

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 100/2001.....

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FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACKI BENCH ::::: BUBANESHWARI

ORDER SHEET
Original APPLICATION NO 106 OF 2001

Applicant (s) Monoj Kr. Das Family

Respondent(s) U.O.E 70M

Advocate for Applicant(s) B.K. Shastri, S. Sarma, Mrs Usha Das

Advocate for Respondent(s) P. S. Das

Notes of the Registry

Date

Order of the Tribunal

14.3.01

Heard Mr.S.Sarma learned
counsel for the applicant and
also Mr.B.C.Pathak, Adl.C.O.S.C.
respondents.

Application is admitted.
Issue notice to the respondents
to show cause as to why the
interim order as prayed for shall
not be granted.

List on 4.4.01 for orders.

(Signature)
Member

lm

4.4.2001

Four weeks time all^o
the respondents to file
statement. List for or^o
9.5.01.

(Signature)
Vice-Chairman

nkm

Form
Application
No. 26 503 698
Date 27.2.2001

1/e by Registrar 16/3/01

4 Gm's steps
received.

16-3-2001

Service of notice
issued to the
respondents vide D.No.
971-971 dt. 16.3.01

(Signature)

No. Show cause Reply
has been filed.

(Signature)
Registrar

9.5.2001

Written statement has been filed. The applicant may file rejoinder if any, within three weeks from today.

List on 1.6.2001 for orders.

bb

[Signature]
Vice-Chairman

bb

16.5.2001

Heard Mr. S. Sarma, learned counsel for the applicants. Mr. Sarma has submitted that he has been instructed not to press the application. Accordingly the application is dismissed on withdrawal.

[Signature]
Vice-Chairman

nk.m

22.5.2001

Copy of the order has been sent to the D/Sec. for issuing the same to the L/Adv. for the Parties.

HS

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case :

O.A.No. 100 of 2001.

BETWEEN

Sir Monoj Kumar Dey & anr.

VERSUS

Union of India & Ors.

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Filed by : S.SARMA, Advocate.

Regd No.

File No.:C:\WS7\MONDJ

Date :-

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

5
Filed by
Lidkharia Sarma
Advocate.
S-3-2001

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

O.A.No. 100.....2001

BETWEEN

1. Shri Manoj Kr.Dey.
Casual Worker ,
Working under SDE (Admn),office of the TDM.
Aizawl,Mizoram.
2. All India Telecom Employees Union
Line Staff and Group-"D"
Mizoram, Division,
Aizawl, represented by,
Divisional Secretary, Shri K.S.Goswami.
..... Applicants.

A N D

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication.
2. The Chairman Telecom Commission,
Sanchar Bhawan, New Delhi.
3. The Chief General Manager,
N.E.Telecom Circle,
Shillong-793001.
4. The General Manager, Telecom.
Mizoram, Telecom Division,
Mizoram. Respondents.

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PARTICULARS OF THE APPLICATION

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

This application is directed against the order dated 7.11.2000 issued by the General Manager Telecom, Aizwal, Mizoram, SSA, by which representation filed by the applicants has been disposed of illegally. The instant application is also directed against the action of the respondents in not considering the case of the applicants for regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applications, others named been benefited. The applicants have also made a grievance against the order dated 21.9.98 issued by the TDM Mizoram while disposing of the representation filed earlier by the applicant pursuant to the Judgment and order dated 17.6.98 in O.A No 105 by the applicants.

2. LIMITATION:

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

3. JURISDICTION:

The applicants further declare that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

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4. FACTS OF THE CASE

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

4.2. That in the instant application, the Applicant No.2 is the Divisional Secretary of All India Telecom Employees Union, Line Staff and group-D, Mizoram, Divisional Branch and he represented the interests of casual workers more particularly reflected in the Annexure-A to this Original Application. Applicant No.1 is one of the casual labourers as listed in the Annexure-A is also similarly situated like that of the other applicants on whose behalf the instant application has been filed by the applicant No.1. Accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together in a single application invoking rule 5(4)(b) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

A list containing the names and particulars of the applicants is annexed herewith and marked as ANNEXURE-A .

4.3. That the casual labourers whose interests are being represented by the applicant No 2 in the instant application were all appointed in various dates ranging from 1989 onwards on casual basis. The applicants are at present drawing their wages under ACG-17 and ACG-20 pay slips and some time by pay orders, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the

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time of hearing of the case.

For better appreciation of the factual position the services particulars reflected in the Annexure-A may be referred to. They are still continuing in their respective posts as reflected in the Annexure-A till date.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed for in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt.of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation)Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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Copies of the said Judgment and the scheme dated 7.11.89 are annexed as ANNEXURES 1 and 2 .

4.5. That as per the scheme as well as the directions issued by the Hon'ble Supreme Court in the cases mentioned above the applicants are entitled to the benefits described in the scheme. The applicants are in possession of all the qualifications mentioned in the said scheme as well as in the aforesaid verdict of the Hon'ble Supreme Court, and more specifically in the datas described in the Annexure-A may be referred to for the better appreciation of the factual position.

4.6. That the respondents after issuance of the aforesaid scheme, issued further clarification from time to time of which mention may be made of letter No.269-4/93-STN-II dated 17.12.93 by which it was stipulated that the benefits of the scheme should be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

4.7. That on the other hand casual workers of the Deptt.of Posts who were employed on 29.11.89 were eligible to be conferred the temporary status on satisfying other eligible conditions. The stipulated date 29.11.89 has now further been extended up to 10.9.93 pursuant to a judgment of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in OA No.750/94. Pursuant to the said judgment delivered by the Ernakulam Bench, Govt of India, Ministry of Communication issued letter No.66-52/92-SPD-I dated 1.11.95 by which the benefits of conferring temporary status to the casual labourers have been extended up to the recruitees up to the 10.9.93.

A copy of the aforesaid letter dated 1.11.95 is annexed herewith and marked as ANNEXURE-3.

The applicants have not been able to get hold of an authentic copy of the said letter and accordingly they pray for a

direction to the respondents to produce an authenticated copy of the same at the time of hearing of the instant application.

4.8. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicants in the instant application more so when they are similarly circumstance with that of the casual workers to whom benefits have been granted and presently working in the Deptt. of Posts. As stated above both the Deptts. are under the same Ministry i.e. the Ministry of Communication, and the scheme were pursuant to the Supreme Court's Judgment as mentioned above. There can not be any earthly reason as to why the applicants shall not be extended the same benefits as have been granted to the casual labourers working in the Dept. of Posts.

4.9. That the applicants state that the casual labourers working in the Deptt of Telecommunication are similarly situated like that of the casual workers working in the Deptt. of Posts. In both the cases relevant schemes were prepared as per the direction of the Hon'ble Court delivered their judgment in respect of the casual workers in the Deptt. of Telecommunication following the judgment delivered in respect of casual workers in the Deptt. of Posts. As stated earlier both the Deptts. are the same Ministry i.e. Ministry of Communication. Therefore, there is apparent discrimination in respect of both the sets of casual labourers though working under the same Ministry. It is pertinent to mention here that the casual workers of the Deptt of Posts on obtaining the Temporary Status are granted much more benefites than the casual workers of the Deptt. of Telecommunication. Similar benefits are required to be extended to the casual workers of the Deptt. of Telecommunication having regard to the fact that both the Deptts are under the same ministry and the basic foundation of the scheme for both the Deptts are Supreme

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Court's judgment referred to above. If the casual workers of the Deptt of Posts can be granted with the benefits as enumerated above based on Supreme Court's verdict, there is no earthly reason as to why the casual workers of the Deptt.of Telecommunication should not be extended with the similar benefits.

