

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-233/2000 order pg-1
disposed date-29/9/2000

INDEX

O.A/T.A No. 140/2000
R.A/C.P No.
E.P/M.A No. 233/2000

1. Orders Sheet. OA-140/2000 Pg. 1 to 4
2. Judgment/Order dtd. 27/07/2001 Pg. 1 to 3 allowed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 140/2000 Pg. 1 to 57
5. E.P/M.P. 233/2000 Pg. 2 to 11
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. 1 to 9
W.S - Pg. 1 to 5
8. Rejoinder. Pg. 1 to 5
9. Reply. NIL 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.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 140/2000 OF 199

Applicant(s) *Prasid Mr. Bhowmik and ors.*Respondent(s) *Union of India and ors.*Advocate for Applicant(s) *Mr. M. Chanda.
Mrs. N.D. GOWDAMI*Advocate for Respondent(s) *C. G. S.*

Notes of the Registry	Date	Order of the Tribunal
<p>18.4.00</p> <p>4944/19 10.4.2000 18/4/2000</p> <p>Noted: Admin Board Cpp 26-4-2000</p> <p>Steps received today Notice prepared and Sent to D. Section for issuing of the same to the respondents. Through Regd. post with A.D. vide D.Nos. 1308/K 1311 Dtd-4.5.2000.</p>	18.4.00	<p>Present: Hon'ble Mr G.L. Sanglyine, Administrative Member</p> <p>Heard Mr M. Chanda, learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. The application is admitted. Issue notice on the respondents by registered post. List for written statement and further orders on 29.5.00.</p> <p>Mr Chanda prays for an interim order. Mr Pathak submits that he has no instructions. Issue notice why interim order as prayed should not be granted. List on 29.5.00 for interim order.</p> <p>Pendency of the interim order shall not be a bar for the respondents to consider granting reliefs prayed for to the applicant.</p> <p>Member</p>

Notes of the Registry	Date	Order of the Tribunal
✓	29.5.00	Order is no Bench today. AD - 12.3.6.00. 1070 2.
	14.6.00	Present : The Hon'ble Mr D.C.Verma, Judicial Member. Mr M.Chanda, learned counsel for the applicant and Mr B.C.Pathak, learned Addl. C.G.S.C for the respondents are present. Learned counsel for the applicant seeks one day time to file copy of the earlier judgment. List on 16.6.2000 for order. Member(J)
	16.6.00	Present: Hon'ble Mr.D.C.Verma, Judicial Member. Mr.M.Chanda learned counsel for the applicant and Mr.B.C.Pathak, Addl. C.G.S.C. for the respondents. Learned counsel for the respondents submits that he has not received any instructions till date and seeks 15 days time. Time allowed to file written statement. As regards the interim relief is provided that without any prejudice to the rights of the applicant, in case the O.A. is allowed, the respondents may consider confirmment of temporary status to the Casual Workers who may be junior to the applicant, their confirmment of temporary status shall be subject to the result of this O.A. Pendency of the O.A. shall not be a bar for the respondents to consider the prayer of the applicant. List on 3.7.00 for orders.

pg

NS
14/6/2000

pg

20/6/00

Order dtd 16/6/00 forwarded to Mr. M. Chanda, Adv. & Mr. B.C. Pathak, Addl. C.G.S.C. CAT. Gb Bench/Gb. Vide D/No 1648/1649

dtd 20/6/00

20/6.

24/7/00

Notice duly served on Respondt No 1 & 4

dr

Member(Judicial)

Notes of the Registry

Date

Order of the Tribunal

3.7.00

On the prayer of Mr.B. Pathak, Addl.C.G.S.C. two weeks time is allowed for filing of written statement. Another two weeks time is allowed for the applicant for filing of rejoinder. Case is adjourned and posted on 3.8.00 for orders.

Member(A)

lm

16-11-2000

① Notice duly served on R. No- 1 & 4, Respd. No- 2 and 3 are still Awaited.

3.8.00

There is no Bench. Ad 16-11-9.00

② No. WLS has been filed.

11.9.00

NO Bench. To be listed on 17-11-00

16.11.00

17.11.00

List on 20.12.2000 for order and to enable the respondents to file written statement, if any.

Vice-Chairman

19-12-2000

No. written statement has been filed.

pg

20.12.00

Three weeks time is granted to file written statement on the prayer of Mr A. Deb Roy on behalf of Mr B.C. Pathak, learned Addl.C.G.S.C.

List on 9.1.2001 for order.

Member

Vice-Chairman

No. written statement has been filed.

21.12.2000

pg

9.1.2001

List it on 25.1.01 to enable the respondents to file written statement on the prayer of Mr.B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

Member (A)

Vice-Chairman

Written statement has been filed by the respondents 1, 3, 4.

21.12.2000

mk

Notes of the Registry	Date	Order of the Tribunal
	25.1.01	Written statement has been filed. Case is ready for hearing. List for hearing on 2.5.01. In the meantime the applicant may file rejoinder if any. <div> <div>Member</div> <div>Vice-Chairman</div> </div>
23.4.2001 W/S has been submitted by the respondent No. 2, 3 and 4.	lm 2.5	pass over to 2.5.2001 <div> <div>Member</div> <div>Vice-Chairman</div> </div>
Dis.	21.5.01	Leftover. List on 4-6.01. <div> <div>Member</div> <div>Vice-Chairman</div> </div>
4.6.2001 Rejoinder submitted by the applicant.	27.	Adjourned. List on 2.7.2001 for hearing. <div> <div>Member</div> <div>Vice-Chairman</div> </div>
10/8/2001 Copy of the Judgment has been put to the Office for issuing the line to the Applicant as well as to the Clerk for the Respondent.	27.7.01	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. <div> <div>Member</div> <div>Vice-Chairman</div> </div>
bb		

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 140 of 2000.

Date of Decision 27.7.2001....

----- Shri Prabir Kumar Banerjee

----- Shri Siby Sanker Kunda ----- Petitioner(S)

----- Shri Sambhu Chakraborty

----- Mr.M.Ehanda -----

----- Advocate for the
Petitioner(s)

-Versus-

----- Union of India & Others. ----- Respondent(s)

----- Mr.A.Deb Roy, S.P.C., S.C. -----

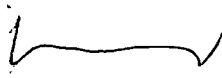
----- Advocate for the
Respondent(s)

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vices-Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 140 of 2000.

Date of Order: This is the 27th Day of July, 2001.

HON'BLE MR. JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

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

1. Shri Prabir Kumar Banerjee
S/o Shri Anil Kumar Banerjee
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.
2. Shri Sibu Sankar Kunda
S/o of late Sailendra Narayan Kunda
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.
3. Shri Sambhu Chakraborty
S/o Sri Manmath Chakraborty
A/C Operator (Casual Labour)
New Telephone Exchange
Nagaon, Assam.

. . . Applicants.

By Advocate Mr. M. Chanda

- Vs -

1. Union of India
Ministry of Communication
Department of Telecom, New Delhi
(represented by the Secretary
Telecom Commission), New Delhi.
2. The Chief General Manager Telecom
Assam Telecom Circle
Ulubari, Guwahati.
3. The Telecom District Manager
Nagaon Telecom District
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division
Nagaon, Assam.

. . . Respondents.

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

O R D E R

CHOWDHURY J. (V.C.) :

This is an application under section 19 of the
Administrative Tribunals Act, 1985 seeking for a direction

on the respondents for conferring temporary status as Casual Mazdoor to these three applicants in terms of the Scheme initiated by the respondents.

2. All the three applicants claimed to have worked as Casual Mazdoors engaged by the Nagaon Telephone Exchange, Nagaon. It was asserted in the application that the applicant no.1 & 3 Shri Prabir Kumar Banerjee and Shri Sambhu Chakraborty were engaged as Casual Workers under the SDE(Phones), Nagaon Telephone Exchange on daily wages basis on and from 16.7.1993 and Shri Sibb Sankar Kundu, applicant no.2 on and from 1.9.1993. It was stated that though they were engaged as Casual Workers, they were entrusted with the job of Air Conditioner Operators and they were paid daily wages in terms of the prescribed rate for the Casual Workers. The applicants relied upon the communication dated 14.7.1997, issued by the SDE (Construction), Nagaon, which has annexed to the Petition in Annexure-1 of Series. 1001.

3. The applicants also annexed with the application some certificates issued by the SDE and JTO. The respondents in their written statement, on the other hand, contended that these four persons, mentioned in the aforementioned document dated 14.7.1997 including the applicant though shown as Casual Workers, were infact Contract Labourers. According to the respondents, on the strength of verbal contract the applicants worked from 16.7.1993 to 31.7.1998 followed by a written contract with M/s Sudarsana Cooling firm after observing all departmental formalities. The respondents did not dispute the contents of the communication sent by the SDE for granting temporary status.

4. On considerations of the materials on records it is difficult to accept that the applicants were engaged

as Contract Labourers and as not Casual Labourers. The document dated 14.7.1997 clearly indicated that the applicants were allowed to discharge duties as Casual Labourers. In the absence of any other materials it is difficult to accept the contentions of the respondents.

5. We therefore ^{hold} observe that the applicants are also entitled for consideration of absorption in terms of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 of Telecom Department. Needless to state that Casual Labourers recruited after 29.11.1989 and upto 1.9.1993 are also entitled to confer temporary status in view of the communication to this extent.

6. We have heard Mr.M.Chanda, learned counsel for the applicants and Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. Upon hearing the learned counsel for the parties and upon considering all the materials on records, we have reached the following findings.

7. The respondents are directed to consider the case of the persons who were engaged as Casual Labourers. Accordingly, we direct the respondents to consider the case of the applicants ^{for grant} to grant temporary status within three months from the date of receipt of the copy of the order.

With this, the application is allowed.

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


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

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

Original Application No.-----/2000

Title of the Case : O.A. No. 140/2000

Shri Prabir Kumar Banerjee : Applicants
and two others

-versus-

Union of India & Ors. : Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-18
2	-	Verification	19
3	1	Letter dt.14.7.97 & series certificates	20-23
4	2	Letter dt.1.1.98, letter dt. series 14.8.98 and 8.9.98	24-29
5	3	Letter dated 5.6.98	30
6	4	Letter dt. 27.10.97,	31-32
7	5	Letter dt. 11.11.99	33
8	5A	Judgement & Order dt.31.8.99	34-42
9	5B (Series)	Representation dt. 12.10.99	43-51
10	6	Letter dt. 9.2.2000	52
11	7	Letter dt 12.2.99	53-54
12	8 (Series)	Order dt. nil	55-57

Date : 17.4.2000

Filed by

Advocate

Prabir K R Banerjee

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application No. 140/2000

BETWEEN

1. Shri Prabir Kumar Banerjee
Son of Shri Anil Kumar Banerjee,
A/C Operator (Casual Labour)
New Telephone Exchange,
Nagaon, Assam.
 2. Shri Sibul Sankar Kundu
Son of late Sailendra Narayan Kundu
A/C Operator (Casual Labour)
New Telephone Exchange,
Nagaon, Assam
 3. Shri Sambhu Chakraborty
Son of Sri Manmath Chakraborty
A/C Operator (Casual Labour)
New Telephone Exchange,
Nagaon, Assam.
-Applicants

-versus-

1. Union of India,
Ministry of Communication,
Department of Telecom, New Delhi
(represented by the Secretary,
Telecom Commission), New Delhi.

Contd...

