

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No..... 184/2001

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

E.P/M.A No..... 150/02, 57/03, 94/02

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BG 6/12/17

SECTION OFFICER (Judi.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO184.... OF 2001.

Applicant (s) Renu Prava Dm.

Respondent (s) U.O.I. Tony

Advocate for Applicants (s) Mr. G. Gogoi

Advocate for Respondent (s) C. A. S. E.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in the Condonation Petition is filed to be filed vide M. P. No. C. F. for Rs. 50/- deposited vide IPO/BD No. 66792404. Dated..... 8.5.2001	23.5.01	Admit. Issue Notice. Returnable by four weeks. Call for the records. List on 27.6.2001 for consideration of admission further orders.
<i>Dy. Registrar</i> X/2001 13/5/2001	trd 24/5/2001	<i>13/5/2001</i> 27.6.01
Notice prepared and sent to DLS for issuing the Respondent No 1 to 4 by Regd A.D. vide D. No. 2047/1/2001 dated 14/6/01	1m 1.8.01	List on 1.8.01 to enable the respondents to file written statement
<i>1/6/2001</i> 31-07-2001	1m	List on 29.8.01 to enable the respondents to file written statement
No. W/ statement has been filed.	1m	<i>28/8/01</i>
None		
No. w/s has been filed.		

29.8.01 List on 19/9/01 to enable the respondents to file written statement.

No. written statement has been filed.

Vice-Chairman

30
18.9.01

mb
19.9.01 List on 12/10/01 to enable the respondents to file written statement.

Vice-Chairman

No. written statement has been filed.

mb
12.10.01 List on 21.11.2001 enabling the respondents to file written statement.

30
11.10.01

IC (Chair)
Member

bb
21.11.2001

Written statement has been filed. List the case for hearing on 2.1.2002. The applicant may file rejoinder, if any, within two weeks from today.

17.10.2001

W/s on behalf
of the Respondent No. 1, 2,
3 and 4.

Vice-Chairman

nkm

2.1.02

At the request of learned counsel for the applicant case is adjourned to 1.2.02 for hearing.

No. Rejoinder has been filed.

30
1.1.02

IC (Chair)
Member

No. Rejoinder has been filed.

30
3.1.02

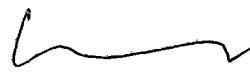
1.2. Adjourned on the Prayer of the learned Counsel for the applicant to 8/3/2002.

Mr

A.K.Roy

8.3.02 Prayer has been made by Mr. A.K.Roy, learned counsel for the applicant for adjournment of the case. Prayer is allowed. List on 15.3.2002 for hearing.

IC (Chair)
Member

Notes of the Registry	Date	Order of the Tribunal
<u>26.3.2002</u> Copy of the Judgment handed over to the Advocates for the parties. ff	15.3.02 pg	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.
Received for the applicant one copy of Order dt 15/3/02 in O.A. 184/2001		 Vice-Chairman
<i>Indravil Gogoi Advocate C. A. T., Guwahati Bench 26/03/2002</i> <i>Recd Prof. A. J. 27/3/02</i>		

Notes of the Registry	Date	Order of the Tribunal

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 184 of 2001.

Date of Decision..... 15-3-2002.

Smt. Renu Prova Das

Petitioner(s)

Sri A.K. Roy.

Advocate for the
Petitioner(s)

- Versus -

Respondent(s)

Sri B.C. Pathak, Addl.C.G.S.C

Advocate for the
Respondent(s)

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

1. Whether Reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not ? No
3. Whether their Lordships wish to see the fair copy of the Judgment ? No
4. Whether the Judgment is to be circulated to the other Benches ? No

Judgment delivered by Hon'ble : Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 184 of 2001.

Date of Order : This the 15th Day of March, 2002.

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

Smt. Renu Prova Das
wife of Late Phanindra Das,
Vill & P.O. Dekargaon,
Dist. Sonitpur (Assam).

... Applicant

By Advocate Sri A.K.Roy,

- Versus -

1. Union of India,
represented by the Secretary,
Govt. of India,
Ministry of Defence,
New Delhi.
2. Administrative Commandant,
Station Head Quarter, Tezpur.
3. Commandant,
51 Sub Area,
C/O 99 APC.
4. Area Commandant,
101 Area,
C/o 99 APC.

... Respondents.

By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C)

The husband of the applicant Phanindra Das since deceased was engaged as Tractor Driver by the respondents and he worked as such till 30.10.98 without being regularised. It was stated in the application that her husband was not allowed to continue after 30.10.98 without assigning any reason. A certificate to the following effect was issued on behalf of the Administrative Commandant :

"Certified that No.213823 Sh Phanindra Das, was employed with Stn Hq Tezpur wef 09 Aug 78 as Tractor Driver on pay scale Rs.750-12-870-EB-14-940/-. The individual

continuus to be on the master roll of this HQ till date. However, he has not received pay and allowances wef Apr 98 due to non receipt of decision on his case.

As per records available with his HQ, the individual will attain the age of superannuation on 01.11.99.

It was stated that though representations were submitted by before the authority/Sri Das her husband was not allowed to work since October 1998 nor he was paid with any salary or allowances. The husband of the applicant went on making representations till 2.2.2000 and finally he expired on 2.3.2000. The applicant also moved the authority. Failing to get appropriate remedy the wife of Sri Das moved this Tribunal for remedying the situation.