4.10. That the applicants state that the matter relating to filing up of Group-D posts came before the Regional Joint Consultancy Meeting held in Shillong on 28.11.95 under the Chairmanship of Shri V.P.Singh, Chief General Manager, N.E. Circle. In the aforesaid meeting including Chairman there were 6 competent officers and 11 union members from the staff side present to discuss the welfare of the Casual/Contractual Employees including regularisation of Group-D Employees. After a detailed discussion a discision was taken for one time relaxation of Group-D recruitment and to that effect both the sides office side as well as staff side decided to approach Directorate for the appropriate steps.

A copy of Minutes of the aforesaid Regional Joint Consultancy Meeting dated 28.11.95 is annexed herewith and marked as ANNEXURE-4.

4.11. That pursuant to aforesaid agreement of the meeting both the side approached the Directorate and as per instruction issued to the Chief General Manager, Telecom, a letter was issued on 25.7.96 whereby 400 posts of Daily Rated Mazdoors under the Chief General Manager, Telecom, N.E.Circle have been distributed in six sub stations including Mizoram, SSA. As per the aforesaid distribution 120 posts have been allotted under the Mizoram Division.

A copy of the aforesaid letter dated 25.7.96 is annexed herewith and marked as ANNEXURE-5.

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4.12. That the applicants beg to state that in view of afore-said scheme as well as the verdict of the Hon'ble Supreme Court, they entitled to be regularised more so when there is at present 120 vacancies as per Annexure-5 letter.

4.13. That the Applicant No.2 in view of the above discrimination in respect of the applicants reflected in Annexure-A working under the Respondent No.4 made several representations to the authority concerned. In one of the said representations the grievances of the applicants on whose behalf this application is made along with some others have been reflected. In the said representations apart from the other grievances it was pointed out that there are vacancies and at present and the Deptt.concerned is in the need of Group-D employees.

A copy of one of the representation dated
6. 11. 97 is annexed herewith and marked as
ANNEXURE-6.

4.14. That the applicants beg to state that making a similar prayer a group of casual workers working under Assam Circle had approached this Hon'ble Tribunal by way of filing OA No.299/96 and 302/96 and this Hon'ble Tribunal pleased to allow the afore-said application on 13.8.97 by a common judgment and order.

A copy of the said order dated 13.8.97 is
annexed herewith and marked as ANNEXURE-7.

4.15. That the applicants state that it is settled position of law that when some principles have laid down in a given case those principles are required to be made applicable to other similarly situated cases without requiring them to approach the Hon'ble Court again and again. But in a nutshell case in spite of judgement of Hon'ble Ernakulam Bench delivered in respect of casual labourers of Deptt.of Posts, the Deptt.of Telecommunication under the same ministry has not yet extended the benefits to

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the casual labourers working under them.

4.16. That the applicants being aggrieved by the aforesaid action of the respondents have filed O.A. No 105 of 1998 before the Hon'ble Tribunal seeking redressal of those grievances. The applicants in their aforesaid application prayed for their regularisation as well as grant of temporary status in their respective services as has been done in the other cases. The said application came up before the Hon'ble Tribunal on 17.6.98 and this Hon'ble Tribunal was pleased to pass an order directing the respondents to dispose of the representation filed by the applicant within 30.9.98. The Hon'ble Tribunal was further pleased to give liberty to the applicants to submit fresh O.A. if they are still aggrieved by the said disposal order of the respondents.

A copy of the said order dated 17.6.98 is annexed herewith and marked as ANNEXURE-8.

4.17. That thereafter the respondents i.e. the Telecom District Manager issued an order dated 21.9.98 to the applicant disposing of the representation filed by them stating some irrelevant facts which were not at all the subject matter of the case. In the said order the respondents have failed to apprise the exact factual position as to why the case of the applicants could not be considered as per the verdict of the Hon'ble Supreme Court as well as the Scheme prepared by themselves for grant of temporary status and regularisation.

A copy of the said order is annexed herewith and marked as ANNEXURE-9.

4.18. That the applicants beg to state that the respondents have issued the aforesaid Annexure-9 order with some ulterior motive only to deprive the applicants from their legitimate claim of regularisation. As stated above the respondents have high-

lighted some irreverent facts in the Annexure -9 order while disposing of the representation filed by the applicants. The main crux of their representation was for regularisation and grant of temporary status and for consideration of their cases against the sanctioned 120 nos of posts for Gr D employees but in reply to the said representation, the respondents have issued the impugned order Annexure-9 with out going in to the merit of the representation . Again the said order (Annexure-9.) reflects total non application of mind by the respondents. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

4.19 that the applicant being aggrieved by the said action on the part of the respondents have filed another O.A challenging the legality and validity of the Annexure-9 order dated 21.9.98 issued by the TDM Mizoram. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OA vide its judgment and order dated 13.3.2000, directing the respondents to dispose of the representation filed by the applicants enclosing the records.

A copy of the said Judgment is annexed herewith and marked as ANNEXURE-10.

4.20. That the applicants beg to state that pursuant to the said judgment dated 13.3.2000, they submitted detailed representation enclosing all the available records pertaining to their services addressing to the General Manager Telecom Aizwal, with a prayer for grant of temporary status to them.

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A copy of one of such representations filed by the applicants is annexed herewith and marked as ANNEXURE-11.

4.21. That the applicants beg to state that on receipt of the aforesaid representations filed by them, the respondents without going to the facts of the case disposed of their representations by issuing an identical order dated 7.11.2000 rejecting their claims.

A copy of one of such orders is annexed herewith and marked as ANNEXURE-12.

4.22. That the applicant begs to state that the respondents this time has changed their plea and issued the impugned order which is not at all tenable in view of the order issued by the respondents itself dated 1.9.99. In the said order dated 1.9.99 the respondents have extended the benefits of the scheme dated 7.11.89 to the recruitees upto 1.8.98 and hence the stand taken by the respondents in regards to cut off date is illegal. In fact in the Annexure-2 scheme dated 7.11.89 the respondents have not mentioned any cut off date.

A copy of the said order dated 1.9.99 is annexed herewith and marked as ANNEXURE-13.

4.23. That the applicants state that in a nutshell their whole grievances are that to extend the benefit of the aforesaid scheme as well as similar treatment as has been granted to the casual workers working under Deptt. of Posts in regard to treating the cut of date of engagement as 1.8.98 for conferment of benefits of the aforesaid scheme.

4.24. That the applicants beg to state that the respondents are presently making arrangements for filling up those 120 posts of Gr.D Mazdoors within a short time and it is also learnt that the cases of the applicants will not be considered for those

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posts and some outsiders are going to be appointed in these posts. It is further stated that the reason behind the issuance of the aforesaid Annexure-9 and 12 orders are very clear so that the applicants can not claim the said 120 posts.