Prabir K Banerjee

2. The Chief General Manager Telecom
Assam Telecom Circle,
Ulubari, Guwahati.
3. The Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division,
Nagaon, Assam

.... Respondents

DETAILS OF THE APPLICATION

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

This application is made praying for direction to the respondents for grant of temporary status as Casual Mazdoor in terms of sanction of posts vide letter No. 269-4/93-STN-II (Pt) dated 9.2.2000 issued by the Government of India, Ministry of Communication, Department of Telecom Services and also under office letter No. 269-4/93-STN-II dated 12.2.1999 whereby sanction for grant of temporary status of 672 casual workers have been made and also for a direction to the respondents to regularise the services of the applicants in the department of Telecommunication considering the long seven years ^{service} rendered under the respondents as casual worker.

2. Jurisdiction

The applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

Prabir K Banerjee

3. Limitation

The applicants declare that this application is filed within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1 The applicants are citizens of India and as such, they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicants beg to state that the girevances and reliefs sought for in this application are common as such they pray for grant of permission before the Hon'ble Tribunal to move this application jointly in a single application under Section 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That your applicants beg to state that they have been engaged as casual workers, (A/C Operator) under SDE (Phones) Nagaon Telephone Exchange, Nagaon on daily wages basis since 1993. The detailed particulars of engagements are stated below :

Sl.No.	Name	Date of engagement as casual labour (A/C Operator)
1	Sri Prabir Kr. Banerjee Sibu	16.7.1993
2	Sri Sankar Sankar Kundu	1.9.1993
3	Sri Sambhu Chakraborty	16.7.1993

It is stated that although applicants have engaged as casual workers but they have entrusted with the job of Air Conditioner Operators and the payment of daily wages

Prabir Kr Banerjee

were regulated in terms of the rates prescribed for the casual workers although the quality of work is much superior than the quality of works rendered/discharged by the other ordinary casual workers, which would be evident from the letter bearing No. E/83/75 dated 14.7.1997 and also from the certificates issued by the SDE(Phones), Nagaon as well as JTO, Nagaon, Telephone Exchange wherein the number of days of each applicant has worked^{out} since 1993 has been shown since February 1996. It is also evident from the above certificates that all the applicants have worked on daily wages basis and their payments have been made under the ACG -17 system. It is also categorically certified by the SDE that they have been engaged on daily wages basis as casual workers in the letter dated 14.7.1997 through which the case of the three applicants have been forwarded by the SDE, Nagaon stating interalia that they have been engaged to perform work on contract basis. However all the applicants have been recommended for grant of temporary status.

Copy of the letter dated 14.7.1997 issued by the SDE(Cons.) Nagaon, as well as the certificates issued by the SDE(C) and JTO, Nagaon Telephone Exchange are annexed hereto and the same are marked as Annexures 1series.

4.4 That your applicants beg to state that all the three applicants have continuously working under Sub-divisional Engineer on daily wages basis on same terms and conditions as casual workers without any break till 31.8.1998. In this connection it is relevant to mention here that with effect from 1.1.1996 the respondents

For Mr. K. Banerjee

have started paying lump sum consolidated amount of Rs. 1500/- and 1700/- to the applicants although earlier all the applicants were paid at the Government prescribed rate as casual workers.

However, in the month of September, 1998 they have been forced to work on contract basis as A/C Operator at the instance of SDE (Cons.), Nagaon as because the present applicants at the relevant time had filed an application before this Hon'ble Tribunal for grant of temporary status as well as regularisation which was registered as O.A. No. 112/98. It is unfortunate that the respondents have resorted such illegal action which forced the applicants to work on contract basis as because they approached the Hon'ble Tribunal, Guwahati Bench for their job security by way of filing O.A. No. 112/98 under section 19 of the Administrative Tribunals Act, 1985 for a direction for grant of temporary status and regularisation. It is also relevant to mention here that although no specific terms and conditions is laid down for such contract but the respondents termed them as contract workers in order to avoid future litigation as well as to deny their valuable rights for regularisation and for grant of temporary status.

The applicants finding no other alternative started discharging the same job on contract basis as the respondents have termed them as contract workers in the same establishment of Nagaon Telephone Exchange. They are still working as such.

Prabir K. Banerjee

4.5 That your applicants also beg to state that the TDM, Nagaon vide his letter bearing No. A-12/Ty.Adv/SDE (C) NGG/97-98/52 dated 1.1.1998 sanctioned wages for four A/C Operators to a lump sum amount of Rs.6,600/- for the month of December, 1997 wherein in the appendix it is categorically stated that the said amount of Rs.6,600/- is required for payment of daily wages to A/C Operators for the month of December 1997 and also indicated that this amount is meant for fixed allotment of fund. Similarly on 14.8.98 a consolidated amount of Rs.6,600/- again sanctioned vide TDM letter bearing No. A-12/Ty. Adv/SDE (Cons.) NGG/98-99/21 dated 14.8.98 for wages for the month of July, 1998. Again it would be evident that similar sanction of fund is granted by the TDM, Nagaon Telecom District Manager vide his letter dated 8.9.1998 and the appendix therein further establishes the fact that the payment has been made to the present applicants after obtaining their signature in the payment roll.

Copies of the sanctioned letters dt. 1.1.98, 14.8.98 and 8.9.98 are annexed hereto and the same are marked as Annexure-2 series.

Therefore it appears from the above sanctioned letters of the TDM that the requirement of A/C operators of regular nature of work and as such the present applicants who are engaged on casual basis since 1993 are working till date continuously without any break in the said establishment of Telephone Exchange, Nagaon under the the Telecom District Manager have acquired a valuable and legal rights for grant of temporary status as well as for regularisation of their services. However, in order

Prabir K. Banerjee

to deny the benefit of grant of temporary status as well as their regularisation forced them to work on contract basis when all the three applicants have approached the Hon'ble Tribunal through O.A. No. 112/98, although payment has still been made/regulated on daily wages basis but the authority termed their job as contract workers. It is further evident from the letter of SDE (Construction) Nagaon bearing letter No. E-24/5 dated 5.6.98 addressed to the Divisional Engineer (P&A) Office of the TDM, Nagaon wherein the SDE stated that the job of A/C plant operation are of regular nature and requested the Divisional Engineer to provide man power to the Section for smooth maintenance and it is also certified in the said letter dated 5.6.98 that no operational contract has been offered to any private parties till date whereas the same SDE in his letter dated 14.7.97 while forwarding the case of the applicants for grant of temporary status in the remark column it is stated that the applicants have been engaged on contract basis whereas in his letter dated 5.6.98 there is a categorical mention that the A/C worker has not been offered to any private party. As such it is established beyond all doubts by their own statements/documents that the present applicants are still working on daily wages basis and lumpsum consolidated payment is being made in each applicants and it is also declared by the authority that the work are of regular nature.

Copy of the letter dated 5.6.98 is annexed hereto and marked as Annexure-3.

4.6 That your applicants beg to state that the Original Application filed by the present applicants before

Prabir Kr Banerjee

the Hon'ble Tribunal which was registered as O.A. No.112/98 and the same has been decided by the Hon'ble Tribunal on 31.8.1999 with the following directions. The relevant portion of paragraphs 6 7 and 8 are quoted below :

" 6. We have heard Mr. B.K.Sharma, Mr. J.L.Sarkar, Mr. I Hussain and Mr. B.Malakar, learned counsel appearing on behalf of the applicants and also Mr. A. Deb Roy, learned Sr. C.G.S.C. and Mr. B.C.Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have document to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual

Prabir K. Banerjee

position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations."

In view of the above judgement ~~of~~ the present applicants submitted their representations individually stating detail therein as regards their engagement under the respondents and also prayed for grant of temporary status as well as for regularisation vide their representation dated 12.10.1999. In this connection it is relevant to mention here that the applicants have submitted their representations within the stipulated period of one month from the date of receipt of the said judgement and order. The Telecom District Manager, Nagaon, Assam vide his letter bearing No. E-182/Const case/99/00/28

Prabir K. Banerjee

dated 11.11.99 directed to all the concerned SDEs including the SDE(Cons) Nagaon for sending a detail report and particulars of the casual Mazdoor including the present applicants. Subsequently the Deputy General Manager (Admn.) Office of the Chief General Manager, Telecom, Assam Circle, vide their letter bearing No. STES-21/207/4 dated 27.10.99 informed the TDM, Nagaon to submit report of casual mazdoors/labourers ~~containing notes~~ containing notes together with the complete information on or before 30.11.99 positively. Accordingly so far the applicants knowledge goes the TDM, Nagaon sent the report which was in fact submitted by SDE (Cons.) Nagaon, in the said note it is stated by the SDE (Cons) Nagaon that all the three applicants are infact working on contract basis and denied the fact that they have been engaged on casual basis although the documents enclosed above abundantly makes it clear that they have in fact worked on casual basis since July 1993. In this connection it is relevant to mention here that SDE, Nagaon as well as the TDM although sent the detail particulars as desired by the office of the SDE(Cons), Nagaon as well as TDM, Nagaon in fact turned down their claim by stating that they are working on contract basis. It is stated that in spite of best efforts the applicants could not obtain the copy of the letter which was issued by the SDE/TDM as mentioned above therefore Hon'ble Tribunal be pleased to direct the respondents to produce relevant records before the Hon'ble Tribunal for perusal of the Hon'ble Tribunal.

Copy of the letter dated 27.10.97, 11.11.99 ~~representation~~ judgement and order dated 31.8.99, representation dated 31.8.99 are annexed as Annexures-4, 5, 5(A) and 5(B) respectively.

Prabir K. Banerjee

4.7 Most surprisingly the present came to know that ^a ~~xxx~~ decision has already been taken by the respondents not to grant temporary status to the present applicants on the alleged ground that they are working on contract basis. In this connection it is relevant to mentioned here that the Government of India, Ministry of Communidation, Department of Telecommunication Services, New Delhi vide their letter bearing No. 269-4/93-STN-II (Pt) dated 9.2.2000 sanctioned ~~of~~ 672 posts for grant of temporary status among the existing casual workers and it is also stated in the said letter dt. 9.2.2000 that all other conditions stipulated in the letter dated 12.2.99 remain unchanged. In this connection it is relevant to mention here that after receipt of the sanction letter from the Department of Telecom Services the Chief General Manager Telecom, Assam Circle distributed the posts for grant of temporary status among the various divisions/circles and so far the office of the Telecom District Manager, Nagaon is concerned altogether 15 posts have been allotted for grant~~ed~~ of temporary status and the local authority excluded the names of the present applicants for grant of temporary status and the present applicants also came to know from a reliable source that other casual workers who were engaged subsequently decided to grant of temporary status. It is also stated that the grant of temporary status have been denied to the present applicants solely on the ground that they are working on contract basis which is contrary to their ~~own~~ records as well as factual position. As such, they have acquired a valuable and legal right for grant of temporary status in view of their long casual services. It is categorically stated that the applicants fulfilled all the criteria laid down in the

Prabir K. Banerjee

revised scheme issued by the department of Telecommunication in their letter dated 12.2.1999, as such respondents are duty bound to grant temporary status to the present applicants and their names cannot be excluded on the alleged ground that they are working on contract basis.

Copy of the letter dated 9.2.2000 is annexed as Annexure-6.

4.8 That your applicants beg to state that they have come to know that 15 posts which are allotted to the office of the Telecom District Manager, Nagaon for grant of temporary status is going to be allotted to the existing casual workers who are subsequently engaged in the department in different offices under the Telecom District Manager, Nagaon than the present applicants. As such finding no other alternative and due to paucity of time the applicants approaching this Hon'ble Tribunal praying for an interim direction to the respondents at least to keep three posts out of 672 sanctioned posts for grant of temporary status for the present applicants till disposal of this Original Application.

4.9 That it is stated that the Government of India, Ministry of Communication, Department of Telecom Services vide their letter No. 269-4/93-STN-II dated 12.2.99 it is ordered that temporary status may be granted in respect of casual labourers in service upto 31.12.1998. So the present applicants are squarely covered under the Department of Telecommunication Circular dated 12.2.1999. As such the Hon'ble Tribunal be pleased to direct the respondents to grant temporary status in pursuance of

Prabir Kr Banerjee

sanction order issued by the Department of Telecommuni-
cation vide their letter dated 9.2.2000.

