

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P-26/2002 ordered sheet Pg-1 to 4

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Dropped Date - 17/03/2003

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI-5

ORIGINAL APPLICATION NO. 28/2001

Sri. Arpit Bhushan Roy, Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. P. Roy.

Mr. B.K. Galukdar.

For the Respondents.

C.G.S.C.

NOTES OF THE REGISTER DATE ORDER

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

This application is in form but not in time. Application Petition is filed but filed vide M. P. Roy, C.R. for Rs. 5/- deposited vide IPO/BC No. 121093
Dated: 4.1.2001

AN
Dy. Registrar
24/1/01
26/01/01

Heard Mr P. Roy, learned counsel for the applicant and Mr A. Deb Roy, learned Sr.C.G.S.C for the respondents.

Application is admitted. Issue usual notice. Call for the records List on 23.2.2001 for written statement and further orders.

Endeavour shall be made to dispose of the matter expeditiously

Vice-Chairman

1) No. Envelope filed.

2) Mention Case.

pg

S
25/01/01

23.2 M.S. B. Admitted to 5.3.2001

7.2.2001 Received today

Service of Notice prepared & issued to the
respondents vide D. No.
442-47 dt.

8.2.2001

Ms

A.K. Roy
23.2

5.3.01 List on 11.4.01 to enable
the respondents to file written
statement.

Book

Vice-Chairman

5.3.01 Written statement has been filed.

List on 11.4.01 to enable the applicant to file rejoinder.

Vice-Chairman

lm

11.4.01 List on 23.5.01 to enable the respondents to file written statement.

Vice-Chairman

Notice duly served
on R.No. 3, 4, 5 & 6, lm

9.5.2001

23.5.01

It has been stated that written statement has been filed. List for hearing on 13.6.2001. In the meantime the applicant may file rejoinder.

Vice-Chairman

trd

No. Rejoinder has been filed.

13.6.01

At the request of Mr.P.Roy learned counsel for the applicant case is adjourned to 4.7.01 for hearing.

Member

Zg

12.6.01

lm

No. Rejoinder has been filed.

None appears for the applicant.

List again on 20-7-2001 for hearing.

61

Zg
13.7.01

ICU Shae

Member

bb

20.7.2001

Heard in part. The respondents are directed to produce the full records. List it on 24.8.01 for further hearing.

Vice-Chairman

nkm

3
D.A.28/2001

Notes of the Registry Date Order of the Tribunal

24.8.2001

Heard Mr.P.Roy for the applicant
and Mr.A.Deb Roy,Sr,C.G.S.C for the
respondents.

Hearing concluded. Judgment deli-
vered in open Court, kept in separate
sheets, The application is allowed in
terms of the order. No order as to
costs.


Vice-Chairman

bb

17/9/2001
Copy of the order
dictated has been sent
to the D/sec. for safety
in line to the Applicant
as well as to the D/sec.
in the Registry

VR

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 28 of 2001.

Date of Decision. 24.8.2001...

— — — — Sri Pritu Bhutan Roy

Petitioner(s)

— — — — Mr. P. Roy & Mr. S. Sarma.

Advocate for the
Petitioner(s)

— Versus —

— — — — Union of India & Others.

Respondent(s)

— — — — Mr. A. Deb Roy, Sr. 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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application Nos. 28 of 2001.

Date of Order : This is the 24th Day of August, 2001.

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

Sri Pritu Bhushan Roy
S/O Sri Purna Chandra Roy
C/O Sri Prasanna Chowdhury
Village:- Girishganj
District:- Karimganj
Assam.

..... Applicant.

By Mr. P. Roy & Mr. B.K. Talukdar

- Vs -

1. The Union of India
Represented by the Secretary to the
Govt. of India, Ministry of Communication
New Delhi.
2. The Chief General Manager (Telecom)
Assam Telecom Circle, Ulubari
Guwahati-7.
3. Member, Scrutinizing Committee
Divisional Engineer (P&A)
D/O The G.M. Telecom, Silchar
Assam.
4. The General Manager, Telecom
Silchar S.S.A
Silchar, Assam.
5. The District Manager
Department of Telecommunication
Silchar, Assam.
6. The Sub-Divisional Engineer (Group)
Telecom, Patharkandi, Assam.