In view of the aforesaid facts and circumstances the applicants pray for an interim order directing the respondents not to fill up any vacant posts including those 120 sanctioned posts till disposal of this application.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of benefit of the scheme to the casual labourers whom the applicants union represent in the instant case is prima-facie illegal and arbitrary and same are liable to be set aside and quashed.

5.2. For that it is the settled law that when some principles have been laid down in a judgement extending certain benefits to a certain set of employees, the said benefits are required to be similarly situated employee without requiring them to approach the court again and again. The Central Govt. should set an example of a model employer by extending the said benefit to the applicants.

5.3. For that the discrimination meted out to the members of the applicants union in not extending the benefits of the scheme and in not treating them at par with postal employees is violative of Articles 14 and 16 of the Constitution of India.

5.4. For that the respondents could not have deprived of the benefits of the aforesaid scheme which has been applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

5.5. For that the impugned order at Annexure-9 and 12 is prima-facie illegal arbitrary and violative of the principles of

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natural justice and hence the same is liable to be set aside and quashed. The said order is also not a speaking order so far it relates to the claim of the applicants made in their representation.

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

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

8. RELIEF SOUGHT FOR:

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

B.1. To direct the respondents to extend the benefits of the said scheme to the members of the applicants and to regularised their services and to set aside and quash orders dated 21.9.98 and 7.11.2000.

Vs
B.2. To direct the respondents to extend the benefits of the scheme to the applicants particularly who have joined in the year

1998 taking in to consideration the judgement of the Hon'ble earnakulam Bench as well as the order dated 1.9.99 and to regularise their services.

8.3. To direct the respondents not to fill up any vacant posts of Daily Rated mazdoors without first considering the case of the applicants.

8.4. Cost of the applicants.

8.5. Any other relief/reliefs to which the applicants are entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicants pray for an interim order directing the respondents not to fill up any vacant posts of Daily Rated Mazdoors without first considering the case of the applicants and to allow them to continue in their respective services .

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11. PARTICULARS OF I.P.O.:

- 1. I.P.O. No. : 2G 503698
- 2. Date : 27/2/2001
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

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

I, Shri Kripa Sindhu Goswami, s/o Late Rasaraj Goswami, aged about 44 years, Divisional Secretary, All India Telecom Employees Union, Line Staff and Group-D, Mizoram Division, do hereby verify and state that the statements made in paragraphs 1-3, 4, 4.5, 4.23-4.24 & 5 to 12 are true to my knowledge and those made in paragraphs 4.2-4.4, 4.6-4.22 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the applicant No.2 to sign this verification on his behalf.

And I sign this verification on this the 4.18 day of ~~March~~ March, 2001 .

Kripasindhu Goswami

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PARTICULARS OF THE CASUAL WORKERS

Annexure-A

(WITH RECORD)

SL. No.	NAME	Date of Entry	Working Place	Working under Whom	Mode of Payment	Remark
1.	Sri Upendra Roy	1.1.89	Telephone Exchange Aizawl	S.D.O.T Aizawl	ACG-17 Rs.1800/- p.m.fixed	Worked on MR to May '92.
2.	Sri Nripesh Ray	1.1.89	Telephone Exchange Luangmual	S.D.O.T Aizawl	-do-	-do-
3.	Sri Monoj Kr. Dey	1.1.89	T.D.M Office Aizawl	SDE (Admn) O/o the IDM, Aizawl	-do-	-do-
4.	Sri Kamala Kanta Singh	1.1.89	Telephone Exchange Aizawl	A.D.ET(OCB) Aizawl	- do -	-do-
5.	Sri Ajay Kr. Das	1.1.90	S.D.O.T Office Aizawl	SDOT Aizawl	-do-	-do-
6.	Sri Subhash Ray	1.3.90	-do-	-do-	-do-	
7.	Sri Nikhil Ray	1.1.91	Telephone Exchange Aizawl	-do-	-do-	-do-
8.	Sri Tag Bahadur Chetri	1.1.91	-do-	-do-	-do-	-do-
9.	Sri Binod Kumar	15.9.93 15.7.93	S.D.O.T Office Aizawl	-do-	-do-	

Attested
Alsha Das
Advocate
07 MAR 2001

covered by case of Alsha Das

PARTICULARS OF THE CASUAL WORKERS

Annexure - A

(WITH ~~THE~~ RECORD)

Sl. No.	Name	Date of Entry	Working Place	Working under Whom	Mode of Payment	Amount
1.	Sri Prem Chetri	1.3.92	Telephone Exchange Aizawl	S.D.O.T Aizawl	ACG-17	Rs.1800/- P.M.Fixed
2.	Sri Dulal Kr. Vakta	1.3.92	-do-	-do-	-do-	-do-
3.	Sri Gautam Kr. Das	1.3.93	-do-	-do-	-do-	-do-
4.	Sri Utpal Kr. Das	1.3.93	-do-	-do-	-do-	-do-
5.	Sri Nidhu Bhusan Ray	1.3.93	-do-	-do-	-do-	-do-
6.	Sri Som Thapa	1.2.93	-do-	-do-	-do-	-do-
7.	Sri Dipak Chakra-borty	1.3.93	Telephone Exchange Thingsul	S.D.E(G) Aizawl	-do-	-do-
8.	Sri Sagar Thapa	1.3.93	Telephone Exchange Aizawl	S.D.O.T Aizawl	-do-	-do-
9.	Sri Bijon Kr. Ray	1.3.93	-do-	-do-	-do-	-do-
10.	Sri Swapan Ray	1.1.90	Telephone Exchange Kolasib	S.D.E(G) Kolasib	-do-	-do-
11.	Sri Sindhu Singha	1.6.92	-do-	-do-	-do-	-do-
12.	Sri Nakul Thapa	1.6.92	Telephone Exchange Aizawl ,	S.D.O.T Aizawl	-do-	-do-

.....

Attested
Asha Das,
Admn. exte
07 MAY 2001

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers

Attested
Abha Das,
Advocate
07 MAR 2001

who have been continuously working for more than one year in the posts and Telegraphs Department".

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Attested
Alsha Das
Associate
07 MAR 2001

ANNEXURE-2.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist.Madras/
Calcutta.
Heads of all other Administrative Units.

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

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

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

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

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

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

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

Attested
Abha Das,
Advo eate
07 MAR 2001

GM/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information.
MCS/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

*Attested
Alpha Das.
Advocate
07 MAR 2001*

ANNEXURE-2 contd

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

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

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

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

Temporary Status.

- i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.
- ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr, D posts.
- iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of work.
- iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they

*Attested
Asha Das -
Advocate
07 MAR 2001*

are selected through regular selection process for Gr. posts.

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

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

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

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

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

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

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

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

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

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

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

@ @ @

Attested
Isha Das .
Advocate
07 MAR 2001

ANNEXURE-.3.

EXTRACT.