Copy of the letter referred to above is
annexed as Annexure 7.

4.10 That your applicants beg to state that they have also approached the Hon'ble Tribunal by filing OIA. No. 446/99 (Sri P.K. Banerjee & Ors Vs. Union of India & Ors.) praying inter alia for a direction to the respondents for payment of arrear wages in terms of Telecom District Manager, Nagaon letter bearing No. E-5/rate and ruling/98-99/25 dated 5.1.99/13.1.99 whereby revised rate were made applicable with effect from 1.1.1996 to the casual mazdoors serving under the department of Telecommunication. The said benefit of arrear revised wages have been denied to the present applicants and in that compelling circumstances they have approached the Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985 and the said application was registered as O.A. No. 446/99. The said OA came up before the Hon'ble Tribunal for consideration on 12.1.2000 and the Hon'ble Tribunal was pleased to dispose of the said OA with direction to the respondents to consider as per Annexure 2 series representation and communicate a speaking order within two months from the date of receipt of the order after considering the case of the applicants individually. The respondents particularly SDE(HRD), office of the TDM, Nagaon vide impugned office order dated ^{NIL} 7.4.2000 wherein the case of the applicants for payment of revised arrear wages have been rejected by the office of the TDM, Nagaon on the sole ground that

Prabir Kr Banerjee

that the present applicants have been engaged on contract basis with consolidated amount of pay as such they are not entitled to departmental rate which is applicable to the casual workers whereas the documents referred above issued by the respondents themselves made it abundantly clear that they were engaged on daily wages basis as casual workers since July 1993 and till date they are working on daily wages basis. Although after filing the case for grant of temporary status as mentioned they have been forced to work on contract basis. However, it is quite clear from the impugned office order issued by the TDM, Nagaon that the applicant have been denied even the revised arrear wages only on the sole ground that they have been engaged on contract basis whereas the factual position categorically establishes beyond all doubts that they have been working on daily wages basis as other casual workers. It is the apprehension of the present applicants that they would also be denied the benefit of grant of temporary status although 15 posts are allotted to the office of the TDM, Nagaon in pursuance of the sanction letter dated 9.2.2000. Therefore in the compelling circumstances the applicants find no other alterantive, approaching this Hon'ble Tribunal once again for a direction to the respondents to consider for grant of temporary status to the applicants and not to deny the benefit of temporary status on the alleged ground that their engagement is on contract basis. In support of this, the present applicants rely upon the Judgement and Order of this Hon'ble Tribunal in O.A. No. 192/94 dated 3.4.97 (Sri Ram Prasad Rai and 5 Ors Vs. U.O.I. and Ors) wherein

Prabir K. Banerjee

the Learned Tribunal held that even contract labour also entitled to be regularised if the work is perennial in nature. Even assuming for argument sake the present applicants are working on contract basis even then they also entitled to be regularised as law laid down by the Hon'ble Supreme Court in its Judgement and order passed in the case of All India Statutory Corporation Vs. United Labour Union and Ors reported in 1997 SC 645.

Copy of the order dated nil issued by the office of TDM referred to above is annexed as Annexure-8.

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

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

- 5.1 For that in view of the long casual service the applicants are entitled for grant of temporary status and regularisation in terms of the scheme issued by the Govt. of India, Department of Telecommunication, Ministry of Communication from time to time for regularisation of casual labourers.
- 5.2 For that the job for which the applicants have been engaged since July 1993 onwards is of perennial nature as such the respondents are duty bound to grant temporary status under the relevant scheme issued by the Telecom Department from time to time.
- 5.3 For that the documents issued by the respondents from time to time clearly establishes beyond all doubts that the present applicants have been engaged on daily wages basis as such they are

Prabir K. Banerjee

entitled to grant of temporary status and regularisation.

- 5.4 . For that the applicants are entitled for grant of temporary status in pursuance of the sanction of the Government of India, Ministry of Communication, Department of Telecommunication, New Delhi vide their letter dated 9.2. 2000.
- 5.5 For that sanction have been granted for grant of temporary status for 672 casual laboures.
- 566 For that the grant of temporary status cannot be denied to the applicants on the alleged ground that they have been engaged on contract basis.
- 5.7 For that the present applicants are still working as casual workers on daily wages basis with a lump sum consolidated pay.
- 5.8 For that the respondents termed the engagements of the applicants on contract basis with an ulterior motive to deny the benefit of temporary status to the present applicants.

6. Details of remedies exhausted.

The applicants declare that they have availed of all remedies available to them under the relevant service rules etc. as would be revealed from paragraph 4 above.

Prabir Kr Banerjee

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

The applicants further declare that they had filed an O.A. No. 112/98 and the said O.A. was disposed of with direction to consider the case of the applicants in terms of the Scheme but the case of the applicants have been rejected. The applicants further declare that no writ petition or suit regarding the matter in respect of which this application has been made before any court of any other authority or any other Bench of the Tribunal nor any such application, is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances of the case the applicants pray that Your Lordships would be pleased to issue notice to the respondents to show cause as to why the relief sought for by the applicants in this application shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to grant temporary status to all the three applicants in pursuance of the sanction order issued by the Government of India, Ministry of Communication, Department of Telecom Services, New Delhi vide their letter dated 9.2.2000 (Annexure- 6).
- 8.2 That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to grant of temporary status and regularisation.

28

8.3 Costs of the Application.

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

9. Interim relief(s) prayed for :

During the pendency of this application, the applicants pray for the following reliefs :

9.1 That the Hon'ble Tribunal be pleased to direct the respondents to keep at least three sanctioned posts out of 672 sanctioned posts which are sanctioned for grant of temporary status vide letter dated 9.2.2000 (Annexure- 6) till disposal of this application.

9.2 That the respondents be directed not to oust the applicants from service till disposal of this application.

10.

This application has been filed through Advocate

11. Particulars of the I.P.O.

I.P.O. No.	: 06 494419
Date of Issue	: 10-4-2000
Issued from	: G.P.O., Guwahati.
Payable at	: G.P.O., Guwahati.

12. Details of Enclosures :

As stated in the Index.

.... Verification

Prabir K. Banerjee

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

I, Prabi Kumar Banerjee, son of Shri Anil Kumar Banerjee, aged about 36 years, working as A/C Operator (Casual labour basis), New Telephone Exchange, Nagaon Assam, one of the applicants in this application, and I have been authorised to sign ~~by~~ this verification by the other applicants accordingly I do hereby verify that the statements made in paragraph- 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice. I have not suppressed any material facts.

And I sign this verification on this the 17th day of April, 2000.

Prabir Kr Banerjee

Signature

Sl. No.	Name of	Father's Name	Education	St. of	Nature	St. of	Official/Other	Particulars	Total nos. of days Work (Year wise)						upto
No.	Casual Labourer		Qualification	engagement	Working	Ship	Who engaged	rendered	1993	1994	1995	1996	1997	June '98	
1.	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)							
1.	Si. Pabir Ky. Benerice.	Anil K. Benerjee	B.A.	16-7-93	Regular nature.	1986.	JTO(I/D) 8 E.E. no. 291/86.	A.E. (Ph)/1986		169	365	365	366	365	181
2.	Shambhu Chakraborty	Manmath K. Chakraborty	Class VIII	16-7-93	Regular nature.	1995.	E.E. no. 1481/95.	- DO -		169	365	365	366	365	181
3.	Rajan Rajkhowa	Deben Rajkhowa	H.S.L.C	1-10-93	Regular nature.	1985.	E.E. no. 108/85.	- do -		92	365	365	366	253	181
4.	Sibu Sarika Kundu	Late Sailendram Sarika Kundu	H.S.S.L.C	1-9-93	Regular nature.	1992.	E.E. no. 1085/92.	- do -		122	365	365	366	365	181

Remarks:

The above Casual Mazdoors were engaged for operating Fly type A/c Plant at -
 1LT-2048 exchange/cracker as per verbal approval of the then AMT/DR and TDE/ONGC
 due to abolition of operational contract of A/c Plant with 'Blue Star' company
 to minimise the expenditure (Operational) from Rs. 1.92.000/- to Rs. 32.000/-,
 The engagement was purely on a contract basis with monthly fixed expenditure
 and discontinued the same w.e.f. July '98.

56. E-63/35. dtd 14-7-98. Forwarded to the TOM/ONGC for favour of intimation and v/a.
 with ref. to E-162/Part time/Casual Mazdoor/3 dtd 31-8-98.

Certified that Sri Prabir Kumar Bandyopadhyay son of Sri Anil Kumar Bandyopadhyay is working in ILT-2048 Exchange as A/C Operator on daily wage basis by ACG-17, since 1993 as per details below :

Sl.no.	Year	Month	Working days.
(1)	1993	July	16
(2)	"	August	31
(3)	"	September	30
(4)	"	October	31
(5)	"	November	30
(6)	"	December	31
			<u>Total : 169 days</u>
(7)	1994	January	31
(8)	"	February	28
(9)	"	March	31
(10)	"	April	30
(11)	"	May	31
(12)	"	June	30
(13)	"	July	31
(14)	"	August	31
(15)	"	September	30
(16)	"	October	31
(17)	"	November	30
(18)	"	December	31
			<u>Total : 365 days</u>
(19)	1995	January	31
(20)	"	February	28
(21)	"	March	31
(22)	"	April	30
(23)	"	May	31
(24)	"	June	30
(25)	"	July	31
(26)	"	August	31
(27)	"	September	30
(28)	"	October	31
(29)	"	November	30
(30)	"	December	31
			<u>Total : 365 days</u>
(31)	1996	January	31
(32)	"	February	29
			<u>Total : 60 Days</u>

S.D.B. (Phone)
Nagason 782001

J. T. O. I/D
ILT-2048 Exch
Nagason.

- 22 -

32✓

Certified that Sri Sambhu Chakraborty
son of Sri Manmatha Chakraborty is working in ILT-2048 Exchange
as A/C Operator on daily wage basis by ACG-17, since 1993 as
per details below :

Sl.no	Year	Month	Working days
(1)	1993	July	16
(2)	"	August	31
(3)	"	September	30
(4)	"	October	31
(5)	"	November	30
(6)	"	December	31
			<u>Total : 169 days</u>
(7)	1994	January	31
(8)	"	February	28
(9)	"	March	31
(10)	"	April	30
(11)	"	May	31
(12)	"	June	30
(13)	"	July	31
(14)	"	August	31
(15)	"	September	30
(16)	"	October	31
(17)	"	November	30
(18)	"	December	31
			<u>Total : 365 days</u>
(19)	1995	January	31
(20)	"	February	28
(21)	"	March	31
(22)	"	April	30
(23)	"	May	31
(24)	"	June	30
(25)	"	July	31
(26)	"	August	31
(27)	"	September	30
(28)	"	October	31
(29)	"	November	30
(30)	"	December	31
			<u>Total : 365 days</u>
(31)	1996	January	31
(32)	"	February	29
			<u>Total : 60 days</u>

S.D. E. (Phones)
Nagaoon - 782001

J. T. O. I/D
ILT-2048 Exch
Nagaoon.

Date Sathendra Narayan Kundu, is working in ILT-2048 Exchange as A/C Operator on daily basis wage basis by ACG-17 since 1993 as per details below :

Sl.no	Year	Month	Working Days
(1)	1993	September	30
(2)	"	October	31
(3)	"	November	30
(4)	"	December	31
			<u>Total : 122 days</u>
(5)	1994	January	31
(6)	"	February	28
(7)	"	March	31
(8)	"	April	30
(9)	"	May	31
(10)	"	June	30
(11)	"	July	31
(12)	"	August	31
(13)	"	September	30
(14)	"	October	31
(15)	"	November	30
(16)	"	December	31
			<u>Total : 365 days</u>
(17)	1995	January	31
(18)	"	February	28
(19)	"	March	31
(20)	"	April	30
(21)	"	May	31
(22)	"	June	30
(23)	"	July	31
(24)	"	August	31
(25)	"	September	30
(26)	"	October	31
(27)	"	November	30
(28)	"	December	31
			<u>Total : 365 days</u>
(29)	1996	January	31
(30)	"	February	29
			<u>Total : 60 days</u>

S.D.E. (Phone 29)
782001

J. T. O. I/D
ILT-2048 Bxch
Nagaon.

37

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON TELECOM DISTRICT
NAGAON-782001.