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

O R D E R

CHOWDHURY J. (V.C.) :

This is the second round of litigation. The applicant earlier also moved this Tribunal by way of D.A. 141 of 1998 through its Association, namely, All India Telecom Employees Union praying for conferment of granting the benefit of temporary status as per the Scheme of 1989. The Tribunal took up the said case alongwith like cases and disposed all the cases by a common judgment and order on 31.8.1999 directing the respondents to scrutinise and examine each case individually in consultation with the records and

pass a reasoned order thereafter in the event of filing the representations individually within the period prescribed. The applicant accordingly submitted a representation in writing and the respondents vide letter dated 26.4.2000 advised the applicant to appear before the Scrutinizing Committee on 3.5.2000. The applicant appeared before the said Committee and submitted all his documents. The respondent authority by its order dated 26.9.2000 informed the applicant that the Committee did not recommend his name for granting of the temporary status on the ground that he did not complete 240 days in any Calender year preceding 1.8.98 and that he was not in engagement as on 1.8.98. Hence this application assailing the legitimacy of the order of the respondents.

2. The applicant, in this application, claimed that he was engaged as a Casual Labourer in the Telecommunication Department on 1.1.88 and worked as such in the department till the temporary status was granted to him on 9.12.97. The concerned DPC on consideration of the case alongwith others granted the temporary status vide order dated 9.12.97 and 22.12.97 and thereafter he was posted at Kotamone Telephone Exchange, where he joined on 22.12.97. While working as such the order of granting temporary status was cancelled by the Telecom District Manager, Silchar vide his order dated 27.6.98. Being aggrieved with the said order, the applicant, as mentioned above approached this Tribunal by way of filing an O.A. which was numbered as 141/98. The said application was admitted on 2.7.98 and the respondents were directed not to disengage the applicant and others and to allow him to continue in his service. As eluded, the case alongwith the like cases were disposed by the Tribunal by a common order dated 31.8.1999 directing the respondents to scrutinise and examine the case of each applicant.

3. The respondents entered appearance and submitted its written statement contesting the claim of the applicant. By the impugned order dated 26.9.2000 the respondents declined to accede to his representation in view of the recommendation of the Committee. Admittedly, the applicant alongwith eight others by order dated 22.12.97 were granted temporary status of Mazdoor provisionally on the approval of the TDM, Silchar. The said order preceded by an order dated 9.12.97 approving the action of the SDE (Group), Telecom in granting temporary status to those nine persons including the applicant. The relevant part of the communication is reproduced below.

"NO.E-20/Grp-D/Rectt/98. Dated at Silchar,
09.12.97

To

The S.D.E.(Group) Telecom,
Patharkandi.

Sub:- Casual labours (Grant of temporary
status and regularisation scheme) 1989
engaged after 30.3.85 upto 22.6.88).

In pursuance of the DOT New Delhi
letter No.269-4/93-STN-II dated 17.12.95
and CGMT/Guwahati letter No.Rectt-3/10/
Part-II dated 4.10.94, the following
nine Casual Mazdoors in your Sub-Division
are approved for granting of tem-
porary status on the basis of particu-
lars furnished by you vide your letter
No.E-27/95-96/ dt.26.10.95 and No.E-27/
95-96/Pt.II dt.8.11.95.

You are directed to take further action
after verification of their eligibility
once again on the points mentioned
below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII
standard.
- (3) No of days worked yearwise.

After conferring the provisional appro-
val for granting of temporary status
w.e.f. 9.12.97 to the Casual Mazdoors
mentioned below, Intimation is to be
given to TDM/Silchar for their place
of posting which will be decided by
TDM/Silchar."



In the list of approved 9 Casual Mazdoors of the said communication the name of the applicant appeared at Sl No.9. In pursuance to the said order and more particularly, in view of the TDM Silchar letter dated 16.1.98 the applicant alongwith others were posted at Kotamoni, wherein he joined on 22.12.97. By order dated 29.6.98 the provisional temporary status conferred on the applicant vide TDM, Silchar letter dated 9.12.97 had been cancelled by TDM, Silchar vide his letter dated 27.6.98 holding the applicant was not qualified for granting temporary status as per his previous engagement record. The said order dated 29.6.98 dis-engaging the applicant as Casual Labourer, issued by the SDE (Group) Telecom Patharkundi was based on the direction given by the Telecom District Manager vide memo dated 27.6.98. The full context of the said memo is also reproduced below :-

"Ref: Letter No E-20/Grp-D/Rectt/97 dated at Silchar, 9-12-97.

As per above mentioned letters provisional TSM status was conferred to the following casual mazdoors. Later on posting order was given to them vide letter No.E-20/Grp-D/Rectt/109 dtd at Silchar, 16.1.98.