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

NO.66-52/92-SPB/I

dated 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letter No 45-95/87 SPB-I dated 12.4.91 and 66-9/91-SPB-I dated 30.11.92 as per which full time casual labourers who were in employment as on 29.11.89 were eligible to be conferred "temporary status" on satisfying other eligibility conditions.

The question of extending the benefit of the scheme to those full time casual labourers who were engaged /recruited after 29.11.89 has been considered in the office in the light of the judgement of the CAT Earnakulam Bench delivered on 13.3.95 in O.A. No 750/94 .

It has been decided the full time casual labourers recruited after 29.11.89 and up to 10.9.93 may also be considered for the grant of benefit under the scheme.

This issue with the approval of I.S and F.A. vide Dy. No 2423/95 dated 9.10.95.

Attested
Alsha Das.
Advocate
07 MAR 2001

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM. N.E.CIRCLE,
SHILLONG - 793 001.

Minutes of
XVII -R.J.C.M.Meeting dtd: 28.11.95

The following are the Minutes of the XVII Regional J.C.M. Meeting held in Shillong on the 28.11.95, under the Chairmanship of Shri V.P.Sinha, Chief General Manager Telecom. N.E.C., Shillong.

Members present in the Meeting:

Official Side

1. Shri H.C.Singh, D.G.M. (A)
2. Shri G.K.Chin, D.F.A
3. Shri C.S.Kataria, T.D.M/SH.
4. Shri G.N.Chyne, A.G.M(A)
5. Shri M.Pal, A.D.T. (ESTT.)

Staff side

1. Shri P. Dutta, Leader, Staff side.
2. Shri N.Chakraborty, Secy. Staff Side.
3. Shri Gopal Das
4. Shri S.S.T Gashnga.
5. Shri M.Kulla Singh.
6. Shri S.K. Ghosh.
7. Shri I.L.Roy.
8. Shri M.K.Bhattacharjee.
9. Shri S.Lyngdoh.
10. Shri H.R.Lyngdoh.
11. Shri M. Buddhi Singh.

Others

1. Shri B.K.Chakraborty, SE(C)
2. Shri Sanjay Kumar, E.E. (C), SH2
3. Shri R.P.Sharma, A.D.T (Bldg.)

Observers.

1. Shri Surajit Chakraborty/SH.
2. Shri N.L. Sha, Itanagar.
3. Shri S.K.Sharma, Imphal.
4. Shri Tridip Das, Shillong.

Before the agenda was placed into for discussion, the staff side pointed that (i) the word 'SORKAR' was misspelt at the entry of the Administrative building (ii) The brief was illegible (iii) Brief on old item may be sent alongwith meeting notice and (iv) Memo regarding approval of nom.of members be circulated to all R.J.C.M. Members,

REVIEW OF OLD ITEMS:

Item No.1

15-10/93
AD(Bldg.)/
SE(C)/SH:

I.B. At GUWAHATI: The first offer was rejected since it was not in a suitable area. However, new offer has been received and the same is being examined.

Possible to be created

14-2/94
A.O. (TA)/
D.F.A

DEDUCTION OF G.P.F. OF TSM: A.O. (TA) has issued instruction to all Units to furnish G.P.F. Schedules of TSMs. Prov. Balance slip will be issued for amount deducted so far.

Not yet done

14-4/94
SE/SC/
AD(Bldg.)

CONSTRUCTION OF OFFICE ACCOMDN. & QUARTERS:

T.D.M. Office building at Imphal, Site plan & structure plan have been submitted to C.E. Office where estimate is being taken up.

Possible

...2..

Attested
Asha Das
Advocate
21/11/2001

9-11/95
DM/IMP.

RECTT. OF SPORTS MAN IN GROUP 'C' AND 'D' POSTS
IN N.E. CIRCLE:

This may be discussed in LJCM, Manipur.

Closed. ✓

30-11/95
AGM(P)/
AD(Bldg.)

IRREGULAR OCCUPATION OF TY.III TWO STORY QUARTERS IN
RYNJAH BY TASK FORCE (PROJECT):

This may be discussed in the Standing Committee. Moreover, it is confirmed that the quarters was allotted to project Officials doing project works in the Circle and necessary deduction as per rules will be made soon. Matter may be referred to standing Committee.

Closed. ✓

31-11/95
AD(Bldg.)/
DGM(A)

ABNORMAL EARMARKING OF BY-POST QUARTERS FOR E-10B
EXCHANGE/SHILLONG:

D.G.M(A) will look into it.

Resubmitted

32-11/95
AD.(E)

ONE TIME RELAXATION OF RECTT. FOR GROUP 'D' CADRE:

The Directorate will be approached in respect of suggestion given by the staff-side to request for One-Time relaxation of Gr-D recruitment citing the actual shortage of the cadre in the circle with justification of the requirement.

Postponed

33-11/95.
Prncpl-CTTC

RECREATION AMENITIES TO CTTC HOSTELIERS: Principal will justify the requirement for providing the amenities to the hosteliars.

Postponed

Next date of Meeting?

[Signature]

(G.N.CHYNE)
- AGM(A),
Secretary,

Regional JCM, N.E. Telecom,
Shillong-1.

O.TWF/RJCM/MEETING/95. Dt. 27.02.96.

Copy to:

1. All Telecom District Managers/STTs In N.E. Telecom Circle.
2. The Regional JCM Members;
3. The Sr.PAs to CGMT and DGM (Dev) Circle Office, Shillong.
4. The DE, CTSD N.E.Circle) Guwahati/All Gr.Officers in C.O/SH.
5. Circle Secretaries of Unions.

[Signature]
For: Chief Genl. Manager Telecom,
N.E. Circle, Shillong.

Attested
Usha Das
Advocate
07 MAY 2001

B DHA

Annexure - 5

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOMMUNICATIONS
N.E. CIRCLE: SHILLONG-793001

No. EST/DE-543/27

Dated at Shillong, the 25th June/96

In pursuance of DOT/New Delhi's letter No.269-5/96-STN-II dated 10/4-96 regarding One time relaxation to N.E. Telecom. Circle to recruit 400 DRMs, C.G.M.T., N.E. Circle, Shillong is pleased to distribute the same as indicated below:

Name of the SSA	No. of DRMs.
1. Meghalaya SSA	45
2. Tripura SSA	45
3. Nagaland SSA	50
4. Manipur SSA	60
5. Arunachal Pradesh SSA	80
6. Mizoram SSA	120

Recruitment of DRMs should be done as per existing rules. The distribution as indicated above is inclusive of requisition placed by non recruiting units. However, the recruitment will be subject to the ceiling limit of the total strength of staff as on 1/4-1991.

(G.N. Chyno)

Asstt. General Manager (A)
for Chief General Manager Telecom.
N.E. Circle, Shillong.