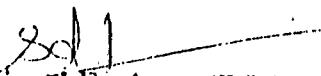
No. A-12/Ty. Adv./SDE(Cons.):NCGI/98-99/21

Dated at Nagaon the 14-08-98.

Sanction of the Telecom District Manager, Nagaon is hereby conveyed for payment of Rs. 13,386.00 (Rupees Thirteen Thousand Threehundred Eightysix) only to Sri J.N.Saikia, S.D.E.(Cons.), Nagaon as Temporary advance under Rule 123 of FHB Vol.III Part-I for the month of August, 98 for making disbursement of known amount as detailed below :-

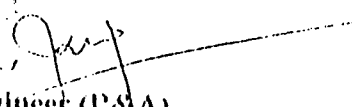
1) Fixed Maintenance	.....	: 6,000.00
2) Operational charges of A/C Plant of H.T-2048 Nagaon	.....	: 6,600.00
3) Wage of One P/T Sweeper for the m/o July, 98.	.....	: 786.00
Total Rs.13,386.00		

(Rupees Thirteen Thousand Threehundred Eightysix) only.

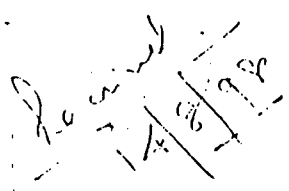

Divisional Engineer (P&A)
O/O Telecom District Manager
Nagaon-782001.

Copy to :-

- 1) The Divisional Cashier, O/o the T.D.Engineer, Nagaon for necessary action.
- 2) Sri J.N.Saikia, SDE(Cons.)/Nagaon. Since the advance is given for specific disbursement of known amounts the account should be submitted immediately after the disbursements are over so as to enable this office to adjust the account within a month as specified in Rule 127 of FHB Vol.III Part-I.
- 3) Office copy.


Divisional Engineer (P&A)
O/O Telecom District Manager
Nagaon-782001.

-00000-



		Account/Estimate	Provision	2nd Required	
1.	Misc fund (Fixed)	C-5(2)(3)(4) C-1(2)(4) C-2(2)(6) C-2(2)/wages	Rs. 3500/=	Rs. 3500/=	(a) Recoupment to TMOs. (b) For purchasing cushion carpet for main building for Rs. 500. (c) For purchasing A.P. spares & misc spares for power plant and battery. (d) Payment of bill for Motor repairing of A/C plant. (e) Payment of P/T wages to - waterman on duty holidays. (f) Emergency purchase of stationery items not supplied by the Divisional Office. (g) Uniforms & Misc. expenses.
2.	Operational charges of Pkg type A/C plant of ILT-2048/MSB. (Fixed monthly fund) (ON CONTRACT BASIS)	C-2(2)/wages	Rs. 6600/=	Rs. 6600/=	For July '98
3.	Payment of daily wages to P/T sweeper of ILT 8 M.B.M xge and S.D.E (C) O.B.M.	C-2(2)/wages	Rs. 786/=	Rs. 786/=	For July '98.
	(1 x 8.45/= x 3 x 31)				
				Rs. 15886/=	
				(Rupees Fiftteen Thousand eight hundred eighty six only).	

No. A-1/P2-III/97-98/22. dtd 5/8/98.

Forwarded to the TDM/Naagach for favour of your kind disposal and a/c P2.

S. D. R. Construction
Nagach - 682001

85

**DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT ENGINEER
NAGAON-782001.**

No. A-12/Ty. Adv./SDE(Cons.):NGG/97-98/52

Dated at Nagaon the 01-01-98.

Sanction of the Telecom District Engineer, Nagaon is hereby accorded for payment of Rs.16,854.00 (Rupees Sixteen Thousand Eight Hundred Fiftyfour) only to Sri J.N.Saikia, S.D.E.(Cons.), Nagaon as Temporary advance under Rule 123 of FHB Vol.III Part-I for the month of January,98 for making disbursement of known amount as detailed below :-

1) Fixed Maintenance	....	: 8,500.00
2) Wages of A/C Operators for December,97...		: 6,600.00
3) Wages of One DRM for December,97	....	: 969.00
4) Wages of One P/T Worker for December,97..		: 785.00

Total Rs.16,854.00

(Rupees Sixteen Thousand Eight hundred Fiftyfour) only.

Sd/-
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001.

Copy to :-

- 1) The Divisional Cashier, O/o the T.D.Engineer, Nagaon for necessary action.
- ✓ 2) Sri J.N.Saikia, SDE(Cons.)/Nagaon. Since the advance is given for specific disbursement of known amounts the account should be submitted immediately after the disbursements are over so as to enable this office to adjust the account within a month as specified in Rule 127 of FHB Vol.III Part-I.
- 3) Office copy.

Sd/-
Telecom District Engineer
Nagaon Telecom District
Nagaon-782001.

-00000-

24/1/98

Payment of Daily wages to the A/c operators
& DRN (Comp. ground) of DEC 97 under SDE(C) I/NG.

Sl. No.	NAME/DESIGN.	No. of days working	No. of days absent.	Nature of work performed.	Rate	Payable amount	Signature of Payee
1.	Prabir K. Benerjee. (A/C OPS).	31 days		Operating A/c plan	↑	Rs. 1200/=	Prabir K. Benerjee
2.	Shambhu Chakraborty. (A/C OPS)			— do —	↑	Rs. 1200/=	Shambhu Chakraborty
3.	Sibu Sankar Kundu. (A/C OPS)	31 days		— do —	↑	Rs. 1600/=	Sibu Sankar Kundu
4.	Rajen Rajkumar. (A/C OPS)	31 days		— do —	↑	Rs. 1600/=	Rajen Rajkumar
5.	Prabir K. Mahanta. (DRN)	19 days		Subscriber testing duty.	Rs. 51/=	Rs. 969/=	Prabir K. Mahanta
						Rs. 5569/=	

(Rupees Seven thousand five hundred sixty nine) only.

Witness :

DRM (Comp. ground) for the m/o Jan 97 SDE(P)/NGO Section.

SL No.	Name and Designation.	No. of days working	Rate	Payable amount	Nature of work performed	Signature of Officer
1.	Sri. Kushal Saikia. (TSM)	31	Rs. 79'85	Rs. 2475/-	Office peon of SDE(P) - NGO office.	Kushal Saikia
2.	" Umesh Das. (TSM)	31	Rs. 79'85	Rs. 2475/-	Internal mess work of 1KT-2048, 1.4 KG-DOT and TAX age.	Umesh Das
3.	" Hemakanta Mahanta. (TSM)	31	Rs. 79'85	Rs. 2475/-	Undergoing P/M training	Hemakanta Mahanta
4.	" Prabir K. Benerjee. (A/C OPR)	31	on contract basis	Rs. 1650/-	Operating A/c plant.	Prabir K. Benerjee
5.	" Shambu Chakraborty (A/C OPR)	31	- Do -	Rs. 1650/-	- Do -	Shambu Chakraborty
6.	" Sibul Shankar Kundu. (A/C OPR)	31	- Do -	Rs. 1650/-	- Do -	Sibul Shankar Kundu
7.	" Rajen Rajkhowa. (A/C OPR)	31	- Do -	Rs. 1650/-	- Do -	Rajen Rajkhowa
8.	" Prabir Mahanta. (DRM)	19	Rs. 51/-	Rs. 969/-	clerical duty in the office of the SDE(P)/NGO office	Sri Prabir Mahanta

Rs. 14,994/-

Fourteen thousand nine hundred ninety four only.

दूर संचार विभाग
DEPARTMENT OF TELECOMMUNICATIONS

उत्तर वेग समान प्रमाण
निम्न संदर्भ दें
In reply
Please quote

सं. संख्या

No. E-24/5-

प्रेषण

From S. D. E. (Construction)/Nagaur.

सेवा में

To The D.E. (P&A)

विषय

Subject of the TDM/Nagaur.

Dated at Nagaur the 5/6/98

Sub:- Requirement of Manpower for regular mtee. work of ILT-2048 and MBM 'xge, Nagaur.

Ref:- Your NO:- A-1/Accounts/98-99/15-
dtd. 29-5-98.

Kindly refer to your above letter. In this connection it is requested kindly to provide Manpower to the Sec. of the U/s for smooth mtee. and performance of the Sec. as mentioned below :-

S/NO	No. of Manpower reqd.	Nature of job	Remark.
(1)	1	Battery Man -	for 2500 Amp./Hr. Battery - 2 Sets.
(2)	1	Cleaner	- Both for ILT & C-dot
(3)	1	P/T Sweeper	- for 'xge & office.
(4)	1	Waterman	- for 'xge, office, & pump operation.
(5)	1	Chowkidar	" office & 'xge
(6)	1	Electrical mtee	- " New 'xge building
(7)	2	Sub. Line Testing	- " Both the 'xges
(8)	2	Internal mtee	- " helping JTOs.
(9)	4	A/C Plant operation	both for Pkg. & window type of both the 'xges.

Total 14 (fourteen).

प्रमाणित सं. / MOIP Sent. - 22 Telcom/SG - (CTS-75/CA/1/10-12-98-27-1-18-4,10,2001-18-18)

(No Operational contact has been offered to any Private party till date)

8. D. E. Construction.
Nagaur - 32001

1232
05 NOV 1999
Const. Case

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOMMUNICATIONS
ASSAM CIRCLE. GUWAHATI - 781007.

S R

No. STES-21/207/4 Dated at Guwahati, the 27th Oct. '99.

To,

Recd.
1-2. General Manager, Guwahati/Silchar.
3-7. TDNs DR/JRT/TZ/HGG/BGN.

The Hon'ble CAT, Guwahati Bench has passed the common order/judgement dt. 31.8.99 in O.A. No. 107/98, 112/98, 114/98, 118/98, 120/98, 131/98, 135/98, 136/98, 141/98, 142/98, 145/98, 192/98, 223/98, 269/98 and 293/98. In their order, the Tribunal has directed the respondent department to examine the case of each applicant. For that purpose, the applicants are allowed to file individual representation within a period of one month and the respondents should scrutinise and examine each case in consultation with the records and thereafter to pass a reasoned order on merit of each case.

In view of the above judgement and order immediate action is required to be taken at all level to complete the process strictly in accordance with the direction of Hon'ble Tribunal. Towards that end, all head of Dist/SSA are requested to take the following time bound action:-

(a) All head of Dist/SSA will receive the individual representations of all applicant casual labourers belonging to their Dist/SSA.

(b) The representations received from the casual labourer will be thoroughly scrutinised and examined at the Head of Dist/SSA level in consultation with the official records and record findings in each case in an attached sheet.

(c) All the representations received upto the closing date together with the note as above should be forwarded to this office in one lot together with the following information in r/o each applicant.

Contd. to page-2

DE(PAA)

for RAB, 27/9/99

Most urgent

27-11-99

PL examine the OAs issued
in this case. The action order
may be issued with final order
in the judgement of 31.8.99
For study, individual office
may be examined with the
available records in the office
(within 5 Dec 99) and for
for info PL.