1. Sri Ratneswar Nath-Patharkandi Telephone Exch
2. Sri Pritu Bhushan Roy-Kotamoni Telephone Exch.
3. Sri Sukumar Sinha-Patharkandi Telephone Exch.
4. Sri Debendra Kr. Sinha-Duilkacherra Telephone Exch.
5. Sri Nihar Dey-Bazaricherra Telephone Exch.
6. Sri Sujit Kr. Sarmah-Baraigram Telephone Exch.

As per SDE Vigilance O/O TDM Silchar report vide letter No. AVO/CON/98-99/1 dtd. 25.6.98, all the above casual mazdoors were absent for the last more than 365 days counting from the date 17.12.93. They do not qualify for regularisation as TSM as per their previous engagement record in the deptt.

As per this finding the provisional TSM status which was conferred to them, vide letter No. E-20/Grp-D/Rectt/97 dtd at Silchar, 9-12-97 is hereby canceled, with immediate effect. You are hereby ordered not to engage these persons any more. "

4. The applicant, as mentioned earlier, moved this Tribunal assailing the legitimacy of the order dated 27.6.98 and the Tribunal disposed of the appeal by judgment and order dated 31.8.99 in O.A.141/98 directing the respondents to examine the matter in consultation with the records. The respondents by this impugned order dated 26.9.2000 declined to accede to the request of the applicant.

5. The granting of temporary status emanated from a direction given by the Supreme Court in Writ Petition (C) No.1280 of 1989 alongwith 1246, 1248 of 1986 and 176, 177 and 1248/88 Ram Gopal and Others -vs- Union of India and Others. Prior to the aforesaid order the Supreme Court had an occasion to deal with Casual Labourers in Telegraph Department in Daily Rated Casual Labourers- Union of India & Others. In the said case, the Supreme Court ordered the respondent authority Posts and Telegraph Department to prepare a Scheme for absorbing the Casual Labourers in daily duty who rendered continuous services in the department for more than one year. In the instant case on the own showing of the respondents, the applicant was granted temporary status by order dated 22.12.97, which was subsequently cancelled by order dated 29.6.98. The applicant was, however, allowed to continue as Casual Labourer on the strength of the order of the Tribunal dated 2.7.98 in O.A.141/98. By interim order the Tribunal ordered the respondents not to disengage the applicant and to allow him to continue in his services. The O.A. in question alongwith others was finally disposed on 31.8.99. In the said order also the Tribunal extended the interim order till disposal of the representation. The representation was eventually disposed on 26.9.2000. Therefore, at any rate, the applicant rendered his service as a Casual Labourer on and from December 1997

to 26.9.2000. The findings of the authority that he was not in engagement on 1.8.98 therefore, cannot be sustained. The services rendered by the applicant at least from December, 1997 till the disposal of the representation could not have been ignored. The applicant was earlier granted temporary status on the basis of his past record, which was cancelled at the instance of the communication sent by the SDE Vigilance O/O TDM Silchar report vide letter dated 25.6.98. The said report was not produced before us. The applicant was granted temporary status by order dated 9.12.97. The said order of granting temporary status was cancelled unilaterally on the basis of the report of the SDE Vigilance as reflected in the communication by the TDM, Silchar letter dated 27.6.98, which visited with civil consequences.

6. We have heard Mr.P.Roy, learned counsel for the applicant at length and also Mr.A.Deb Roy, learned Sr. C.G.S.C for the respondents.

7. The respondents have missed the direction of the Tribunal dated 31.8.99 by refusing to consider the case of the applicant in its full perspective. The action of the Scrutinizing Committee to confine its enquiry upto 1.8.98 also cannot be sustainable. Admittedly, the applicant was engaged as a Casual Labourer on and from 1.1.98 till he was sought to be disengaged by the order dated 29.6.98.

For the forgoing reasons, the order dated 26.9.2000 is set aside and the respondents are directed to consider the case of the applicant in the light of the observation made in this order. The application is accordingly, allowed to the extent indicated above. The respondents are ordered to complete the exercise with utmost expedition at any rate within three months from receipt

of this order.

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

(D.N.CHOWDHURY)
VICE CHAIRMAN

14
J. A. Sarkar
Advocate
24/8/2001.

LIST OF DATES

O.A. NO. 28 OF 2001

(Pritu Bhushon Roy -Vs- Union of India & Ors).

.....

LIST OF DATES

(A) 1-1-88 : Appellant was engaged as Casual Labourer in the Department of Telecommunication.

(B) 17-4-90 : Judgement of the Apex Court in respect of Casual labourer to prepare a scheme for their absorption who continuously worked for more than one year in the Telecommunication Deptt.