Copy for information and necessary action to :-

- 1-6. The Telecom. District Manager, Shillong/Dimapur/Imphal/Agartala/Itanagar/Aizawl. They are requested to ensure that the over all representation of persons belong to weaker section of the society, who are recruited as DRM, does not go below the prescribed percentage in accordance with the Govt. of India instruction issued from time to time.
- 7-8. The D.E., C.T.S.D., Guwahati.
- 9. The D.E., C.T.T.C., Shillong.
- 9-10. The A.D.T. (HRD)/A.D.T. (T), C.O., Shillong.
- 11. The G.M.M. (ETR), Shillong.
- 12. The C.G.M. (Task Force), Guwahati.
- 13. The S.E. (Civil), Shillong.
- 14. The S.E. (Elect), Shillong.
- 15. The DE Installation, C.O./SH
- 16. DE Guwahati / Shillong
- 17. All e/s of Recruitment
in N.E.
Circle

for Chief General Manager Telecom.
Shillong - 793001

Attested
Alsha Das
Advocate
6/11/96

N.T.E.

**All India Telecom Employees Union I/S
& Group-D. Mizoram Division, Aizawl Branch
P.O. Aizawl-796001**

No. LSRP/10/12-01/97-98/

Dated at Aizawl, the 6th Nov'97.

To,

The Telecom District Manager,
Mizoram SSA, Aizawl.

Subj :- Request for making the Contractual Labour into regular labour.
Sir,

With due honour I beg to state that the following few lines for your immediate necessary action. For your kind information the above said matter discussed in different occasions. From the office records all of us know that approximately 158 nos. of Contractual labour are working in this SSA since long back. The details of their name and date of joining are enclosed for your ready reference. In view of the shortage of Line Staff and day to day rapid work of the network regularisation of the Contractual Labour is very much essential.

So therefore, under this critical junction undersigned requesting you to take a prompt necessary action so that regularisation of the Contractual Labour as per the list may be completed immediately.

Thanking you in anticipation.

Sincerely Yours,

Sd/

(K.S. GOSWAMI)
Divisional Secretary,
A.I.T.E.U. I/S & G.D.,
Mizoram Division, Aizawl

Copy to :-

- 1) The Chief General Manager Telecom, N.C. Circle, Shillong for information and necessary approval of the said matter in connection with very very backward state i.e. Mizoram.
The Circle Secretary, AITSU, Line Staff & Group-D' N.C. Circle, Shillong for information and necessary action please.
- 2) The Sr. Secretary, Aizawl/Lunglei for information.

Attested
Asha Das
Advocate
07 MAR 2001

K. S. Goswami

(K.S. GOSWAMI)
Divisional Secretary,
A.I.T.E.U. I/S & G.D.,
Mizoram Division, Aizawl

ANNEXURE-7.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants :Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law

*Attested
A. Dohra Das,
Advocate
07 MAR 2001*

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

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

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

Attested
Alaha Das,
Advocate
07 MAR 2001

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

Attested
Aloha Das
Advocate
07 MAR 2001

submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

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

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


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

Sd/- Vice Chairman.

Attested
Alsha Das
Advocate
07 MAR 2001

34-(A)

REGISTERED WITH

Notes of the Registry	Date	Order of the Tribunal
	17.6.98	<p>circumstances, I consider that this application needs not be admitted at present for consideration on merit but it is to be disposed of with directions to the respondents.</p> <p>Accordingly the application is disposed of with a direction to the respondents No.3 and 4 to dispose of the representation of the applicants with a speaking order within 30.9.1998.</p> <p>Liberty granted to the applicants to submit fresh O.A. thereafter, if they so desire.</p> <p>Application is disposed of. No order as to costs.</p>

Sd/-MEMBER(A)

Memo.No. 1786-1790

Dated 29/6/98

Copy for information and necessary action to :

1. Shri K. S. Goswami, Divisional Secretary, All India Telecom Employees Union, Line Staff and Group -D, Mizoram Division, Aizawl Branch, Mizoram-796001.
2. The Secretary to the Govt. of India, Ministry of Communication, New Delhi.
3. The Chairman, Telecom Commission, Sanchar Bhawan, New Delhi.
4. The Chief General Manager, N.E. Telecom Circle, Shillong-793001.
5. The Telecom District Manager, Mizoram Telecom Division, Tuikhatleng, Aizawl, Mizoram -796001.

[Signature]
29/6/98
SECTION OFFICER (J)

[Signature]
26/6

Attested
Alsha Das,
Advocate
07 MAR 2001

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER: AIZAWL :
: MIZORAM SSA:

NO: TDM/AZL/CONFIDENTIAL/

Dated at Aizawl, the 21st Sept'98.

To,

The Divisional Secretary,
AITTEU L/S and Group 'D'
Mizoram Division.

Sub: Regularisation of Casual Labour.

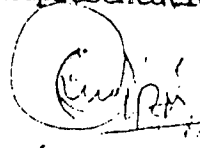
With reference to your representation dated 17th July'98
I give the reply of your representation as follows :

1. That you being the Divisional Secy. AITTEU L/S and Group 'D' has no authority/power to represent the cases of Casual Labourers. You can only represent linestaff such as Lineman, STs, LIs, Regular Mazdoors and Group 'D' Employees.

The casual labourers are engaged on casual basis for seasonal or intermitent nature of work. The concept of appointment/regularisation does not come under the purview of this representation. Their post cannot be created and does not fall under regular establishment.

It is further intimated that according to the Terms and conditions of recognition of the staff union appended with the compilation of instruction circulated vide DoT's letter No.10 12/87 SRT dtd.5.5.87, Membership of service union, is restricted to Govt. servant only. Neither the Mazdoors on whom Temporary status has been conferred nor the daily rated Mazdoors are regular Govt. servants. Hence they are not eligible to become members/office bearers of the staff unions. The staff union therefore cannot represent the cases of casual Mazdoors and other casual employees and are to be governed by the relevant department instructions/rules (Decision of the Hon'ble Supreme Court of India in SLP(c) No.587 88/92).

In view of the facts stated above the representation dt.17th July'98 from the union is disposed off.

(S.K. BOSE)
Telecom District Manager,
Aizawl, Mizoram SSA.

Copy to :

1. The CGMT, N.E. Circle, Shillong 793001.

2. Shri Golap Sama, Addl. CGSC, Suagpur, Rehabari, Guwahati 8

Attested
Alsha Das
Advocate
07 MAR 2001(S.K. BOSE)
Telecom District Manager,
Aizawl, Mizoram SSA.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.173 of 1999

Date of decision: This the 13th day of March 2000

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

The Hon'ble Mrs Lakshmi Swaminathan, Judicial Member

1. All India Telecom Employees Union,
Line Staff and Group 'D',
Mizoram Division, Aizawl, represented by
Divisional Secretary, Shri K.S. Goswami.
2. Shri Manoj Kr Dey,
Casual Worker (Contractual),
Working under-SDE (Admn),
Office of the TDM,
Aizawl, Mizoram.

...Applicants

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

- versus -

1. The Union of India, represented by the
Secretary to the Ministry of Communication,
New Delhi.
2. The Chairman, Telecom Commission,
Sansar Bhawan, New Delhi.
3. The Chief General Manager,
N.E. Telecom Circle,,
Shillong.
the Telecom District Manager,
Mizoram Telecom Division,
Mizoram.

...Respondents

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



O R D E R (ORAL)

MRS L. SWAMINATHAN, MEMBER(J)

The applicants, 21 in number, represented through applicants 1 and 2, have filed this application being aggrieved by the letter issued by the respondents dated 21.9.1998, rejecting their representation dated 17.7.1998.