2. The respondents in its written statement fairly stated the facts. As per the written statement the applicant was appointed as Tractor Driver on temporary basis as Grade D employee with effect from 9.8.78. It was mentioned that three tractors were sanctioned by the Ministry of Defence vide letter dated 28.2.78 and letter dated 31.10.85 in the Station Headquarter, Tezpur. However, there was no authorisation of Driver of the tractor. The station headquarter took up the matter with the higher authority so as to regularise the services of two tractor drivers and one cleaner who were employed on temporary basis. The CDA turned down the proposal on the ground that it was indirect contravention of ban orders imposed by the Government of India for fresh recruitment vide communication dated 30.6.92. Inspite of the ^{constaine} restriction to help out the temporary employees on humanitarian grounds the station headquarter took up the matter and forwarded the same to the Army Headquarter in February 1995 for regularisation of temporary

employees to permanent category. In reply to the above communication the Army headquarter sought for clarification regarding annual increment and pay scale of the temporary employees. The station headquarter by its communication dated 2.12.96 intimated that two tractor Driver and one Cleaner were engaged and their services were not regularised and no increment was paid in absence of approval from the Army Headquarter. By letter No.C/60316-6B (vol-IV) dated 14.5.97 the Army headquarter intimated that the services of two tractor Driver and one Cleaner employed at Station Headquarter, Tezpur be provided with temporary status with effect from 1.9.93 and the benefits in the pay and allowances as per "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993". The headquarter accordingly requested to take immediate action. According to the respondents husband of the applicant late Phanindra Das was asked to produce education certificate and current licence to drive tractor for onward submission to Army headquarter but he failed to produce education certificate and expired in the meantime. It is also mentioned that in April 1998 when the AAO Shillong came to know that Tractor Drivers were given status of Group 'C' and salary of Phanindra Das was stopped on the plea that service liability of the individual was only upto 58 years and he should have been retired on 1.11.97. Since the decision was awaited late Phanindra Das was allowed to continue upto 31.10.99 and regular pay bill was prepared and sent to AAO Shillong but the same was returned unpassed.

3. From the facts eluded it is apparent that the respondents took conscious decision to confer temporary status to the three persons including the applicant as on 1.9.93 to provide the benefit as per Casual Labourer (Grant

of Temporary Status and Regularisation) Scheme 1993. According to authority he failed to produce the education certificate therefore it could not be done. The respondents continued to utilize the service of the applicant and only on 6.8.97 the authority asked him to produce education certificate and the applicant failed to produce the same and he was short of the educational qualification. It is within the discretion of the competent authority to relax the same and confer him the temporary status on the basis of the length of his service, and as per the proposal sent by the concerned authority of the Station Headquarter vide communication dated 8.2.95 for regularisation of the service of the Tractor Drivers. The case of those persons deserve consideration. It was observed that since their date of appointment they were regular in service without any break in service. It was also mentioned that review Board to assess the requirement of tractor drivers had also been carried out during February 1991 and was progressed to audit authority which was also recommended by them. However, the same could not be approved supplementary establishment due to ban orders for fresh recruitment and the case was turned down by the CDA and suggested to continue their services and payment be made out of conservancy grant. In the set of circumstances I do not find any justification for not conferring temporary status to the husband of the applicant as on 1.9.93. pursuant to the scheme the husband of the applicant was entitled to regularisation as a Group D employee on and from 1.9.96. No justifiable reason is also assigned as to why the respondents discontinued his service. The aforesaid discontinuation of the husband of the applicant is come to be unjustified. The applicant

for all intention purposes was deemed to be in service till the date of his expiry. It is also needless to state that superannuation age of temporary status holder casual employees is 60 years and retirement age for regular Group 'D' employees is also 60 years and for that reason also the order of not allowing the husband of the applicant to work till he expired is unjustified. He would have continued in service upto 30.10.99 and get full service benefit as well as the salaries and allowances.

4. In view of the above the respondents are directed to provide the benefit of the scheme to Phanindra Chandra Das, since deceased and provide all consequential benefits including the salaries and allowances till the date of superannuation/death of the husband of the applicant and also the pensionary benefits arising out of the same. It is expected that the respondents shall take prompt action and complete the process so that the widow wife and the family can get necessary benefits as expeditiously as possible and at any rate within a period of three months from the date of receipt of this order.

The application is accordingly allowed. There shall, however, be no order as to costs.



(D.N.CHOWDHURY)
VICE CHAIRMAN

12
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A NO. 184 /2001

Smt. Renu Prova Das

- VS -

Union of India & Others

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For use in the office :

Signature :

Date :

Filed by the
applicant through -
Gordovil Gogoi
16/5/2001 Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

- BETWEEN -

Smt. Renu Prova Das

W/O Late Phanindra Das ,

Vill & P.O- Dekargaon,

Dist- Sonitpur

..... APPLICANT

- VERSUS -

1. Union of ~~India~~ India,

Represented by the Secretary,

Govt. of India ,

Ministry of Defence, New Delhi.

2. Administrative Commandant,

Station Head Quarter, Tezpur.

3. Commandant ,51 Sub Area,

C/O 99 APO .

4. Arrea Commandant, 101 Area,

C/O 99 APO.

.....RESPONDENTS

1.

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

This application is not directed against any particular order but against the action of the respondents in non-regularising the service of the petitioner's service and also non payment of pensionary benefits inspite of 20 years continuous service.

[Signature]

2. Jurisdiction :

That the applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal .

3. Limitation :

That the applicant also declares that this application is made within the limitation period as has been prescribed under section 21 of the Administrative Tribunal Act 1985.

4. Fact of the case :

i) That the ~~now~~ applicant's husband expired on 20.3.2000 after completing twenty years of service under the Respondent No.2 continuously . Her husband was engaged as muster roll basis on 9.8.78 . He was engaged as Tractor driver being No. 213823 by the Respondent No. 2 and since then he worked till 30.10.98. On 30.10.98 , he was not allowed to work . Be it also stated here that before discontinuation of his service , he was not paid his due salary since April 98 . As he was a tractor drive , he was give identity card bearing No. 213823 and at the time of his discontinuation of service he was provided one certificate by the Respondent NO 2 showing his long years of continuous service under the said authority as master roll tractor driver .

One copy of identity card and one copy of the certificate are annexed herewith as Annexure - A and B respectively.