06/11/99

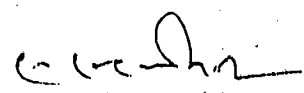
- 32 -

32

-2-

- (i) Name of casual labourer and O.A.No. to which is an applicant.
- (ii) Mode of selection.
- (iii) Date of initial engagement.
- (iv) No. of days put in service in each calendar year since initial engagement with mode of payment.
- (v) Nature of duty performed from time to time.
- (vi) Break period and particulars of condonation thereof, if any.

The representations alongwith self contained notes together with the complete information as above should be forwarded in one lot to reach the under-signed on or before 30.11.99 positively.



(R.S. Tripathi)
Deputy General Manager (Admin)

Copy to:-

- 1. C.G.M. Task Force, North East Region, Guwahati.
- 2. Director, Mtce, ETR, Guwahati.
- 3. Director, Sat. Project, Guwahati.
- 4. S.E. Telecom. Civil (HQ), Guwahati.
- 5. Principal, CTC, Guwahati.
- 6. DE(OP), Circle Office, Guwahati.
- 7. ADT(G), Circle Office, Guwahati.

They are also requested to take similar action and forward the representations alongwith the required information within the prescribed time limit.

Enclo:- Copy of judgement dated 31.8.99.

sd/-
for C.G.M.T. Guwahati.

- 33 -

DEPARTMENT OF TELECOMMUNICATION.

% THE TELECOM DISTRICT MANAGER NAGAON :SSA:

No.E-182/Court-Case/99-00/28. Dated at Nagaon the 11-11-99.

To,

The 1)SDOT/Nagaon.

2)SDE(C)/Nagaon.

3)SDE(EXT)/Nagaon.

4)SDE(C.DOT)/Hojai-

5)SDE(M/W)/Diphu.

6)SDE(M/W)/Dimapur.

7 to 11)SDE(GX)/Nagaon/Hojai/Morigaon/Diphu/Luding.

Sub-Wanting particulars of Casual Mazdoors who are under CAT Cases O.A No.112/98 & 192/98.

Kindly refer to this office letter of even No.14 dated 11-11-99 and No.23 dated 16-07-99, wherein list of Casual Mazdoors who are under CAT Case O.A No.112/98 & 192/98 were forwarded to you for necessary report. Now CGMT/Guwahati has asked for sending the details report about the casual Mazdoors vide letter No.STES-21/201/4. dated 27-10-99, copy of the same enclosed herewith. In this connection report as desired vide Para.(C) (i) to (vi) may be furnishd alongwith the individual application from the Casual Mazdoors who are in CAT Cases mentioned above to this office on or before 25th November/99 positively at a lot. Application received after 25th Nov/99 will not be entertained.

Further application received from Sri Shyamal Das under C.DOT/Hojai, Sri Sukleswar Kumar under SDE(GX)/Morigaon, S/Sri Prabir kumar Banerjee, Sambhu Chakraborty and Sibn Sankar Kundu under SDE(EXT)/Nagaon are returned herewith to the respective controlling officer for re-submission alongwith the report of Para (C) (i) to (vi) of the CGMT's above cited letter.

Please treat as MOST URGENT.

Encl: As above.

(Total: 4)

S.O.E. (ERO)

% The T.D.M. Nagaon :SSA:

- 34 -

Annexure SA

SL. No. 456

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others

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

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

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

1. O.A.No.107/1998

Shri Subal Nath and 27 othersApplicants
By Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

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

2. O.A.No.112/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

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

3. O.A.No.114/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr B.K. Sharma and Mr S. Sarma

-versus-

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

4. O.A.No.118/1998

Shri Bhuvan Kalita and 4 othersApplicants
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

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



45
5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 othersApplicant
By Advocates Mr J.L. Sarkar, Mr M. Chanda
and Ms N.D. Goswami.

-versus-

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

6. O.A.No.131/1998

.....
All India Telecom Employees Union and
anotherApplicants
By Advocates Mr B.K. Sharma, Mr S. Sarma
and Mr U.K. Nair.

-versus-

The Union of India and othersRespondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.
O.A.No.135/98

7. All India Telecom Employees Union,
Line Staff and Group 'D' and
6 others

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

-versus-

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

8. O.A.No.136/1998

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

-versus-

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

9. O.A.No.141/1998

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

-versus-

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

SL

10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.

.....Applicants

By Advocate Mr B. Malakar

-versus-

The Union of India and others

.....Respondents

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

....

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others

.....Applicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and others

.....Respondents

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

....

12. O.A.No.192/1998

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

.....Applicants

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

-versus-

The Union of India and others

.....Respondents

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

....

13. O.A.No.223/1998

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

.....Applicants

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

-versus-

The Union of India and others

.....Respondents

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

....

14. O.A.No.269/1998

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

.....Applicants

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

-versus-

The Union of India and others

.....Respondents

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

....

[Signature]

47
15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and anotherApplicants
By Advocates Mr D.K. Sharma, Mr S. Sarma
and Mr D.K. Sarma.

-versus-

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

.....

O R D E R

BARUAH.J. (V.C.)

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

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

882

28

benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the Scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

82

to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus, the applicants have approached this Tribunal by filing the present O.A.s.

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

5. The contention of the respondents in all the above O.A.s is that the Association had no authority to

X/2

represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the

21

- 41 - : 8 :

5/ Tribunal dated 13.8.1997 passed in A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr D.K.Sharma, Mr J.L. Borkar, Mr I. Hussain and Mr B. Malakar, learned counsel appearing on behalf of the applicants and also Mr A. Deb Roy, learned Sr. C.G.S.C. and Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the Scheme was retrospective and not prospective and they also submit that it was upto 1989 and then extended upto 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the Scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submit that the respondents cannot put any cut off date for implementation of the Scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a

definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and, if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SL/-VICE-CHAIRMAN
SD/-MEMBER(A)

Certified to be true Copy
प्रमाणित प्रतिलिपि

11AM

Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

11/10/55

To
The Chief General Manager,
Assam Telcom Circle,
Guwahati.

Through the TUM, Nagaon.

(Through the Proper Channel).

Sub: Submission of representation in terms of
Judgement and Order dated 31.8.99 in O.A.
No. 112/98.

Respected Sir,

Most humbly and respectfully I beg to state
^{approached}
that I have the Hon'ble Central Administrative Tribunal,
Guwahati Bench through the Original Application No. 112
of 1998 on the apprehension that my casual service is
likely to be terminated. In this connection it is
stated that I have been engaged as casual worker under
the SDE Phones Nagaon, however I have been entrusted
as with the job of A.C. Operator from 16th July 1993 on
similar terms and conditions as casual worker. There-
after I am continuously working under sub-divisional
Engineer, Nagaon without any break till 31.8.1998 and
at the relevant time. I have been paid my wages at the
rate made to that of similar casual workers, but with
effect from 1.1.96 the undersigned have been paid
lump sum amount of Rs. 1700/- per month with the proper
sanction of the higher authority.

Contd...2/-

However, in the month of September, 1998 I have been forced to work on Central basis as A.C. operator in the instance of SDE (construction), Nagaon. It is relevant to mention here that at the relevant time my case was pending before the Hon'ble Tribunal.

However, under the compelling circumstances finding no other alternative I have accepted the job of A.C. operator on Central basis in the said Nagaon Telephone Exchange and still working as such.

I have acquired valuable and legal right for grant of temporary status and regularisation under casual labourers grant of status and regularisation scheme of the DOT 1989. But till date no action has been initiated for grant of temporary status and regularisation of my service. It is further stated that following a recent circular by the Telecom Directorate all casual workers recruited and working upto 1997 in other region have already been regularised but surprisingly my case has not been considered for grant of temporary status as well for regularisation. It is stated that all documents pertaining to my casual service are available with the SDE, (construction) Telecom, Nagaon. It is further requested for immediate

Contd...3/-

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56

-3-

implementation of judgement and order dated 31.8.99
passed in O.A. No. 112/98. A copy of the order and
judgement mentioned above is enclosed herewith for
favour of your perusal.

Yours faithfully,
Sambhu Chakrabarty
Sambhu Chakrabarty
(Sambhu Chakrabarty)
Casual Worker
(A.C. Operator) SDE,
Nagaon.

-46-

Annexure - 5 B. Cons

56

(Through the Proper Channel).

Respected Sir,

Revised

Con 2. . . . 2/-

However, in the month of September, 1993 I have been forced to work on ^{Contract-} Central basis as A.C. operator in the instance of SDE (construction), Nagaon. It is relevant to mention here that at the relevant time my case was pending before the Hon'ble Tribunal.

However, under the compelling circumstances finding no other alternative I have accepted the job of A.C. operator on ^{Contract-} Central basis in the said Nagaon Telephone Exchange and still working as such.

I have acquired valuable and legal right for grant of temporary status and regularisation under casual labourers grant of ^{temporary} status and regularisation scheme of the DOE 1989. But till date no action has been initiated for grant of temporary status and regularisation of my service. It is further stated that following a recent circular by the Telecom Directorate all casual workers recruited and working upto 1997 in other region have already been regularised but surprisingly my case has not been considered for grant of temporary status as well for regularisation. It is stated that all documents pertaining to my casual service are available with the SDE, (construction) Telecom, Nagaon. It is further requested for immediate

-48-

58

-3-

implementation of judgement and order dated 31-0-99
passed in B.A. No. 112/98. A copy of the order and
judgement mentioned above is enclosed herewith for
favour of your personal.

Yours faithfully,

~~Sibu Shankar Kundu~~

Sibu Shankar Kundu
Sibu Shankar Kundu
(Sibu Shankar Kundu)

Annexure - 5B.
Serial
8

- 49 -

To
The Chief General Manager,
Assam Telecom Circle,
Guwahati.

Through the TDM, Nagaon.

(Through the Proper Channel).

Sub:- Submission of representation in terms of
judgement and order dated 31.8.99 in O.A.
No. 112/98.

Respected Sir,

Most humbly and respectfully, I beg to state
that I have approached the Hon'ble Central Administrative
Tribunal, Guwahati Bench through the Original Applica-
tion No. 112 of 1998 on the apprehension that my casual
service is likely to be terminated. In this connection
it is stated that I have been engaged as casual worker
under the SDE Phones Nagaon, however I have been entrusted
with the job of A.C. Operator from 16th July 1993 on
similar terms and conditions as casual worker. There-
after I am continuously working under sub-Divisional
Engineer, Nagaon without any break till 31.8.1998 and
at the relevant time. I have been paid my wages at the
rate made to that of similar casual workers, but with
effect from 1.1.96 the undersigned have been paid lum-
sum amount of Rs. 1700/- per month with the proper
sanction of the higher authority.

Received
12/10
1999
Office of the Telecom
Nagaon
Assam

Contd...2/-

However, in the month of September, 1998 I have been forced to work on contract basis as A.C. Operator in the instance of SOE (construction), Nagaon. It is relevent to mention here that at the relevent time my case was pending before the Hon'ble Tribunal.

However, under the compelling circumstances finding no other alternative I have accepted the job of A.C. Operator / on contract basis in the said Nagaon Telephone Exchange and still working as such.

I have acquired valuable and legal right for grant of temporary status and regularisation under casual labourers grant of temporary status and regularisation scheme of the DOT 1989 . But till date no action has been initiated for grant of temporary status and regularisation of my service. It is further stated that following a recent circular by the Telecom Directorate all casual workers recruited and working upto 1997 in other region have already been regularised but surprisingly my case has not been considered for grant of temporary status as well for regularisation. It is stated that all documents pertaining to my casual service are available with the / SOE, (construction) Telecom, Nagaon. It is further requested for immediate

Contd...3/-

implementation of judgement and order dated 31.8.99
passed in O.A. No. 112/98. A copy of the order and
judgement mentioned above is enclosed, herewith for
favour of your perusal.