2. The aforesaid impugned letter has been issued by the respondents in pursuance of the Tribunal's order dated 17.6.1998 in O.A.No.105 of 1998. One of the grounds taken by

*Attested
Usha Das
Advocate
07 MAR 2001*

the respondents in the impugned order is that the applicants could not have formed a service union as they were only Mazdoors on whom temporary status has not been conferred. Another ground taken is that as casual labourers are engaged on casual basis for seasonal or intermitent nature of work, they do not come within the purview of the applicants' representation. They have also stated that their post cannot be created and, therefore, do not fall under regular establishment.

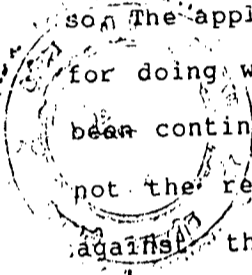
3. Mr B.K. Sharma, learned Sr. counsel for the applicants, has submitted that the reasons given in the impugned letter can hardly be supported in law, because the Tribunal has already dealt with these issues in the order dated 31.8.1999 in Subal Nath and 27 others -vs- Union of India and others (O.A.No.107/1998 with connected cases) (Copy placed on record). This order has also been followed in another O.A., All India Telecom Employees Union and another -vs- Union of India and others (O.A.No.129/1999) decided on 9.3.2000 (copy placed on record). He has also drawn our attention to the minutes of the discussion in RJCM meeting held on 28.11.1995 at Shillong. In this meeting a decision had been taken with regard to one time relaxation of recruitment for Group 'D' cadre, which reads as follows:

"The Directorate will be approached in respect of suggestion given by the staff-side to request for One-Time relaxation of Gr-D recruitment citing the actual shortage of the cadre in the circle with justification of the requirement."

4. The learned counsel for the applicants has submitted that there are as many as 120 posts created, according to the details given in the letter dated 25.6.1996 (Annexure 8) for Mizoram SSA in the N.E. Telecom Circle. In addition, he also relies on a recent communication dated 9.2.2000 regarding sanction of posts of Regular Mazdoors for regularisation of Temporary Status Casual Mazdoors as on 31.3.1997 and grant of Temporary Status to Casual Labourers as on 1.8.1998 in Assam Circle.....

Attested
 Usha Das
 Advocate
 07 MAR 2001

Circle. ~~It~~ has submitted that such a provision will be applicable to the creation of posts and regularisation of Mazdoors in the N.E. Circle. ^{also} His contention is that the respondents cannot, therefore, now say that the posts cannot be created in the N.E. Circle. Having regard to the judgment-orders of the Tribunal in O.A.No.107/98 and O.A.No.129/99 of the Guwahati Bench of the Tribunal, the application has to be disposed of on similar lines. We are in respectful agreement with the reasoning of the Tribunal in O.A.No.107/98 with connected cases. Therefore, the main contention of the respondents that the Associatin had no authority to represent the so called casual employees as they are not members of the Union Line Staff and Group 'D' staff is rejected. In view of the earlier orders passed by the Tribunal, the impugned letter is also liable to be quashed and set aside and we do so. The applicants have contended that they have been engaged for doing work of casual nature from 1989 to 1993 and have been continued in service of casual nature till date. It is not the respondents' case that any appeal has been filed against the order of the Tribunal dated 31.8.1999 in O.A.No.107/98 with connected cases and, therefore, that order has become final and binding which has also been followed in the subsequent order dated 9.3.2000 in O.A.No.129/99.



5. Having regard to the facts and circumstances of the case and the aforesaid judgments/orders of the Tribunal (Guwahati Bench) in Subal Nath's case (Supra) and O.A.No.129/99, the O.A. is disposed of with a similar direction as given in those cases, namely: the applicants may file representations individually, within a period of one month from the date of receipt of a copy of this order with necessary details about their work experience alongwith supporting documents, if any. Upon receipt of such representations.....

Attested
 Usha Das
 Advocate
 07 MAR 2001

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representations, the respondents shall consider the same individually in accordance with the relevant rules, instructions and records, including those referred to above and if the applicants fulfil the terms and the conditions of the aforesaid Scheme, they shall be granted the benefits flowing therefrom. In case the respondents reject any of the representations, they shall do so by a reasoned and speaking order within a period of six months from the date of receipt of the representations.

Parties to bear their own costs.



Sd/MEMBER (Adm)
Sd/MEMBER (J)

TRUE COPY
प्रतिप्रिपि

[Handwritten Signature]
Sd/MEMBER (J)
Central Administrative Tribunal
Guwahati Bench

[Handwritten Signature]
29/3/2001

Attested
Usha Das
Advocate
07 MAR 2001

To

Date: 15th May 2000

The General Manager Telecommunications
(Previously Telecom. District Manager)
Mizoram Telecom District, Aizawl.

Subj: Order dated 13th day of March 2000 passed in O.A. No. 173
Of 1999 by the Honourable Central Administrative Tribunal, Guwahati.

Sir,

With due reference and profound submission, I beg to state the few following line before your honour.

That, in the year of March '92, I entered in the service of Telecom as a Casual labour and performing my duties and responsibilities with due respect till to-day. In the year of 1996 dated 25th June, 120 post of DRM had been sanctioned for Casual labour (DRM) against Mizoram SSA, but my name was not inlisted for such a post. In the meantime, I have completed more than 8 (Eight) years of service and I was eligible to for regularisation as T.S.M., but my prayer was not been considered by the GM/TDM Mizoram SSA, Aizawl.

That being aggrieved by the said action, I was constrained to move to Honourable Tribunal by way of aforesaid O.A. and Hon'ble Tribunal was pleased to disposed of the said O.A. with a direction to consider my case against the regularisation scheme dated 7-11-1989.

In view of the said fact and circumstances, I pray your honour to consider my case in the light of circular's ment for casual employees/labours like that of me and pass necessary order at the earliest.

With kind regards.

Encl: 1. O.A. Dated 13/3/2000
of 173 of 1999.

2. Working Certificate/Experience Certificate.
3. Date of Birth/School Certificate.

Yours sincerely,

(PREM CHHETRI)
Casual Mazdoor
Telephone Exchange Kharagaul
under the SDE(G) T. Senkhuip.

Copy to:-

1. The Chief General Manager Telecom, N.E. Circle, Shillong.
2. The Director General, Sanchar Bhawan, New Delhi for Information please.

Prem Chhetri
(PREM CHHETRI)
Casual Mazdoor
Telephone Exchange Kharagaul
under the SDE(G) T. Kharagaul.

Attested
Usha Das
Advocate

67 11 1999

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE GENERAL MANAGER TELECOM
MIZORAM : AIZAWL

Dated at Aizawl, the 27/11/00

No. G-53/2000-2001/20

To,

✓ Shri Nakul Thapa
Casual Labourer
Telephone Exchange, Aizawl.
Under SOT/Work

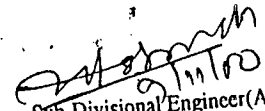
Sub: Your representation dated 15/5/00 in accordance with the judgement and order dated 13-3-2000 in O.A No. 173/99 passed by the Hon'ble Central Administrative Tribunal Guwahati Bench.