2. That the applicant begs to state that though

Smt. Smt. Smt. Smt. Smt. Smt.

her husband worked for about 20 years of service continuously under the same authority and in same capacity ,his serive was not regularised by the respondents regarding which he approached to the Respondent NO. 2 for a number of times and requested to regularise the service . He also submitted representations 10.11.97 28.6. 98 requesting to regularise his service so that he may get the benefit of pensional benefits after retirement .

copies of the representations dated 10.11.97 and 28.6.98 are annexed herewith as Annexures - C and D respectively.

3. That the applicant states that though her husband submitted the above representations ,the respondents did not response the same and instead of giving any reply ,the respondents refused to allow him to work since October 1998 without giving any written order to the effect . Be it stated that since April 1998 the respondents did not give him the monthly pay and allowances and without giving the same he had been discontinued from service.

4. ^{as} That the applicant's husband ~~was~~ not allowed to work , he submitted representation dated 1.12.98 stating elaborately about his long years service and non payment of salary since April 1998 and requested to engage him in the work with request to regularise the service . After the said representation he waited for about one years but not reply received and hence he submitted another representation dated 2.2.2000 . After the said representation ,the husband of the applicant died on 20.3.2000 .

copies of the representation dated 1.12.98 and 2.2.2000 are annexed

20/3/2000

Copies of the representation dated 1.12.98 and 2.2.2000 are annexed herewith as Annexure - E and F respectively.

5. That after the death of her husband ,the applicant submitted one representation dated 14.4.2000 to the Respondent NO. 2 stating interalia about the death of her husband and prayed to provide her the pensionary benefit on the strength of 20 years of service of her husband in the said office as a Tractor driver .

One copy of the said representation dated
14.4.2000 is annexed herewith as Annexure- G.

6. That though her husband submitted a number of representations to the authority and she also submitted one representation ,the respondents neither have taken any action nor gave any reply to the effect and hence the petitioner is facing heard financial paucity to maintain twice meal to her children .

7. That the applicant states that the very fact of the instant case makes it clear that the service of the husband of the applicant was very much essential for the respondents and hence he was engaged as master roll tractor driver for more than 20 years continuously and hence it is the duty of the respondents to regularise the whole period of service immediately extending all the pensionary benefits to the applicant and also to pay the last seven months pay to the applicant .

8. That the applicant states that the very act of the respondent is illegal and is deprivation to the poor persons who are bound to do their job for long time without

Subj: 2nd appeal

being regularised . As the respondents are silent inspite of repeated representations ,the applicant approach this Hon'ble Tribunal by filling this original application.

5. GROUND :

- i) For that the applicant's husband performed his sincere service for more than 20 years continuously in the same capacity and under the same authority and hence the respondents should treat the whole period of service as regular service and provide all the retirement benefits to the applicant .
- ii) For that it is an exploitation to avail 20 years of service continuously of a person without being regularised and without providing the due benefits to the person .
- iii) For that as the respondents have taken the valuable service of the applicant's husband , it is the duty of the respondents to treat the whole period of service as regular and on that strength to extend the pensionary benefit to the applicant .
- iv) For that action of the respondents is illegal in as much as it violates the Article 14,16 and 21 of the Constitution of India and hence that is not maintainable in the eye of law.
- v) For that the very action of the respondents goes against the Directive Principle of State policy and hence the same is not sustainable .

vi) For that the action of the respondents is against the principle of natural justice and administrative fair play .

vii) For that the action of the respondents is arbitrary, illegal and unjust and hence is not maintainable

viii) For that at any rate the action of the respondents is not sustainable .

6. Details of remedies availed :

That the applicant declares that she have taken recourse to all the remedies available to her but failed to get justice and hence there is no other alternative remedy available to her other than to approach this Hon'ble Tribunal .

7. Matters not previously filed and /or pending before any court :

That the applicant further declares that she has not previously filed any application , writ petition or suit regarding the matter before any court , authority or any other bench of this Hon'ble Tribunal nor any such application , writ petition or suit is pending before any court .

8. Reliefs sought for :

Under the circumstances stated above the applicant prays for the following relief's :

i) To direct the respondents to treat the whole period of service as regular service of the applicant's

Sub (A) grm

husband .

- ii) To extend all the pensionary benefits to the applicant .
- iii) To direct the respondents to give the pay of last seven months i.e, with effect from April 1998 to Octobre 1998 to the applicant immediately which has not been paid to her husband.
- iv) Cost of letigation .
- v) any other relief or reliefs as Your lordships may deem fit and proper.

9. Interim relief, if any :

Under the fact and cirdumstances stated above th e applicant does not pray any interim relief.

10.

11. Particulars of the Indian Postal Order :

- i) I.P.O.NO : 6G 792404
- ii) Date of issue : 08/05/2001
- iii) Payable at : Guwahati

12. List of enclosures :

As stated in the Index .

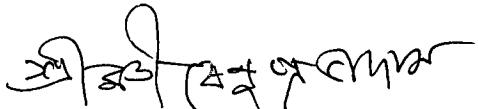
Subst (2) 4/10/2022

VERIFICATION

I, Smt. Renu Prova Das, widow of Late Phanindra Das, aged about 54 years, resident of Vill & P.O- Dekargaon, Tezpur, Dist- Sonitpur, (Assam) do hereby ~~state~~ verify that the contents of paragraphs 1 to 12 of the application are true to my knowledge and belief and that I have not suppressed any material fact of the case.

And I sign this verification on this the 16th day of May 2001 at Guwahati.

Date : 16th May '2001
Place : GUWAHATI


SIGNATURE



ANNEXURE - A

2

Attested by

~~Advocate:~~ 30/3/2013

C E R T I F I C A T E

Certified that No 213823 Sh. Chandrika Das, was employed with Stn HQ Tezpur wef 09 Aug 78 as Tractor Driver on Pay Scale 750-124-870-EB-14-940/-. The individual continuous to be on the master roll of this HQ till date. However, he has not received pay and allowances wef Apr 98 due to non receipt of decision on his case.