Yours faithfully,

Prabir Kr Banerjee
Prabir Kr Banerjee

(Prabir Kr. Banerjee)
Casual kabb Worker
(A.C. Operator) SDE,
Nagaon.

Sanchar Bhavan,
New Delhi-110001.

No. 269-4/93-STN-II (Pt.)

Dated: 9.2.2000

To:

The Chief General Manager Telecom.,
Assam Telecom. Circle,
GUWAHATI.

Sub: Sanction of posts of Regular Mazdoors for
regularisation of Temp. Status Casual Mazdoors
as on 31.3.97 and grant of Temp. Status to
Casual Labourers as on 1.8.98 - case of Assam
Circle.

Sir,

I am directed to invite your attention to this
office letter No. 269-4/93-STN-II dt. 12.2.99 on the
above subject and to say that the matter has been
considered by the competent authority and decided to
further delegate the powers to CGMC, Assam to create
posts of Regular Mazdoors for regularising 13 Temp.
Status Mazdoors who have completed 10 years of service
as on 31.3.97 and to grant Temp. Status to 672 Casual
Labourers. All other conditions stipulated in the
letter dt. 12.2.99 remains unchanged.

This issued with the concurrence of Internal
Finance, Deptt. of Telecom. vide their U.O.

No. 4134/2000-2 dt. 10.2.2000

Yours faithfully,

(HAR DAS SINGH)
Asstt. Director General (STN)

9/1

53-16
(E)

Annexure - 7
Annexure - 3
Annexure - 6

Casual Labourers

Regularisation & TSM

DOT No. 269-4/93-STN-II Dt. 12.2.99

I am directed to refer to this office letter No. 269-10/89-STN dated 7.11.89 wherein the scheme called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" was communicated.

Pre- 85 officials

As per the said scheme, casual labourers who were engaged before 30.3.85 and had completed 10 years of service, were made eligible for regularisation. Based on the above, instructions were issued vide this office letter No. 5-1/92-TE-II dated 17.3.92, 6.7.93, 20.5.94, 8.5.95 and 30.9.96.

Post 85 officials

Even though there is a complete ban on recruitment of casual labourers, it has come to light that many circles, defying the ban orders, had recruited casual labourers even after the ban orders. Since these casual labourers have completed 10 years of service, Employees Unions are pressing for the regularisation of the remaining casual labourers who were recruited after 30.3.85 and completed 10 years of service, on the analogy of earlier decision of Supreme Court on the subject.

Under these circumstances, the matter has once again been examined and it has been decided by the Telecom. Commission as a one time measure, on special consideration, to further delegate powers to all the Heads of Circles/Metro Districts, Chief General Managers, MTNL, New Delhi and Mumbai and Heads of Administrative Units to create posts of Regular Mazdoors for regularising the "Casual La-

bourers (Grant of Temporary Status and Regularisation) Scheme 1989, who have completed 10 years of service as on 31.3.97 to the extent of the numbers indicated in Annexure 'A' which has been compiled based on the information received from the Circles/Units. The posts are to be created within the prescribed ceiling as on 31.3.91. The other conditions stipulated in the letter dated 17.3.92 remain unchanged.

Approval of Telecom Commission is also conveyed for delegation of powers to grant temporary status to casual labourers to the extent of number indicated against the respective circles in Annexure 'B' which also has been compiled based upon the information furnished by the Circles/Units concerned.

As the numbers indicated in the Annexures A and B are furnished by the Circles/Units concerned, there should not be any variation in the figures. In case there

is a change, Heads of Circles should refer the cases to TCHQ explaining the reasons therefor.

Recruitment of casual labourers was completely banned w.e.f. 22.6.88 and instructions were issued time and again for identifying the officers/officials responsible for engaging casual labourers in spite of the ban orders. The non-compliance of the instructions issued by this office in true letter and spirit led to the Department having to bear a huge avoidable financial burden. This is a serious lapse. It is observed that circles are hesitating to identify and fix responsibility on the errant Officers/officials. Therefore, Heads of Circles/Units are once again requested to initiate necessary action against the officers/officials concerned and intimate the action taken against them to this office by 29.2.99 as directed by the Chairman Telecom. Commission.

This issues with the concurrence of Internal Finance vide their Dy. No. 47/FA-1/98 dated 13.1.99.

Published in February issue of Tele Labour

Non-recurrent contingent expenditure

- enhancement of powers

DOT No. 6-10/98-EB Dt. 12.2.99

In some emergent circumstances, as detailed below, executive authorities may hire labour under contingency expenditure as provided in Rule 334 of P&T FHB Vol. I read with item 25 of Appendix 13-A of P&T FHB Vol. I:

- 1) In case of natural disasters like earthquakes, landslides, etc.
- 2) In case of weather vagaries like cyclone, floods, snowfall, etc.
- 3) In case of exigencies involving sporadic nature of work.

In all of the above cases, no individual labourer can be engaged for more than 15 days at a time, or

for more than 60 days in a year.

To meet the requirements mentioned in para 1 above, the financial powers of the following executive authorities to incur non-recurring contingent expenditure under the Schedule of Financial Powers, are amended as below:-

Financial Powers:

Para 5.0.0. : Contingent Expenditure
5.2.0. : Non-Recurring
TDMs/Directors : Rs. 50,000/- in each case, subject to Rs. 1 lakh per annum
TDEs/DEs : Rs. 15,000/- in each case, subject to Rs. 50,000/- per annum
SDOs : Rs. 10,000/- in each case, subject to Rs. 30,000/- per annum

OTA Rates

Provisional disagreement on payment based on notional pay is reached provided the disagreement can be signed in the Departmental Council.

Working hours

Award (reduction by 3 hours) disagreement in now linked with Supreme Court hearing our petition in the last week of February.

Anomaly Committee

Meeting will be held in the middle of March.

Reforms Committee

In the background of the ensuing competition, Reforms Committee will be revived.

MTNL

The issues arising from ending deemed deputation of DOT staff will be discussed with Advisor (HRD).

Still under consideration

* Incentive examination for senior Accountants.

* Incentive Test for 10% JAO posts to senior Accnts.

* Grade IV for PI, TA etc. - Those who do not get promoted to JTO cadre.

Casual Labour

Temporary status: Orders have been issued in respect of casual labour in service upto 31.12.98

Regularisation of those recruited upto 1987.

Part time workers

Orders are under Issues.

Ayats In Creches: Proposal to Treat them as casual labourers is being considered.

Note the number is inadequate. Branches should send detail

Casual Labour

DOT order will be published in Telecom

Circle	TMS to be regularised	CLs to be granted** Temporary Status
Altc	0	0
A&N	0	0
AP	329	NA
AS	77	NA
BH	48	347
BRBRAITT	0	0
CHENNAI TD	82	4
CTD	97	450
DNW	0	1
ETP	0	318
ETR	0	229
GUJ	151	177
HP	0	790
HR	7	25
J&K	4	27
KRL	26	24
KTK	102	108
MH	238	NA
MP	21	NA
MINL DI	39	15
MINL BY	11	23
NCES	0	0
NE	24	350
NETF	31	249
NTP	179	50
NTR	108	NA
OR	5	16
PB	27	12
QA	0	0
RAJ	48	56
RE NAGPUR	0	105
STP	0	6
STR	5	29
T&D JBP	0	0
IN	37	160
TS CA	0	0
UPE	106	200
UPW	15	NA
WB	3	50
WTP	188	119
WTR	72	28
TOTAL	2081	4046

*TSMs eligible for regularisation as on 31.3.97 (Engaged between 1.4.88 and 31.3.87)

**Casual labourers to be given Temporary Status as on 1.8.98

Tele Labour

63

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM
OFFICE ORDER

Sub=O.A No.446/99 in the court of CAT Guwahati filed by
SriSambhu Chakraborty and others.

In pursuance of Hon'ble CAT Guwahati order in case No.446/99 the following order is hereby communicated.

The engagement of Sri Sambhu Chakraborty since the very beginning (16-7-1993) was on implied contract basis because four workers including Sri Sambhu Chakraborty had been receiving a consolidated amount of Rs 6000/- (Rs Sixthousand) only lumpsum per month as their wages which was increased to Rs 6600/- (Rs. Sixthousand sixhundred) only w.e.f 01-01-96 considering rise in price of essential commodities. In fact the amount of wages paid to Sri Sambhu Chakraborty was not at all on departmental rate.

Sri Sambhu Chakraborty has drawn a comparision of his wage with those of S/Sri Shersah Ali 2) Upen Nath. 3) Nitul Neog. 4) Mrs Anima Sarma, 5) Bipul Sarma and 6) Manu Mallick.

The persons cited above at Sl No. 1,2,6 were engaged on departmental work mainly for driving departmental vehicles and were paid on departmental rates for certain periods for which arrear wage were paid. Afterwards the above persons are no longer working on departmental rates.

The persons they have cited under Sl No.3,4 and 5 are the cases pertaining to compassionate ground. Pending appointment approval from the CGMT/Guwahati they were engaged on departmental rates for certain period for which arrear wages were paid. Sl No.3 and 5 subsequently absorbed on compassionate ground in the department and Sl No.4 is undergoing training for appointment on compassionate ground.

From the above fact, it can be seen that the case of Sri Sambhu Chakraborty does not have any relevance with the persons at Sl No. 1 to 6 and hence his claim to pay the arrears at the revised rate w.e.f 01-01-1996 is not at all acceptable.

S.D.E. (HRD)
O O the TDM Nagaon.

✓
Copy to:- 1) Sri Sambhu Chakraborty Nagaon
2) The CGMT Guwahati for kind information.

S.D.E. (HRD)
O O the TDM Nagaon.

-56-

66

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM
OFFICE ORDER

Sub OLA No.446/99 in the court of CAT Guwahati filed by
Sri Prabir Kumar Banerjee and others.

In pursuance of Hon'ble CAT Guwahati order in case No.446/99 the following order is hereby communicated.

The engagement of Sri Prabir Kumar Banerjee since the very beginning (16-7-1993) was on implied contract basis because four workers including Sri Prabir Kumar Banerjee had been receiving a consolidated amount of Rs 6000/- (Rs Sixthousand) only lumpsum per month as their wages which was increased to Rs 6600/- (Rs. Sixthousand sixhundred) only w.e.f 01-01-96 considering rise in price of essential commodities. In fact the amount of wages paid to Sri Prabir Kumar Banerjee was not at all on departmental rate.

Sri Prabir Kumar Banerjee has drawn a comparison of his wage with those of S/Sri Shersah Ali 2) Upen Nath, 3) Nitul Neog, 4) Mrs Anima Sarma, 5) Bipul Sarma and 6) Manu Mallick.

The persons cited above at SI No. 1,2,6 were engaged on departmental work mainly for driving departmental vehicles and were paid on departmental rates for certain periods for which arrear wage were paid. Afterwards the above persons are no longer working on departmental rates.

The persons they have cited under SI No.3,4 and 5 are the cases pertaining to compassionate ground. Pending appointment approval from the CGMT Guwahati they were engaged on departmental rates for certain period for which arrear wages were paid. SI No. 3 and 5 subsequently absorbed on compassionate ground in the department and SI No.4 is undergoing training for appointment on compassionate ground.

From the above fact, it can be seen the case of Sri Prabir Kumar Banerjee does not have any relevance with the persons at SI No. 1 to 6 and hence his claim to pay the arrears at the revised rate w.e.f 01-01-1996 is not at all acceptable.

Sd/-
S.D.E. (HRD)
O.O the TDM Nagaon.

Copy to:- 1) Sri Prabir Kumar Banerjee Nagaon
2) The CGMT Guwahati for kind information.

Sd/-
S.D.E. (HRD)
O.O the TDM Nagaon.

