S/O Sri Lalit Mohon Das for 5/88

12. " Subodh Nath, S/O Sri Sumanta Nath for 12/87.

13. " Sujit Ch. Das S/O Sri Gopesh Ch. Das. for 9/87. 2/88

14. " Sri Shyamal Biswas S/O Sri Basanta Biswas for 12/87.

Asstt. Director Telecom. (SRE),
For Area Director Telecom. Guwahati

-39-
19

ANNEXURE - 012

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.

Subject: 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 1.3.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoors eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully,

(HARDAS SINGH)

ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

RECEIVED TELECOM. DEPT. GOVT. OF INDIA

To,
The General Manager, Telecom,
Silchar SSA, Silchar 788001.

Sub :- Grant of temporary status and regularisation.

Ref :- Order vide No E-20/SKD/13 dated 13.8.99.

Sir,

With due deference and profound submission I beg to state the few following lines before your honour for kind consideration and necessary action thereof.

That I am a casual mazdoor, working under your organisation since long 1987 and my case is covered by the scheme of grant of temporary status and regularisation. It is pertinent to mention here that since long I have been requesting your honour for my regularisation as well grant of temporary status but my such prayer was never acceded to. It is pertinent to mention here also that being aggrieved by the said non regularisation I was constrained to move the doors of the Hon'ble Tribunal by way of filing O.A, No 167 of 1999. The Hon'ble Tribunal while entertaining my such application was pleased to pass an order directing me to file a representation and accordingly I have filed a representation in the month of June 1999 praying for my such regularisation.

That on receipt of my such representation the aforesaid order on reference has been passed rejecting my prayer made on the said representation. My parawise reply to the said order dated 13.8.99 is as follows:

a) That my aforesaid representation pursuant to the aforesaid order of the Hon'ble Tribunal was not vague. In my said representation I have categorically mention my year of engagement as casual mazdoor which is the basic criteria for grant of temporary status and regularisation under the scheme of 1989 as well the clarification mentioned in the order dated 17.12.93 and the recent order vide No DOT No 269-4/93-STN -II (pt) dated 12.2.99. It is pertinent to mention here that the last order dated 12.2.99 issued by the DOT is very clear that employees who have completed 10 years of service as on 31.3.97 will be regularised as one time measure. I have completed more than 14 years of service and hence by any of the aforesaid circulars I am entitled to get the benefit of the same.

b) That in support of my aforesaid claim I am enclosing the order dated 12.2.99 issued by the D.O.T and some of the documents showing my service period including Muster Roll Nos. and the notice dated 17.8.94 wherein some of the service particulars are mentioned. On the other hand several documents have been produced before the authority concerned when my name was sought to be sent for regularisation. It is also pertinent to mention here that the muster roll register and pay bills may also be perused to show my service period. From the above it will be crystal clear that I have been working since 1986 as casual Mazdoor.

c) That the aforesaid records submitted by me will show that I am working since 1987 as Casual mazdoor and hence I am entitled

-41-

44
45

to get the benefit of the aforesaid schemes for grant of temporary status and regularisation.

d) That from the above order dated 13.8.99 it is crystal clear that in our case office has not maintained any record or register and the aforesaid absence has caused a serious harm to my service career. However, I am not at all liable for the said maintenance of records and for the mistake of office I may not be made to suffer as has been done in my case. It is also pertinent to mention here that from the available records maintained by me the aforesaid difficulties can be sorted out and relying on those documents I may be allowed the aforesaid benefit of temporary status as well as regularisation according to the aforesaid scheme and D.O.T's order.

e) That as stated in the order dated 13.8.99 that there was ban on recruitment of Casual labourer after 30.3.85, I beg to state that my recruitment was done by the Asstt. Engineer Wireless Halflong and the said appointment was pursuant to an interview and my name was sponsored through the local employment exchange. To that effect one of the initial order dated 30.4.1987 of appointment is enclosed for ready reference. From the above order dated 30.4.87 it is clear that recruitment to the post of casual mazdoor was also in progress after the said cut of date i.e. 30.3.85.

In view of the aforesaid facts and circumstances I pray before Your Honour to consider my case after scrutinising the aforesaid records enclosed in this application as well as the available records maintained by the office and with a further prayer to grant temporary status and subsequent regularisation.

I hope that Your Honour would be kind enough to grant me the aforesaid relief.

Thanking you.

Sgt B.S. 9.9.99
Sincerely yours

Copy to:-

1. The Director, Department of Telecommunication
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, Telecom,
Assam Circle, Ulubari, Guwahati-7.