As per records available with his HQ, the individual will attain the age of superannuation on 01.11.99.

Station : Tezpur

Dated : 30 Oct 99


(B S Riar)
Lt Col
SSO
For Adm Comdt

Attested by


Advocate.

27
ANNEXURE - C

To

The Administrative Commandant
Station Head Quarter,
Tezpur,

Dated : 10.11.97

Sub : Prayer for regularisation of service.

Sir,

With due respect I beg to state that I was engaged as master roll Tractor Driver on 9.8.78 and since then I have been working in the said capacity continuously for last 19 years without any break, but till date my service has not been regularised.

Hence, I request your kind honour to take necessary step to regularise my service as Tractor driver and I shall oblige thereby for ever.

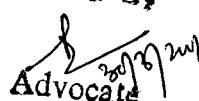
Yours faithfully

Sd/-

Phanindra Das

Tractor Driver.
(master roll)

Attested by


Advocate.

To,

The Administrative Commandant ,
Station Head Quarter,
Tezpur.

Sub : Prayer for regularisation of service and also
payment for April and May 1998.

Sir,

With due respect I beg to state that though I have been working as a master roll tractor driver since 9.8.78 under you ,but till date my service has not been regularised . Since 9.8.78 I have been working continuously without any break and I am performing my duty with all most sincerity . Due to non-regularisation of service I am depriving all the other benefits which are enjoyed by other workers. Be it also stated here that for last two months no payment has been made due to which my family has been suffering a lot .

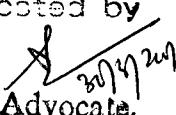
Under the circumstances ,I request your kind honour to do need ful so that my I may get my salary regularly and my service may be regularised . In this connection I submitted my earlier representation dated 10.11.97 . My prayer may be considered and save my family and I shall oblige thereby.

Dated 28.6.98

Yours faithfully

Sd/-

Attested by


30/7/98
Advocate.

(Phanindra Das)

Master roll tractor driver.

ANNEXURE : E

To

The Commandant ,
51 sub- Area
C/O 99 APO

Dated 1.12.98

Sub : Regularisation of job and non payment of monthly pay.

Sir,

With due respect I draw your kind attention to the fact that I was engaged as master roll tractor driver on 9.8.78 under the Administrative commandant and since then I worked in the said capacity continuously for more than twenty years without any break . But the Administrative commandant did not allow me to work since October 1998 . Instead of regularising my service the said authority discontinued my job without any written order . Be it stated here that since April 1998 , I have not been given my due pay . For my regularisation of service I have earlier submitted my representations dated 10.11.98 and 28.6.98 but till date no reply has been given .

Under the circumstances , I draw your kind attention to take the fact and take necessary action to regularise my service so that I may get pensionary benefit and pass necessary order for payment of salary since April 1998 and engage in the service and I shall pray for ever for your kindness.

Yours faithfully

sd/-

Pijanindra Das
Tractor Driver (Master roll)

Attested by
A. S. D. M.
Advocate

To,

The Commandant ,
51 sub- Area ,
C/O 99 AP0

Sub : Prayer to engage in job and regularise service.

Sir,

With due respect I beg to state that I have been working as a driver on master roll basis since 9.3.78 under the Administrative Commandant , but till date my service has not been regularised . Instead of regularising the service , I have been removed from job since October 1998 without giving any written order to the effect . Be it mention that since April 1998 , I have not been paid my salary .

Hence I request your kind honour to issue necessary direction engaging my in the job and regularise my service and also direct to pay my salary regularly and I shall oblige for ever.

Thanking you .

Yours faithfully

Sd/

Dated : 2.2.2000

Phanindra Das
Tractor driver (master roll)

Accepted by


Advocate.

To

The Administrative Commandant
Station Head Quarter,
Tezpur.

Dated 14.4.2000

Sub :- Prayer for grant of pensionary benefit.

Sir,

With due regard I beg to state that my husband Late Phanindra Das was a Tractor Driver under your organisation. He was appointed on 9.3.78 and since then he worked till October 1998 as master roll tractor Driver, but his service has not been regularised. My husband expired on 20.3.2000. Before expirey my husband submitted a number of representations, but nothing happened. My husband has not been paid his due salary since April 1998. As as present there is no job earning source of my family, we are facing accute financial hardship.

Hence I earnestly request your honour to grant me pension regularising the 20 years of service of my husband and pay the salary which is due and save my family. I shall oblige to you for ever ~~and~~.

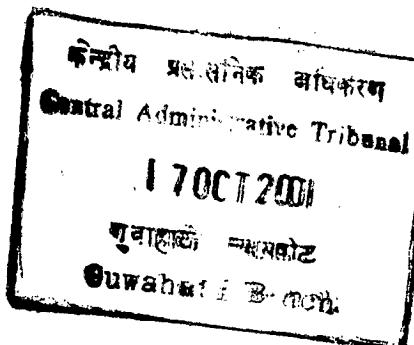
Thanking you.

Yours Faithfully

Dated . 14.4.2000

Smt. Renu Prova Das ,
W/O Late Phanindra Das
Ex .Tractor Driver.

Attest By
S. D. D. 2000
Advocate.



Filed by
B.C. Pathak
Addl. C.G.S.C.C.A.T
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 184 OF 2001

Shri Renu Prava Das

..... Applicant
- Vs -

Union of India and others.

..... Respondents.

(Written Statements on behalf of the Respondent

No. 1, 2, 3 and 4)

The Written Statements of the abovenamed
respondents 1, 2, 3 and 4 are as follows :-

1. That the copy of the O.A. No. 184/2001 (referred to as "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, common written statements are filed for all the respondents.

2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied.

3. That before traversing the various paragraphs made in the application, the answering respondents give a brief history of the case as follows :-

(a) Late Mr. Phanindra Das, was appointed as Tractor
Driver on temporary basis as Group D employee w.e.f.
09.08.78 on master roll.