In pursuance of the judgement and order dated 13-3-2000 in O.A 173/99 passed by the Hon'ble Central Administrative Tribunal Guwahati Bench, your representation Dated 15/5/00 is considered in the light of judgement on the basis of the available records.

As per records, this office has come to the conclusion that your candidature do not fulfilled the conditions laid down in the casual labourer (Grant of Temporary Status and Regularization) scheme 1989, contained in the DOT letter No. 269-10/89-STN dtd. 7-11-89 which stipulates that the Casual Labourers who are engaged before 30-03-85 and has completed 10 years of service are only eligible for regularization. You have joined on 15/9/82. Accordingly your candidature do not fulfill the above condition.

In view of the above, it is regretted that your prayer for temporary status/Regularization could not be entertained and hence the claim is rejected.

This is for your information in response to your representation dated 15/5/00


Sub-Divisional Engineer (Admn)
O/O, General Manager (BSNL)
Mizoram, Aizawl

Copy to:-

- 1) The Registrar, Central Administrative Tribunal Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-7 - with reference to the judgement in OA No. 173/99 for information.
- 2) The Chief General Manager (BSNL), N.E. Circle, Shillong for information.

Sub-Divisional Engineer (Admn)
O/O, General Manager (BSNL)
Mizoram, Aizawl

Attested
Usha Das
Advocate

07 MAR 2001

Impugned order

ANNEXURE.13

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

Dated 1.9.99.

To

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

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

Sir,

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

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

cut off date extended to 1.8.98
Yours faithfully

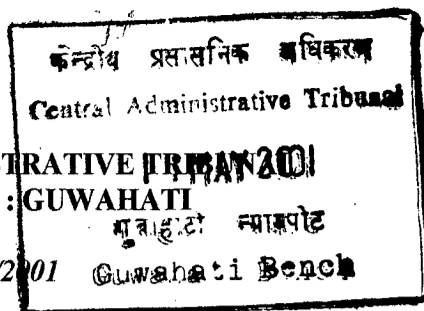
(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

*Attested
Usha Das
Advocate
07 MAR 2001*

Withdrawn on
16.5.2001



File by
Prof. J. K. Das
-9/5/01-52
CASC

Shri Monoj Kr. Dey & Others Applicant

Vs

Union of India & Others Respondents

(Written statement filed by Respondents 1,2,3,4).

The written statement of the respondents No.1,2,3,4 are as follows.

1. That the copies of the O.A.No.100/2001 here in after referred to as application have been served on the respondents, after going through the said application have understood the contents thereof.
2. That the statement made in the application save and except those which specifically admitted and denied by the respondents.
3. That with regard to the statement made in paragraph 1 of the application the answering respondents beg to state that the applications of the applicants were disposed of by the General Manager Telecom, Aizawl legally. As per the scheme the casual labourers who were engaged after 31.3.85 on special permission from DoT at specific area/works and who are still continuing for such work in the Circle on 22.6.88 where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of the order, be brought under the scheme for regularisation but the applicants were engaged after 22.6.88. Hence the applicants are not at all eligible for regularisation and the action taken by the General Manager Telecom, Aizawl is correct.
(Letter No.269-4/93-STN dated 25.6.1993 is Annexed here as R1).
4. That with regard to the statement made in paragraph 2 and 3 of the application the respondents have nothing to comment.
5. That with regard to the statement made in paragraph 4.1 of the application the respondents have nothing to comment.
6. That with regard to the statement made in paragraph 4.2 of the application the applicant No.2 is the Divisional Secretary of All India Telecom Employees Union Line Staff and Group D Mizoram, Divisional Branch. The right of the Union to represent Casual labour has not been conceded. As per Departmental norms casual labourers are not regular staff of establishment. The Union can take up the matter of regular staff in their own Circle/Division and All India concern only. By representing the case of casual labour directly which is in violation of Government norms of Union activity. He cannot represent for the casual labourers for whom Union does not represent. That the applicant No.1 and Others are not civil servants holding a sanctioned Civil post governed by CCS(CCA) Rules 1965 and as such he cannot file this application in this Hon'ble Tribunal.
(Letter No 29-18/91-SRT dated 24th Dec 1992 is annexed here as R2).

7. That with regard to the statement made in paragraph 4.3 of the application the respondents beg to state that the applicant No.2 being a Divisional Secretary, cannot represent the cause of the casual labourer in violation of the Government norms of Union activities. It is mandatory to engage casual labourer through employment exchange, the appointment of casual employees without employment exchange is irregular. Hence such casual labourer cannot be bestowed with Temporary Status. Therefore the applicants are not entitled to get this benefit.
(Letter No 29-18/91-SRT dated 24th Dec 1992 is annexed here as R2).
8. That with regard to the statement made in paragraph 4.4 of the application the respondents beg to state that as per directive of the Hon'ble Supreme Court of India, Ministry of Communication prepared a scheme in the name and style 'Casual Labour' (Grant of Temporary Status and Regularisation) Scheme 1989 which was implemented.
(Letter No 269-10/89-STN dated as 7th November 1989 is annexed here as R3).
9. That with regard to the statement made in paragraph 4.5 of the application the respondents beg to state that as per the scheme dated 7.11.89 the applicants are not at all entitled to the benefits described in the scheme.
10. That with regard to the statement made in paragraph 4.6 of the application the respondents beg to state that the applicants were not engaged during the period from 1985 to 27.6.88 and hence the applicants are not entitled for the benefit.
(Letter annexed here as R1).
11. That with regard to the statement made in paragraph 4.7, 4.8 & 4.9 of the application the respondents beg to state that the judgement of the Ernakulam Bench of the Hon'ble Tribunal does not reflect anything in favour of the applicants as the judgement is for Postal Department. Rules and Regulations of the Telecommunication Department are not the same with Postal Department. The Postal employees are not getting the same benefit as the Telecommunication employees. Hence the claim is not correct as per law. The respondents are from the Department of Telecommunication and hence the production of the copy does not arise.
12. That with regard to the statement made in paragraph 4.10 and 4.11 of the application the respondents beg to state that the respondents approached the Directorate and got sanction of 400 DRM post which was distributed amongst the 6 SSAs and Mizoram SSA got 120 sanctioned DRM posts. Instruction was issued to recruit the DRMs as per existing rules i.e. (to recruit through employment exchange as it is mandatory).
13. That with regard to the statement made in paragraph 4.12 of the application the respondents beg to state that as per verdict of the Hon'ble Supreme Court, the applicants are not entitled to be regularised as per the scheme.
14. That with regard to the statement made in paragraph 4.13 of the application the respondents beg to state that the applicant No.2 being a Divisional Secretary of the Union, has represented on behalf of casual labour/contractual labour in violation of Government norms of Union Activities.
(Letter annexed here as R2).

3.