(Page..16)

(C) 1-10-89 : A Scheme called " Casual Labourers (Grant of temporary Status and Regularisation) Scheme of the Department of Telecommunications,1989. Came into force.

(Page-20)

(D) 17-12-93 : Benefit under the scheme was also granted to the Casual Labourers engaged in the Circle and District also during the period from 31.3.85 to 22.6.88.

(Page-22)

(E) 1-11-95 : Benefit under the scheme of Regularisation was also granted to the Casual labourers recruited after 29.11.89 and upto 10.9.93.

(Page-25)

Contd.... 2.

(F) 8-11-95 : To give benefit of the scheme the name of the appellant along with others with their respective working particulars and other relevant records were submitted to the Telecommunication District Manager, Silchar by the Sub-Divisional Engineer, Telecom, Patherkandi by his letter No. E-27/95-96/Pt.II dt. 8-11-95.

(Page-26).

(G) 9-12-97 : Proposal for granting temporary status was approved by the Telecom District Manager, Silchar and the Sub-Divisional Engineer (Group) Telecom, Patherkandi was directed to take further action after verification of their eligibility once again before granting of temporary status and for their place of posting.

(Page-28)

(H) 22-12-97 : Granting of Temporary status with terms and conditions.

(Page-29)

(I) 29-1-98 : After approval of place of posting by the T.D.M, Silchar the appellant was posted at Kotamoni Telephone Exchange.

(Page-30)

16

- 3 -

(J) 29-6-98 : Impugned cancellation/Termination order dt. 27-6-98 communicated vide order dt. 29.6.98.

(Page-31)

(K) 2-7-98 : Appeal filed before this Hon'ble Tribunal. Appeal was admitted and the appellant was allowed to continue in his service.

(Page-32)

(L) 31-8-98 : Appeal disposed of directing the respondents to scrutinize and examine the case in consultation with the records and to pass reasoned order and till then the interim order shall remain in force.

(Page-33)

(M) 26-4-2000 : Appellant was asked to appear before the Scrutinizing Committee on 3-5-2000.

(N) 26-9-2000 : Impugned Committee report and finding was communicated and the cancellation of granting of temporary status was approved.

(Page-43)

: GROUNDS OF APPEAL :

(I) Scrutiny Committee report is perverse and not on the basis of scrutinizing the records.

Contd....4.

(II) Order of cancellation of temporary status was based on an alleged vigilance report and findings which is not corroborated by the Screening Committee report and as such both the reports and findings are perverse and as such same are liable to be quashed.

(III) Screening
Vigilance report as well as ~~Screening~~ Committee report are silent about the working particulars submitted by the Sub-Divisional Engineer(Group) Telecom, Patherkandi on the basis of which temporary status was granted to the appellant and assuch cancellation of the said status on the basis of an alleged vigilance report and approval of said cancellation order on the basis of the Screening Committee report are malafide ,illegal and liable to be quashed.

(IV) In any view of the matter the impugned cancellation of T.S.M.Status of the appellant by the T.D.M., Silchar by his Memo No. x-11/TDM, Silchar by his Memo No. x-11/TDM-SC/CM-Rectt/98-99/212 dt. 27.6.98 informed by the SDE(Group), Patherkandi by his letter No. E-27/98-99/17(F) dt. 29-6-98 and approved by the G.M.T., Silchar vide his Memo No. E-20/TSM regularisation/SC/04 dt. 26-9-2000 are bad in law and liable to be quashed.

RELIEF PRAYED FOR :

(I) To set aside impugned Memo issued by the T.D.M, Silchar vide No. X-11/TDM-SC/CM-Rectt/98-99/212 dt. 27-6-98 and Memo No. E-27/98-99/17(F) dt. 29-6-98 of the SDE(GR), Patherkandi and the Memo No. E-20/TSM Regularisation/SC/04 dt. 26-9-2000 issued by the G.M.T., Silchar.

(II) To direct the respondents to regularise the service of the applicant as Grade-D employee.

(III) To pay his arrear pay and allowances within a reasonable period as fixed by this Hon'ble Tribunal.

(IV) Any other relief/reliefs to which the applicant is entitled.

केन्द्रीय नियम विधायिका	Central Legislative Assembly
13	23 JAN 2001
गुवाहाटी न्यायालय	
Guwanati Bench	

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. NO. 28 OF 2001
Sri Pritu Bhushan Roy
Vs.
Union of India & Ors.

I n d e x

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Date of filing 19-1-2001 Filed by

B.K. Talukdar
Advocate.