(b) Station HQ Tezpur was authorised three tractors
vide Govt. of India, Min of Def. letter No. B/94784/
Q3(B)/783-Q/D (Q&C) dated 28th Feb '78 and Govt.
of India, Min. of Defence letter No. 39530/EC/Q3(B)/
5559/D(Q&C) dated 31 Oct' 1985. However in the
above quoted letter the authorisation of tractor
driver were not mentioned. Stn. HQ Tezpur during
May 1992 took up a case for supplementary establish-
ment of two tractor drivers and one tractor cleaner
with higher HQ so as to regularise the service of
two tractor drivers and one cleaner who were employ-
ed on temporary basis into permanent basis. Late
Sh. Phanindra Das was one of the temporary tractor
drivers. This was done in keeping view of the fact
that increment and other allied benefits would be
applicable to them when made permanent.

(The letter dated 31.10.1985 attached as
Annexure- R₁).

(c) However, CDA Guwahati turned down the proposal on
the ground that it is indirect contravention of
ban orders imposed, by Govt. of India for fresh
recruitment vide their letter No. Pay/3/V dated
30 Jun 92.

(Copy attached as Annexure R₂).

(d) Inspite of the above restraints to help out the temporary employees on humanitarian grounds the Stn HQ Tezpur took up the case forwarding statement of case to Army HQ in Feb 1995 for regularisation of temporary employees to permanent category .

(Copy attached as Annexure - R₃).

(e) In reply to the above, Army HQs vide their letter No. C/60316/SD-6B (Vol-III) dated 13 Nov 1996 sought clarification regarding annual increment and present pay scales of temporary employees employed by Stn HQ Tezpur .

(Copy of letter dated 13.11.96 attached as Annexure - R₄).

(f) Stn HQ Tezpur intimated Army HQ vide their letter No. 3032/Tr. Dvr/Emp/Est dated 02 Dec 96 that the two tractor Driver and one Tractor cleaner are employed as temporary employees hence their service have not been regularised in the absence of approval from Army HQ as a consequence no increment was paid.

(Copy of letter dated 2.12.96 attached as Annexure - R₅).

(g) During May 97 Army HQ vide their letter No. C/60316-6B (Vol-IV) dated 14 May 97 intimated that services of two tractor Driver and one Tractor cleaner employed at Stn HQ Tezpur be provided with temporary status w.e.f. 01 Sep 93 and benefit and pay and allowances as casual labour and intimated the qualification

1/9/96 - Gr D

required for direct recruitment for the post of Tractor Driver is 5th Class pass and should have current licence to drive a tractor .

(Copy attached as Annexure - R6).

(h) During Aug 97 Shri Phanindra Das was asked by Stn HQ Tezpur vide their letter No. 3032/Tr. Dvr Emp/Est dated 06 Aug 97 (Copy attached as Annexure - R7) to produce Education certificate and current licence to drive tractor for onward submission to Army HQ for regularisation of service, but he failed to produce the Education certificate till date and he expired on 02 Mar 2000.

(i) In Apr 98 when AAO, Shillong came to know that Tractor Drivers are given status of Group 'C', the salary of Mr. Phanindra Das was stopped stating that the service liability of the individual was only upto 58 years and individual should have been retired on 01 Nov. 97. Since, the decision of his temporary status in Group C was awaited from higher authority was allowed to continue in service upto 31 Oct 99. Accordingly regular pay bill was prepared and forward to AAO Shillong but the same was returned unpassed.

4. That with regard to paragraph 4.1 of the application, the respondents state that the contents of this para are admitted being factually correct. The individual was appointed as Tractor Driver on temporary basis in Group D w.e.f. 09 Aug 78

on master roll and served continuously upto 31 Oct 99. In April 98 AAO Shillong intimated that the service liability of the individual was upto 58 years (copy attached) and individual should have retired on 01 Nov 97. Since the individual was initially employed in Group D, hence he was allowed to continue in service upto 31 Oct 99. Accordingly pay bill was prepared but AAO Shillong returned the same unpassed.

6. That with regard to para 4.2, the respondents state that the contents of para 2 are denied as factually incorrect. Stn HQ had taken up the case with Army HQ on various occasion for regularisation of service. But the same was not regularised firstly due the ban on fresh recruitment and secondly the individual did not produce CIV passed Certificate which is mandatory requirement for Group 'C' employee into permanent cadre.

6. That with regard to para 4.3, the respondents state that the contents of para 3 are denied as factually incorrect. Letter of AAO Shillong was explained to him in Apr 98, in which his pay and allowances were stopped w.e.f. 01 Nov 97 as given in para (a) above. However, the individual kept coming for duly till Oct 99, hoping that his case may be accepted by Govt. of India.

7. That with regard to para 4.4, the respondents state that the contents of para 4 are not correct. The individual attended this office upto 31 Oct 99 as stated at para C above. Accordingly his Pay and allowances were claimed regularly from AAO Shillong but these were not

admitted and claims returned unpassed. As per the Army HQ letter No. C/60316/SD-6B(Vol-IV) dated 14 May 97 for direct ~~way~~ recruitment as Tractor Driver the required qualification is 5th Class pass and should hold current licence to Drive Tractor. The applicant was asked to produce his educational certificate and driving licence to the Second respondent vide their letter No. 3032/Tr Dvr/Est dated 06 Aug 97 for regularisation of applicants service (Copy attached). However, the applicant failed to produce his education certificate till date. Therefore in the absence of above documents his case could not be progressed.

8. That with regard to the statements made in para 4.5, the respondents state that the contents of para 5 are correct. As the individual was employed on 09 Aug 78 on Master Roll as Tractor Driver on temporary basis hence retireable benefits are not applicable unless he was regularised in service.

9. That with regard to para 4.6, the respondents state that the contents of para 6 are correct. As the individual was employeed on temporary basis w.e.f. 09 Aug 78. The retireable benefits are not applicable to him till his service is regularised based on the conditions of Class V pass as Civil education and holding of Tractor Driving licence. He has not produced these documents till date.