8.
Swiss.
68

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM
OFFICE ORDER

Sub=O.A No.446/99 in the court of CAT Guwahati filed by
Sri Sibu Sankar Kundu and others.

In pursuance of Hon'ble CAT Guwahati order in case No.446/99 the
following order is hereby communicated.

The engagement of Sri Sibu Sankar Kundu since the very beginning
(16-7-1993) was on implied contract basis because four workers
including Sri Sibu Sankar Kundu had been receiving a consolidated amount of Rs
6000/- (Rs Sixthousand) only lumpsum per month as their wages which was
increased to Rs 6600/- (Rs. Sixthousand sixhundred) only w.e.f 01-01-96
considering rise in price of essential commodities. In fact the amount of wages
paid to Sri Sibu Sankar Kundu was not at all on departmental rate.

Sri Sibu Sankar Kundu has drawn a comparison of his wage with
those of S Sri Shersah Ali 2) Upen Nath 3) Nitul Neog 4) Mrs Anima Sarma,
5) Bipul Sarma and 6) Manu Mallik.

The persons cited above at Sl No. 1,2,6 were engaged on departmental
work mainly for driving departmental vehicles and were paid on departmental rates
for certain periods for which arrear wage were paid. Afterwards the above persons
are no longer working on departmental rates.

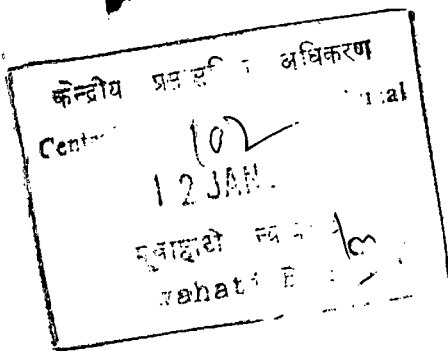
The persons they have cited under Sl No.3,4 and 5 are the cases
pertaining to compassionate ground. Pending appointment approval from the
CGMT/Guwahati they were engaged on departmental rates for certain period for
which arrear wages were paid. Sl No.3 and 5 subsequently absorbed on
compassionate ground in the department and Sl No.4 is undergoing training for
appointment on compassionate ground.

From the above fact, it can be seen that the case of Sri Sibu Sankar
Kundu does not have any relevance with the persons at Sl No. 1 to 6 and hence his
claim to pay the arrears at the revised rate w.e.f 01-01-1996 is not at all
acceptable.

Sd/-
S.D.E. (HRD)
OO the TDM Nagaon.

Copy to:- 1) Sri Sibu Sankar Kundu Nagaon
2) The CGMT, Guwahati for kind information.

Sd/-
S.D.E. (HRD)
OO the TDM Nagaon.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

O/ A NO. 140/2000.

Shri Prabir Kr. Banerjee,

... Applicant.

VS

Union of India and Others,

... Respondents.

(Written statements filed by the Respondents
No. 1, 3 and 4).

The written statements of the aforesaid
respondents are as follows :-

1. That a copy of the O/A No. 140/2000
(hereinafter referred to as " application ")
has been served on the respondents. The respondents
have gone through the said application and understood
the contents thereof. The interest of all the
respondents have common and similar, common written
statements are filed by all of them.

2. That with regard to (the statements made in
paragraph 1 of the application, the answering

Contd....2.

respondents beg to state that the applicants are not covered by the definition of " casual labourer " and hence they cannot come within the zone of consideration under the scheme of 1989. In view of the above facts and circumstances, they cannot be considered for confirmation of temporary status or for regularisation under the said scheme and against for such vacancy created for the casual labourer. The respondents, therefore denied the correctness of the said statements made in paragraph 1 of the application.

3. That with regard to the statements made in paragraph 2, 3, 4.1 and 4.2 of the application, the answering respondents have no comments to offer.

4. That with regard to the statements made in paragraph 4.3 of the application, the respondents state that the applicants were engaged for operation of the " Package Type A/C plants " on a mutually agreed monthly consolidated amounts of Rs. 6000/- only for four of them as per verbal terms and conditions of the contract. The said verbal contract came into force w.e.f. 16.7.1993 and came to an end on 31.7.1998 followed by a written contract with M/S Sudarsana Cooling firm after observing all departmental formalities. The applicants got the

70 60

lump sum amount of Rs. 6000/- (not total) which was enhanced to Rs. 6600/- on humanitarian ground as per their request. Accordingly they approximately received Rs. 1700/- per month at the maximum and they accepted the same without any complaint in comparison to their monthly amount. The monthly rate of casual labourers approved by the Govt. of India at that time was Rs. 2025/- for 30 days and Rs. 2093/- for 31 days whereas the applicants got only Rs. 1700/- out of the total consolidated contracted amount of Rs. 6000/6600 per month. From the above facts, it now clear that the applicants were contract labourers and was not casual labourers for such any intend or purpose. So far as the question of certificate referred to by the applicants, such certificate levelled the effect that they were engaged for operation of the Package Type A/C Plants, although the standard format of payment in ACG - 17 was used for their payment. They were never paid for daily wage basis rather the payment was made on lump sum monthly contract basis out of the total monthly consolidated contract amount. Therefore, the applicants contention that they were engaged on daily wage basis is not correct and hereby denied.

5. That with regard to the statements made in paragraph 4.4 of the application, the answering

respondents denied the correctness of those statements. Neither the applicant's wages were fixed at the Govt. prescribed rate nor on daily wages basis on the same terms and conditions applicable to other casual mazdoors at any period. Further it is also not correct that the applicants were forced to work on contract basis with w.e.f. September, 1996. The engagement of the applicants as contract labourers for a job was discontinued w.e.f. July, 1998 last and the job was offered to private firm M/S Sudarshana Cooling Firm after observing the departmental formalities. Since then there is no existence of the applicants in the department. Hence as mentioned in the para the respondents had reacted such illegal action which forced the applicants to work on contract basis because of filling of case at the Hon'ble CAT against the said contract engagement was all verbal and they were informed the nature of duty and fixed amount of monthly payment. Being on contract engagement the applicants accepted Rs. 1500/-, Rs. 1600/- and Rs. 1700/- etc. per month during their period of engagement without any objection while departmental approved casual labourers rate was Rs. 67.50 (increased time to time with increase of Dearness Allowance) amounting to Rs. 2025/- for 30 days and Rs. 2093/- for 31 days or more.

Contd...5.

6. That with regard to the statements made in paragraph 4.5 of the application, the answering respondents state that as per prevailing procedure fund required either for maintenance head, Capital head or O/E head are required by the Sub-Divisional Officers were sanctioned by the Telecom District Manager. The fixed amount of fund Rs. 6600/- per month regularly was sanctioned by the competent authority to meet up the expenditure for the operation of A/C Plant on contract basis as fixed to applicants on verbal negotiation and paid to them through some vouchers.

It is not a hidden fact that the work of Operational A/C equipment is of regular nature. By engaging the applicants on contract basis the whole system of the A/C operation was kept under the direct control of the Department. The interest of the Department was to see that its A/C packages runs satisfactorily round the clock. Offering of the operational contract to any private party/Firm means handling over the direct responsibilities of A/C operational system to the party/Firm under administrative control of the Department. The later was not effected and the same was only mentioned in the letter No. E-24/5 dated 5.6.1998. This is the true meaning of the letter. It is re-asserted here again that the applicants were never engaged on daily wages basis

Contd...6.

73-63

but their engagement was on contract basis. The applicants were engaged on a lump sum amount (for 4 persons) which was much less than that of casual mazdoor engaged on departmental rate.

7. That with regard to the statements made in paragraph 4.6 of the application, the answering respondents state that these are all matter of records. However, the respondents state that the order in O/A No. 112/98 was passed in a series of case and under the said judgement and order, the entire matter left for the department/respondents for proper verification/scrutiny to find out the illegality of casual labourers and to regularise them and order confer temporary status on them. On scrutiny and verification, however, it was found that the applicants, contract labourers not casual labourers and therefore they could not come within the sone of consideration.

8. That with regard to the statements made in paragraph 4.7, 4.8 and 4.9 of the application, it is however stated that the scheme is meant for casual labourers only and the applicants being contractual labourers and they ^{could} ~~did~~ not come within the zone of consideration.

Contd...7.

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9. That with regard to the statements made in paragraph 4.10 of the application, the answering respondents state that the revised pay w.e.f. 1.1.96 was denied as the applicants were not working as casual labourers as per departmental rate meant for casual labourers. Rather they were working on contractual basis with a lump sum monthly amount. Hence, the claim of the respondents are hereby denied.

10. That with regard to the statements made in paragraph 5.1 to 5.8 of the application, the respondents stated that the grounds shown by the applicants are no grounds in the eye of law and was mis-concept and mis-interpreted or terms of engagement. Hence, the grounds are not legally valid grounds and the applicants is liable to be dismissed being devoid of any merit.

11. That with regard to the statements made in paragraph 6 and 7 of the application, the answering respondents have no comments to make.

12. That with regard to the statements made in paragraph 8.1 to 8.4 and 9 of the application, the answering respondents state that in view of

the above facts and circumstances and the provision of law, the applicants are not entitle to any relief under the scheme of 1989 or under the decision/contraction given by the Hon'ble Tribunal regarding the matter of casual labourers and therefore the application is liable to be dismissed with cost.

In the premises aforesaid,
it is therefore prayed that
Your Lordships would be
pleased to hear the parties,
peruse the records and after
hearing the parties and
perusing the records, shall
further be pleased to dismiss
the application with cost
and/or pass such order that
Your Lordships may deem
fit and proper.

Verification...9.

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

I, Shri Ganesh Chandra Sarma
presently working as Asst. Director Telecom. (Legal)
being competent and duly authorised to sign this
verification, do hereby solemnly affirm and state
the statements made paragraph 1 to 12
are true to my knowledge and belief, those made
in paragraph _____ being matter
of records are true to my information derived
therefrom and the rest are my humble submission
before this Hon'ble Tribunal. I have not suppressed/
concealed any materials/informations from this
Hon'ble Tribunal.

And I sign this verification on this 11th
day of ^{January} December, 2000 at Guwahati.

Ganesh Ch. Sarma,
Deponent.

23 APR 2001

ORIGINAL APPLICATION No. 140/2000

Raj Singh Tushir

..... applicant

Union of India & Ors.

..... Respondents.

The Respondent Nos 2,3 and 4 beg to file
there written statement as follows:

1. That the applicant had filed the above Original application against alleged non-payment of arrears from different regions where he had served earlier.
2. That as per directions of the Hon'ble Central administrative Tribunal the answering respondents particularly the Assistant commissioner, Kendriya Vidyalaya Sangathan, Maligaon Chariali, Guwahati Region had asked for instructions regarding payment of arrears to the applicant Sri Raj Singh Tushir from the Head Office of Kendriya Vidyalaya Sangathan, Delhi Region vide his fax letter No. 20-19/91-KVS(GR) dtd. 16.3.2001.
3. That the answering respondents beg to state that the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Delhi Region vide his office letter No. F 5361/98-KVS DR/2001 dated 20.3.2001 has clarified the amount of arrears paid to the applicant Sri Raj Singh Tushir from the different region where he had served earlier.
4. That the answering respondents beg to state that the applicant Sri Raj Singh Tushir has already been paid the arrears from different regions as per instruction received from D.R. vide letter No. F-5361/98-KVS(DR) | 2001 dtd 20.3.2001 as under -

contd....2

Sl.No.	Name of K.V. Served and Period from to	Arrear paid	Interest paid	Total paid	Remarks Ch.No.
1.	KV No.I Srinagar(J&K) 3.9.80 to 3.3.81	Rs.625/-	-	Rs.625/-	<u>623936</u> 11.9.2K
2.	KV Itanagar (AP) 04.03.81 to 20.3.91	Rs.24,088/-	63/-	Rs.24151/-	-
3.	KV Diphu (Assam) 21.03.91 to 20.10.92	Rs.4460/-	7360/-	Rs.11956/-	666808 <u>23.3.99</u> 667929 <u>25.5.99</u>
4.	KV BSF Chhawla(Delhi) 21.10.92 to 4.4.94	Rs.10077/-	-	Rs.10077	<u>647643</u> 15.12.98
5.	KV Shalimar Bagh 05.04.94 to 30.4.98	Rs.31350/-	-	Rs.31350	<u>647587</u> 16.10.98

Copy of letter Non F-5361/98
KVS (DR)/2001 dtd 20.03.2001
is annexed herewith and marked
as Annexure - 1.