15. That with regard to the statement made in paragraph 4.14 of the application the respondents beg to state that this does not reflect anything in favour of the applicants.
16. That with regard to the statement made in paragraph 4.15 of the application the respondents beg to state that it is not applicable to the applicants as the benefits of Department of Communication is quite different from the Department of Postal.
17. That with regard to the statement made in paragraph 4.16 and 4.17 of the application the respondents beg to state that the judgement and order dated 17.6.98 in O.A.105/1998 was implemented as per directive of the Hon'ble Tribunal.
18. That with regard to the statement made in paragraph 4.18 of the application the respondents beg to state that the allegation is not correct. Action was taken as per Departmental norms.
19. That with regard to the statement made in paragraph 4.19, 4.20, 4.21 of the application, as per judgement and order dated 13.3.99 of the Hon'ble Tribunal in O.A.No.173/99, the General Manager Telecom, Aizawl has disposed of the representation as per the directive of the Hon'ble Tribunal.
20. That with regard to the statement made in paragraph 4.22 of the application the respondents beg to state that it is mandatory to engage casual labourer through employment exchange, the appointment of casual employees without employment exchange is irregular. Hence the applicants who were not sponsored by the employment exchange cannot be bestowed with temporary status.
21. That with regard to the statement made in paragraph 4.23 of the application the respondents beg to state that it is not applicable to the applicants.
22. That with regard to the statement made in paragraph 4.24 of the application the respondents beg to state that recruitment of DRMs will be done as per existing rules. The action taken by the General Manager, Aizawl as per the directive of the Hon'ble Tribunal and existing Departmental Rules. Hence the action on the part of General Manager Telecom, Aizawl is legal as per the department rules. The applicants have no right for calling the action illegal and arbitrary in nature. Evidently the applicants claim has no value in the eyes of law.
23. That with regard to the statement made in paragraph 5.1 to 5.8 of the application the respondents beg to state that none of the grounds for relief with legal provision is maintainable in law as well as in facts. The reliefs claimed by the applicants are illegal and it has no value in the eyes of law.
24. That with regard to the statement made in paragraph 6 of the application the respondents have nothing to comment.
25. That with regard to the statement made in paragraph 7 of the application the respondents beg to state that the statement in this paragraph is contradicting.

4.

26. That with regard to the statement made in paragraph 8.1 to 8.5 of the application regarding relief sought for the respondents beg to state that applicants are not at all entitled to any of the relief sought for and as such the application is liable to be dismissed with cost.
27. That with regard to the statement made in paragraph 9 of the application the respondents beg to state that in view of the circumstances no interim order is warranted as prayed for.
28. That with regard to the statement made in paragraph 10, 11, 12 of the application the respondents have nothing to comment.
29. That the respondents beg to state that the applicants are not entitled to any of the relief sought for in this scheme as they have no requisite qualification for those scheme claimed by them and as such the application is liable to be dismissed with cost.
30. That the respondents submit that in fact there is no merit in this case and as such the application is liable to be dismissed with cost.

VERIFICATION

I, C. MURMU

as authorized do hereby solemnly declare that the statements made above in the Petition are true to my knowledge, belief and information and I sign the verification on this 8th day of May 2001.


8/5/01
DECLARANT

ANNEXURE

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi
(STN SECTION)

TO THE DIRECTOR GENERAL
- 2 JUL 1993
SIS/25-C
TELECOM CIRCLE SHILONG

ANNEXURE R 1

25 JUN 1993

No. 269-4/93-STN

DATED

To

- All Heads of Telecom. Circle/Metro Telecom. Distt..
- All Heads of other Administrative Offices.
- All Heads of Maintenance Regions/project Circles.

Subject: Casual Labourers (Grant of Temporary Status and Regularisation) engaged for laying of coaxial cables in project circles and dismantling/erection of lines in Railway Electrification circle after 30.03.85.

Sir,

I am directed to refer to this office letter No. 270-6/84-STN dated 30.03.85, on the above subject wherein the engagement of casual labourers for coaxial cable laying works in Project Circles and dismantling/erection of lines in Electrification Project Circle was allowed. However, it was also banned w.e.f. 22.06.88 vide this office letter No. 270-06/84-STN dated 22.06.88. The matter relating to conferring of Temporary status on such casual labourers who were engaged after 30.03.85 and before 22.06.88 for the works mentioned above in Project circles and Electrification Circle, has been under consideration in this office for sometime and it has now been decided to bring them under the scheme called "Casual labourers (Grant of Temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1997."

2. It is, therefore, requested that action may be taken to extend temporary status to all those casual mazdoors who were engaged by the Project circles for laying coaxial cables and by the Electrification circle for dismantling/erection of lines during the period 31.3.85 to 22.6.88 and who are still continuing for such works in the Project/Electrification circles where they

Any Case...
AP/...

Could... P-2)

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-7-
were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this letter.

3. Casual Labourer, if any, engaged after 30.03.85 for any work other than the ones mentioned above and also those who are not continuing in the Project/Electrification circles for such works and those who are absent for the last more than 365 days are not covered by this order and will not be given temporary status.

4. These orders for grant of Temporary Status will be applicable from the date of issue of this letter.

Hindi Version Follows.

Yours faithfully

A.K. ARORA

(A.K. ARORA)
DIRECTOR (ST-I)

Copy to:

1. All the staff members of Deptt. JCM
2. All Recognised Unions/Associations.
3. Budget/TE-I/TE-II/SEA/CWG/PAT/NCG/GR sections of Telecom. DG.3
4. SPB-I Section Deptt. of Posts, New Delhi.

A.K. ARORA

(A.K. ARORA)
DIRECTOR (ST-I)

138
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ANNEXURE R2

Government of India
Ministry of Communications
Department of Telecommunications
20 Ashoka Road, Sanchar Bhawan
New Delhi-110001.

TO THE CHIEF GENERAL MAN.
438/29-12
28 DEC 1992
M. E. TELECOM CIRCLE BUREAU

No. 29-18/91-SRT

Dated: 24th December, 1992.

To

The Chief General Manager
Calcutta Telephones,
Calcutta.

Subject:- Eligibility of temporary Mazdoors and DRMs for becoming Members/Office Bearers of Staff Unions in Area Offices, CTD.

Your kind attention is invited to your letter No. SUM-4041/NFTF/IS & CI-IV/Corr/L dated 1-10-1992 on the subject mentioned above. The clarification asked for therein is as under :-

According to terms and conditions of recognition of the Staff Union appended with compilation of instructions circulated vide this Office letter No. 10-12/87-SRT dated 5-5-87, Membership of Service Unions is restricted to Govt. Servant only. Neither the Mazdoors on whom temporary status has been conferred nor the daily rated mazdoors are regular Govt. Servant. They are, therefore, not eligible to become Members/Office bearers of the Staff Unions.

(B.S. VERMA)
Director (SR)

Copy to:-

1. All Heads of Telecom. Circles.
2. C.G.M. Telephones, Madras.
3. C.G.M. Telephones (MNL), Bombay/Delhi
4. Other Administrative Offices.

(6)

- 9 -

ANNEXURE: R3

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist. Madras/
Calcutta.
Heads of all other Administrative Units.

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

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No.269-29/87-STC dated 12.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

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

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

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

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

4. The scheme finalised in the Annexure has the concur-

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rence of Member (Finance) of the Telecom Commission vide No SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information, MCG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).