10. That with regard to para 4.7, the respondents state that the contents of para 7 are factually correct. The service of the individual were essential but he was

engaged on Master Roll w.e.f. 09 Aug 78 as Tractor Driver on temporary basis as there was ban on fresh recruitment and also the individual has failed to produce the necessary documents for regularisation of his service since Aug 97 as mentioned in Army HQ letter quoted in para (d) above.

3(h)

11. That with regard to para 8, the respondents state that in view of the forgoing statements the ~~xxx~~ prayer of the applicant to regularise the service into permanent category is not feasible due to the fact the applicant does not fulfil the qualification as mentioned in Army HQ letter No. C/60316/SD-B6(Vol-IV) dated 14 May 97 i.e. Class V pass and holding of Tractor Driver licence (copy enclosed).

12. That with regard to the statements made in para 5.1 to 5.VIII of the application, the respondents state that in view of the above facts and circumstances as stated above in this written statements the grounds shown are no grounds and the same cannot sustain in the eye of law.

13. That the answering respondents have no comments to offer against the statements made in para 6 and 7 of the application.

14. That with regard to the statements made in para 8.1 to 8.V of the application, the respondents state that under the facts and circumstances of the case and the provisions of service conditions, rules and law, the applicant is not entitled to any relief whatsoever as prayed for and therefore the application is liable to be dismissed with cost being devoid of any merit.

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.

VERIFICATION

I, Shri Colonel Rajinder Kumar presently working as Administrative Commandant Stn HQ Tezpur being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in para 1, 2, 4 to 14, are true to my knowledge and belief, those made in para 3b, 3c, 3d, 3e, 3f, 3g, 3h, 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 any material facts.

And I sign this verification on this 17th day
of August, 2001, at Guwahati


R Kumar
Col _____
Administrator
Stn HQ Tezpur

COPY

-9-

No. 09530/13/QD(B)/8500/D(C)

Government of India

Ministry of Defence

New Delhi, the 31st Oct 1935

To

The Chief of the Army Staff

Subject : PURCHASE OF TRACTORS AND TROLIES FOR REMOVAL OF GARBAGE
AT MILITARY STATIONS

Sir,

I am directed to convey the sanction of the President to the purchase of tractors and trolleys at the following Military Stations as per the requirement shown against each at the estimated cost of Rs. 1,17,245.60 (Rupees one lakh seventeen thousand two hundred forty five only) for each Tractor and Trolley and for meeting the allied cost of their operation and maintenance for the purpose of disposal of garbage and filth.

Name of station

Requirements

Tractor Trolleys

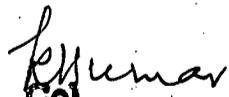
(a) Nengia	1	1
(b) Changsari	1	1
(c) Jamalpur	1	1
(d) Hattigor	1	1
(e) Thakurbari	1	1
(f) Tezpur	2	2

1. The expenditure involved will be debited to Major Head 269, Minor Head 11-A(a) of the Defence Services Estimates.
2. Normal purchase procedure will be followed in the procurement act.
3. This is issued with the concurrence of the Ministry of Defence (Finance) vide their u.o. No 294/QA of 1935.

Your Faithfully

Sd/x x x x x

Kartar Singh

Under Secretary of the Government
of India.CTC


Col

Adm Comdt

Stn HQ Tezpur

37

मानवोंका अनुसंधान-2011 (विद्या)
L.A. N. 2011 (लोगों)सामग्री
Memorandumप्रियकर्ता
From CDA Establishment Te

TEZPUR

Pay 1335/-

No. स्टेशन Station Date 30/6/52
Gumwakhat 28

Subject - Boarded Proceedings regarding
authorisation of supplementary
establishment for Selection Wing
TEZPUR

X

X

CTC

Colleagues

Adm Comdt.
Stn HQ Tezpur

Boarded Proceedings alongwith Commd
the documents are forwarded herewith
enclosed with the following remarks
the requirement of sufficient
members establishment of 3. fraction
divers and 1. class. Cannot this
be effected to be approved as the proposal
is in accordance with the
orders imposed by Govt. for
break requirement.

After consideration suggested that the

-11-

Services. The Forester aircraft and
blanket may be met out of your
existing Conservancy establishment.
In case the suggestion made by
MS is not feasible and practicable
the Conservancy may kindly be initiated
through Local Staff Comrds to
the Competent Financial Authority
concerned for setting up the concerned
documents received with
above funds remain the
fees were of Roseville

CTC

R. Kumar
Col
Adm Comdt
Stn HQ Tezpur

(BIRAM)

DDDA (Pan)

-12-

Station Headquarters
Tezpur

Feb 95

0002/10p/Est

HQ 4 Corps (OD/SD)
c/o 95 APO

STATEMENT OF CASE FOR REGULARISATION OF
SERVICES : TRACTOR DVRS AND CLEANER OF
STM HQ. TEZPUR

A statement of case for regularisation of services of two tractor drivers and one cleaner from regular temporary to permanent and subsequently include them in PE of Stn HQ Tezpur is fwd herewith in quadruplicate, duly recommended by Stn Cdr for your further action please.

D. B. Lama
Lt. Col
Offg Adm Comdt
for Stn Cdr

Enclos

CTC

Kumar
Col
Adm Comdt
Stn HQ Tezpur

STATEMENT OF CASE FOR REGULARISATION OF SERVICES OF TWO
TRACTOR DRIVERS AND ONE TRACTOR CLEANER FROM REGULAR
TEMPORARY TO PERMANENT AND SUBSEQUENTLY INCLUDE THEM IN
PEACE ESTABLISHMENT OF STATION HEADQUARTERS TEZPUR

-13-

INTRODUCTION

1. Tezpur is a non-cantonment station. Troops are widely dispersed at various zones within the area of 15 kilometres. No Cantonment Board exists in this station, therefore, Station Headquarters Tezpur is looking after the conservancy arrangements of the station. To lift the garbage and filth from various zones of the areas, 3 tractors have been provided to this Headquarters vide Govt of India, Ministry of Defence letter No B/94784/Q3(B)/788-Q/D (O&C) dated 22 Feb 78 and letter No 39530/EC/Q3(B)/5559/D(O&C) dated 31 Oct 65.