5. That under the facts and circumstances it is respectfully ~~circumstances it is~~ prayed that the Original application may be disposed of.

contd.....3

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

I, Shri D.K. Saini S/o Shri C.L. Saini, aged about 51 years, presently working as the Assistant Commissioner, Kendriya Vidyalaya Sangathan, Maligaon, Guwahati Region do hereby verify that the statements made in the above paragraphs are true to my knowledge and belief based on records. And I am authorised to sign this verifications.

Place : Guwahati

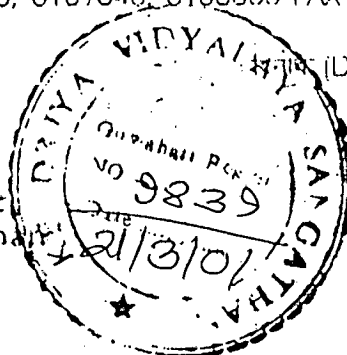
Shri D.K. Saini
DEPONENT

Date: 18-4-2001



ज० ने० वि० परिषद्, नया महरौली मार्ग, नई दिल्ली-110067
J.N.U. CAMPUS, NEW MEHRAULI ROAD, NEW DELHI-110067
दूरभाष (Tel.): 6165045, 6189046, 6180858 FAX : 6189046

सि० (No.) F.5.36/98-
KVS(DR)/2001



(Date) ...20.03.2001...

To

The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Maligaon Chariali,
Guwahati - 781 012.

Sub.: - Civil Rule No. 5361/98 (OA No. 140/2000(T))
filed by Sh. Raj Singh Tushir regarding
non-payment of arrears.

Sir,

I am to draw your kind attention to your Fax letter No. 20-19/91-KVS(GR) dated 16.03.2001, on the subject noted above and to state that Sh. Raj Singh Tushir PGT Hindi of KV Shalimar Bagh, Delhi and to state that Sh. Tushir has been paid the following amount as intimated principal, KV Shalimar Bagh, Delhi where Sh. Tushir is presently working.

Sl. No.	Name of KV Served and period From to	Arrear paid	Interest paid	Total paid	Remarks
				Rs.	Ch.No.
1.	KV No.1 Srinagar(J&K) 03.09.80 to 03.03.81	Rs. 625/-	-	Rs. 625/-	623936 11.9.2k
2.	KV Itanagar (AP) 04.03.81 to 20.03.91	Rs. 24,088/-	63/-	24151/-	-
3.	KV Dipu(Assam) 21.03.91 to 20.10.92	Rs. 4,460/-	7360/-	11956/-	666808 23.3.99 & 667929 25.5.99
4.	KV BSE Chhawla(Delhi) 21.10.92 to 04.04.94	Rs. 10,071/-	-	10077/-	647643 15.12.98
5.	KV Shalimar Bagh 05.04.94 to 30.04.98	Rs. 31,350/-	-	31350/-	647587 16.10.98

Regarding payment of interest, It is stated that Sr. Admr. Officer, KVS HQ letter No. F.19-150(4)/99/KVS/L&C dated 12.09.2000 indicates that Sh. Tushir is not entitled to

contd...2



केंद्रीय विद्यालय संगठन (दिल्ली संभाग)
KENDRIYA VIDYALAYA SANGATHAN (DELHI REGION)

ज० ने० वि० परिसर, नया महरौली मार्ग, नई दिल्ली-110067
J.N.U. CAMPUS, NEW MEHRAULI ROAD, NEW DELHI-110067
फ़ोन (टेल.) 61650415, 61890446, 61808581-XX 61890446

ANNEXURE - I contd.

0 (No.)

दिनांक (Date)

- 2 -

any interest on arrears of pay as the Hon'ble High Court of Guwahati has not given any directions for payment of interest. Copies of the letters is enclosed herewith.

Yours faithfully,

(DR. B. C. SATYANARAYANA)
ASSISTANT COMMISSIONER

Copy to:-

1. Dy. Commissioner (Admn.), KVS (HQ), New Delhi - for information please.
2. Principal, Kendriya Vidyalaya, Shalimar Bagh, Delhi.
3. Principal, Kendriya Vidyalaya, BSI Chowla, New Delhi.
4. Office file.

81C 21.3.01

ASSISTANT COMMISSIONER

4 JUN 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ; GUWAHATI

In the matter of:

O.A. No. 140 of 2000

Sri Prabir Kumar Banerjee & Ors.

Vs

Union of India and others

And

In the matter of :

Rejoinder submitted by the applicant.

That your applicant most humbly and respectfully begs to submit as follows :

1. That your applicant categorically denies the statements made in the paragraphs 2,4 and 5 of the written statement and begs to state that the documents/orders enclosed with the Original Application established beyond all doubts the fact that the applicants were engaged as casual workers on daily wages basis since July 1993 which is duly admitted by the respondents in paragraph 4 of the written statement. The certificates issued by the J.T.O. concerned which are annexed as 1 series to the Original Application further makes it clear that they were engaged as casual workers and payments were made in the form of ACG -17 since 1993 along with other casual workers. The payment of casual workers are normally made through ACG 17 form prescribed by the Department of Telecommunication for payment of daily wages and casual workers and the certificates also issued by the J.T.O. concerned of Telephone Exchange, Nagaon and the same are also not denied by the Respondents in their written statement. As such the pleas of the Respondents that the applicants do not fall with the definition of casual labourers is totally baseless and the same is made in order to deny the legitimate claim of the applicants for grant of Temporary Status and Regularisation under the Scheme 1989 for Grant of

Filed by me applic
Hingra N-D. Cro
Advocate
4/6/2007

Temporary Status and Regularisation amended from time to time during the year 1998 which further laid down that casual workers working up to March 1997 should also be given the benefit of grant of temporary status and regularisation but the respondents deliberately with a view of intention to deny the benefit of temporary status made an attempt to terminate the services of the applicants with effect from 31.7.1998 as admitted by the respondents in paragraph 4 of the written statement. Further attempt of the respondents is that the applicants are not casual labour is also a misleading statement when the respondents themselves stated that present applicants have been engaged on daily wages basis since July 1993 and worked up to 31.7.1998. This very contention of the respondents established beyond all doubts that the applicants have rendered continuous service for a period of more than five years even on their own admission on daily wages basis. The definition of casual labourer is also laid down by the Government of India in **Chapter 13 of Swamy's Complete Manual on Establishment and Administration for Central Government Offices 3rd Edition**, wherein it has been stated as follows :

"(v) a casual labourer" : means a person not borne on the regular establishment of an office/establishment who has rendered a minimum of two years' continuous service as casual labourer in the office/establishment in which he is employed [persons who render at least 240 days (206 days in the case of offices observing 5 days week) of service as casual labour including broken periods of service, during each of the two years referred to above, shall also be deemed as having rendered a minimum of two years' continuous service as casual labourer]".

In view of the above definition of casual labourer given by the Government of India the applicants are fully covered under the aforesaid definition as such they have to be treated as casual labourers within the definition stated above. As such there is no scope on the part of the respondents to treat the applicants otherwise than casual labour. It is also not explained in their written statement in paragraph 4 as to why the service of the applicants was sought to be terminated with effect from 31.7.1998 and as to why they have been forced to work on contract basis under Surdarsana Cooling form

as stated in paragraph 4 when the nature of work against which they were engaged since 1993. Therefore there was no justification on the part of the respondents to force the applicants to work on contract basis under the shadow of Sudarsana Cooling form. In this connection it is also relevant to mention here that the applicants in a compelling circumstances finding no other alternative since the engagement is concerned with their bread and butter had been forced to agreed to work on contract basis under the umbrella of Sudarsana Cooling form as stated in paragraph 4 of the written statement and it is further stated that they are still working on contract basis after 31.7.1998 i.e. after rendering their services on daily wages basis after a period more than five years as per the own admission of the respondent themselves. In this connection it is also relevant to mention here that the letter bearing No. 269-4/93-STN-II (Pt) dated 9.2.2000 issued by the Department of Telecom Service, Ministry of Communication , New Delhi wherein it is categorically stated that the sanctioned posts of regular Mazdoor for regularisation of Temporary Status Casual Mazdoors as on 31.3.1997 and grant of temporary status to casual labourer as on 1.8.1998 in the case of Assam Circle has been sanctioned vide office letter No. 269-4/93-ST-II dated 12.2.1999 (Annexure 6 to the Original Application). Therefore the case of the present applicants are squarely covered under the guidelines and sanction issued by the Department of Telecom under their letter dated 9.2.2000 and it appears that the services of the applicants sought to be disengaged by the respondents with effect from 31.7.98 in order to deny the legitimate benefit of temporary status and regularisation which is granted to the Mazdoor with effect from 1.8.1998. This fact establishes beyond all doubts that the respondents have acted with a mala fide intention to deny the legitimate claim of the applicant as such the contention of the respondents are totally denied and the entire action of the respondents are highly arbitrary, illegal and the same is unfair labour policy.

2. That your applicants categorically deny the statements made in paragraphs 6,7,8,9,10 and 11 of the written statement and further beg to state that the respondents in their written statement categorically admitted that the applicants have been engaged on daily wages basis in order to carry out the work of operational work of Air Conditioned equipments and the said work is of regular nature as stated in paragraph 6 of the written statement. The relevant portion of para 6 is quoted below :

As such their disengagement as has been done as stated in paragraph 5 of the written statement also establishes beyond all doubts that the respondents acted illegally and arbitrarily in order to deny the benefit of temporary status and regularisation to the present applicants.. The statement of the respondents made in paragraph 7 of the written statement that the applicants were not eligible for grant of temporary status on the alleged ground that they have been engaged on contract basis is totally false, misleading. The statement in paragraph 9 of the written statement is contrary to the statement made in paragraph 5 of the written statement. It is further stated that even the Bharatiya Sanchar Nigam Limited of Government of India introduced which is now created also stated in paragraph 3 of their letter bearing No. BSNL/4/SB/2000 dated 2.1.01 wherein it is categorically stated that the orders have been issued by Directorate of Telecommunication for regularising and casual labourer including part also casual labourers and further stated that left out case if any be settled by the BSNL in accordance that the order dated 29.9.2000. As such the case of the present applicants is also liable to be considered for grant of temporary status in the light of the order dated ^{2.1.2001} ~~20.1.2000~~ passed by the BSNL.

^{2.1.2001}

~~A copy of the order dated 20.1.2000 is annexed hereto and the same is marked~~
as Annexure-9.

In the facts and circumstances stated above the application deserves to be allowed with costs.

VERIFICATION

I, Shri Prabir Kumar Banerjee, S/o Shri Anil Kumar Banerjee, working as A/C Operator (casual labour basis), New Telephone Exchange, Assam, Nagaon, one of the applicants in the O.A. No 140 of 2000, do hereby verify that the statements made in paragraphs 1 to 2 in this rejoinder and are true to my knowledge and I have not suppressed any material fact. I have been duly authorised to sign this verification on behalf of the other applicants.

And I sign this verification on this the ^{June} 4th day of April, 2001.

Prabir K Banerjee