2. To keep these tractors functional three tractor drivers and one tractor cleaner posts were sanctioned as under :-

(a) One tractor driver - Appointed on 09 Aug 78.
(Sanction order not available)

(b) One tractor cleaner - Appointed on 14 May 81
(Sanction order not available)

(c) Two tractor drivers - As against the sanction of two drivers only one was appointed on 03 Mar 87. The vacancy of second driver still exist.

3. Accordingly, the undermentioned two tractor drivers and one cleaner were appointed :-

CTC

Chennai

Col

Adm Comdt

Stn HQ Tezpur

		<u>Date of appointment</u>
(a)	Shri Phanindra Das	Tractor driver 09-08-78
(b)	Shri Nagen Das	Tractor cleaner 14-05-81
(c)	Shri K B Thapa	Tractor driver 03-03-87

4. The above individuals have been serving in their appointment regularly till date without having any break in their service since their employment.

PROPOSAL

5. To keep all the three tractors functional at all times, there is a requirement to have three tractor drivers and one cleaner on the Peace Establishment of Station Headquarters Tezpur. However, as an immediate measure in order to avoid legal implication at a later date, it is proposed that the temporary appointment of two tractor drivers and one cleaner be regularised as permanent employees.

DETAILED JUSTIFICATION

-14

6. Tezpur being a non-cantonment station, Station Headquarters Tezpur is directly responsible for maintenance and up-keep by providing all the conservancy arrangements to the station troops, defence civil staff and their families which are widely spread over at various zones in the area of 15 kms. To lift the garbage and filth and in order to ensure cleanliness of this station, this Headquarters has been provided with the under mentioned tractors :-

<u>Ser No</u>	<u>Particulars of Tractor</u>	<u>Date of Receipt</u>
(a)	70E 7480M Tractor Marry Ferguson with trolley	06-06-78
(b)	86E 7481A Tractor International 17-05-86 with trolley	
(c)	86E 7482X Tractor International 17-05-86 with trolley	

7. To make these tractors operational at all times on the basis of the recommendations of the station board of officers and the sanction of the General Officer Commanding 4 Corps was accorded to employ two tractor drivers and one cleaner.

8. Since their appointment, they are regular in their duty without having any break in service. Review Board to assess the requirement of tractor drivers and cleaner for the conservancy purpose had also been carried out during Feb 91 copy attached as Appx 'B' and was progressed to audit authority which was also recommended by them. However, the same could not be approved supplementary establishment due to ban orders imposed by Government for fresh recruitment and the case was turned down vide CDA Basistha letter No Pay/33/V dated 30 Jun 92 photocopy enclosed as Appx 'C'. CDA Basistha had also suggested to continue their services and payment be made out of conservancy grant, allotted to this Headquarters otherwise case be taken up through staff channel. Due to frequent changes in command and lack of efficiency on clerical side the case could not be taken up then.

9. Keeping in view the rights of these employees as well as to avoid any administrative problem, eg strike, court cases etc by civilian employees, their services should be regularised and given a status of permanent employees.

FINANCIAL EFFECT

10. The pay and allowances and other emoluments of two tractor drivers and one tractor cleaner after making them permanent will have to be made out of defence Budget and Regular Pay Head ie Main Head 5, Sub Head 'A' Minor Head (a) conservancy charges. Presently they are being paid

-15-

out of Major Head 2076, Minor Head 800A(a) Conservancy Grant and their present pay scales are as under :-

- (a) Shri Phanindra Das - 750/-12-870-EB-14-940/-
- (b) Shri Nagen Das - 750/-12-870-EB-14-940/-
- (c) Shri K B Thapa - 750/-12-870-EB-14-940/-

11. Consequential to their regularisation extra expenditure to the state would be involved which is inescapable.

SUMMARY

12. In view of the foregoing there is an urgent need to regularise the services of two tractor drivers and one cleaner of Station Headquarters Tezpur. Moreover, some of these employees are nearing their pensionable age. The details of their ages are as under :-

<u>Ser No</u>	<u>Name</u>	<u>Date of birth</u>	<u>Date of retirement</u>
(a)	Shri Phanindra Das	09-11-39	09-11-1999
(b)	Shri Nagen Das	14-02-64	14-02-2024
(c)	Shri K B Thapa	21-12-41	21-12-2001

13. It is recommended that in order to avoid any administration embarrassment, the case should be accepted on its merit.

3032/Emp/Est
Station Headquarters
Tezpur

D B Lama
(D B Lama)
Lt Col
Offg Adm Comdt

Feb 95

CTC

R K Thomas
Adm Comdt
Stn HQ Tezpur

RECOMMENDATION OF STATION COMMANDER TEZPUR ON THE
REPEAL OF CRCE FOR REGULARISATION OF SERVICES OF
ONE TRACTOR DRIVERS AND ONE TRACTOR CLEANER AND TO
INCLUDE THREE TRACTOR DRIVERS AND ONE CLEANER IN THE
PEACE ESTABLISHMENT OF STATION HEADQUARTERS TEZPUR

3. The case to regularise the services of two tractor
drivers and one tractor cleaner of Station Headquarters
Tezpur is genuine and fully justified. In the overall
interest of the organisation, I strongly recommended
that their services be regularised.

4. It is also recommended that three tractor drivers
and one tractor cleaner be included in the Peace
Establishment of the Station Headquarters Tezpur.

Station : Tezpur

Dated : 08 Feb 95

(K. S. Jani)
Brig.
Stn Cdr

C TC

Adm Comdt
Stn HQ Tezpur

Annexe R
(34)

Station Headquarters
Tezpur

3032/Tr Dvr/Emp/Est

(1)- DOD 96

Addl Dir Gen of Staff Duties (SD6B)
General Staff Branch
Army Headquarters
1100 P.O. New Delhi-110011

POINT NO 19 RAISED BY STAFF SIDE IN ARMY HQ JCM COUNCIL REGARDING REGULARISATION OF SERVICE OF TWO TRACTOR DRIVERS AND ONE CLEANER AT STN HQ TEZPUR

1. Reference your letter NO C/60316/SD 6B (Vol-III) dt 13 Nov 96 addsd to HQ Eastern Comd with copy to this HQ.

2. Three tractors and three trolleys were sanctioned by Govt of India, Min of Def vide letters mentioned below, for this HQ :-

(a) No B/94784/03(B)/788-0/D(Q&C) dt 22 Feb 78 - One tractor & one trailer.

(b) No 39530/EC/03(B)/5559/D(Q&C) dt 31 Oct 85 - Two tractors & two trailers.

3. As no staff was auth to operate above tractors, the following tractor drivers/cleaners were employed wef date mentioned against each, as sanctioned by GOC 4 Corps on the basis of recommendation of Bd of offrs:-

CTC
Khurana
Col (a) Sh. Minindra Das, Tractor Dvr - 09-08-78
Adm Comdt (b) Sh. Nagen Das, Tractor Cleaner - 14-05-81
Stn HQ Tezpur (c) Sh. KB Thapa, Tractor Dvr - 03-03-87

4. The above employees were employed on casual/temp basis on the pay scale 750-12-870-EE-14-940/- However, since their services have not been regularised, no increment has been paid to them. Since, their posts have not so far been authorised, their authorised pay scale is not known. The case for regularised of their services was taken up but has been turned down under the authority of Army HQ letter NO B/60983/SD 6B dt 20 Sep 96.

5. A clarification was seeked by this HQ from CDA Guwahati vide our letter NO 3032/Tr Dvr/Emp/Est dt 24 Jul 96 regarding admissibility of increment to above employees. However, no reply has been received so far. Reminders have been issued.

6. In this connection, this HQ letter NO 3032/Tr Dvr/Emp/Est dt 17 Sep 96 addsd to your HQ with copies to lower HQs, also refers.

(RPS Slatia)

Col
Adm Comdt

Copy to :-

HQ Eastern Command GS(SD) - For info please wrt your Sig No
Port William, Calcutta 0-3194 dt 29 Nov 96.
HQ 101 Area GS(SD) For info please.
HQ 51 Sub Area GS(SD)

Telephone : 3018903

Antonie R. J.

- 19

Staff Duty Appar Mahanideshalaya (SD-6B)
General Staff Shakha
Sena Mukhyalaya
Addl Dte Gen. of Staff Duties (SD-6B)
General Staff Branch
Army Headquarters
DHQ PO, New Delhi-110011

0/60316/SD-6B (Vol-IV)

15 May 97

Headquarters
Eastern Command
Fort William
Calcutta

POINT NO. 19 RAISED BY STAFF SIDE IN ARMY HQ JCM COUNCIL
REGARDING REGULARISATION OF TWO TRACTOR DRIVERS AND ONE
CLEANER AT STATION HEADQUARTERS, TEZPUR.

1. Reference Stn HQ, Tezpur letter No. 3032/Tr Emp/Est dated 17 Sep/and 02 Dec 96 addressed to this HQ (SD-6B) and copy endorsed to you.

2. The case for regularisation of services of two tractor drivers and one tractor cleaner employed at Stn HQ, Tezpur has been examined in consultation with AG's Branch. It has been pointed out by AG's Branch/Org(Civ) (a) posts of tractor drivers are group 'C' posts, the pay scales prescribed for the post is Rs 950-1500 and the qualifications required for direct recruitment are "Fifth class pass and having a current licence to drive a tractor". Without the corresponding sanctioned posts, the employment of two Tractor Drivers and one Tractor Cleaner and paying them wages entitled to casual labour as applicable to Group 'D' employees, is anomalous.

3. In view of the above, as these persons are serving as casual labour, all these three employees should immediately be provided the "Temporary status" w.e.f 01.9.93 and the benefits in the pay and allowances as per "casual labourer(grant of temporary status and regularisation) scheme 1993".

4. HQ Eastern Command are therefore, requested to take immediate action as per para 3 above and take up case for amending the Govt. sanction already issued for purchase of tractors to incorporate the complement of man power, ie, tractor drivers (Gp 'C', Rs 950-1500) and lasker(GP 'D', Rs 890-940).

5. The confirmation regarding grant of temporary status to the three individuals employed as Tractor Driver and Cleaner be forwarded to this HQ immediately.

6. Please accord Top Priority, since this is a pending point in Army HQ, JCM Council.

Col
Adm Comdt
Stn HQ Tezpur

Copy to :- Stn HQ Tezpur For urgent necessary action in the
for information.

1993
1978

1. 9. 93 1. 9. 96 3 yrs
of review on
with an limit.

20/8/97/100/100

16 Aug 97

21. Flaminol Gas (Tr Fox)
21. Kerin (Chloro F Tr Dux)
21. Ragon Gas (Tr Cleaner)

MINIMUM FITNESS CERT FOR REGULARISATION OF SERVICE

1. You are being directed to produce following certificates :-

(a) Medical Specialist
(b) Surgical Specialist
(c) ENT Specialist
(d) Driving Licence
(e) Fit Cert

Medical Cert

2. In case you fail to produce the above mentioned certificates, your case for regularisation will not be recommended/forwarded to the higher authority.

✓
(P.S. Suresh)
Lt Col
GBO
for Adm Comdt
Off
B/Off

CTC

K. Kumar
Adm Comdt
Stn HQ Tezpur