केन्द्रीय नियंत्रित विधायिका
Central Administrative Tribunal
23 JAN 2001
गुवाहाटी बैठक
Guwahati Bench

Filed by
Sri Pritu Bhusan Roy
Date 20/01/2001
P. R. G. 2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O.A. NO. 28 /2001.

BETWEEN

Sri Pritu Bhusan Roy,
s/o Sri Purna Chandra Roy,
c/o Sri Prasanna Chowdhury,
village-Girishganj,
District-Karimganj, Assam.

..... APPLICANT.

AND

1. The Union of India - represented by the Secretary to the Govt. of India, Ministry of Communication, New Delhi.
2. The Chief General Manager(Telecom), Assam Telecom Circle, Ulubari, Guwahati-7.
3. Member, Scrutinizing Committee, Divisional Engineer(P&A), O/o the G.M. Telecom., Silchar, Assam.
4. The General Manager, Telecom, Silchar S.S.A., Silchar, Assam.
5. The Telecom District Manager, Department of Telecommunication, Silchar, Assam.

contd..... 2.

Sri Pritu Bhusan Roy

6. The Sub-Divisional Engineer(Group)
Telecom, Patherkandi, Assam.

..... RESPONDENTS.

DETAILS OF THE APPLICATION

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

The instant application is made against the order dated 26.9.2000 passed by the General Manager, Telecom, Silchar rejecting the prayer for granting temporary status by setting aside the order dt. 27.6.98, passed by the Telecom District Manager, Silchar communicated by order dt. 29.6.98 by the Sub-Divisional Engineer(Group) Telecom, Patherkandi whereby the earlier order dt. 9.12.97 of granting temporary status to the applicant was cancelled illegally. This application is also made for an appropriate direction to the respondents to regularise the services of the applicant and to allow him to work as a Temporary Status Mazdoor till such regularisation is made effective, in the light of various guidelines issued by the respondents for regularisation of the services of Group-D employees.

2. JURISDICTION :

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

Contd.....3.

Sri Pradeep Bhushan Roy

27 JAN 1981
प्रमाण प्राप्ति
Guwahati B nca

3. LIMITATION :

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

4. FACTS OF THE CASE :

4(a). That the applicant is a citizen of India and permanent resident of Assam and as such he is entitled to all the rights protections and privileges as guaranteed by the Constitution of India and the laws framed thereunder.

4(b). That the applicant was a Casual labourer engaged in the Department of Telecommunication on 1.1.88 and was working as such till he was granted temporary status on 9.12.97 and thereafter he was working as Temporary Status Mazdoor under the respondents at Kotamoni Telephone Exchange under Patherkandi Sub-Division, Dist-Karimganj, Assam till he was terminated illegally.

4(c) That claiming the similar benefit of the Judgment delivered in respect of casual labourers in the department of Posts, the Casual labourers working in the Department of Telecommunication had approached the Hon'ble Supreme Court for similar direction as was rendered in respect of casual labourers of the Department of Posts. The Hon'ble Supreme Court acting on several similar writ petitions issued certain directions for the casual labourers in the Department of Telecommunication in the same line as

Contd.....4.

Sri Priti Bhushan Roy

Guwahati

that of the judgment delivered in respect of the Casual labourers of the Department of Posts. It will be pertinent to mention here that both the Departments i.e. the Department of Posts and the Deptt. of Telecommunication fall under the same Ministry i.e. the Ministry of Communication.

A copy of the said Judgment is annexed herewith and marked as
ANNEXURE-1.

4(d). That pursuant to the aforesaid Judgment, the Govt. of India, Ministry of Communication has prepared a scheme under the name and style " Casual Labourer (grant of temporary status and regularisation) scheme " 1989 giving its effects on and from 1.10.89 and the same was communicated vide letter No. 269-10/89-STN dated 7.11.89 directing for immediate implementation.

A copy of the said letter dated 7.11.89 together with scheme is annexed herewith and marked as
ANNEXURE-2.

4(e). That as per the said scheme certain benefits have been granted to the Casual workers such as conferment of temporary status, wages and daily rations with reference to the minimum pay scale for regular Gr.D officials including DA and HRA etc. and for regularisation and absorption as regular Grade-D Cadre.

Contd.....5.

Sri Priti Bhawan Roy

4(f). That the respondents after issuance of the aforesaid annexure-2 letter dated 7.11.89 communicating the scheme has also 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 confined to the Casual Labourers who were engaged during the period from 31.3.85 to 22.6.88.

A copy of the said letter dated 17.12.93 is annexed herewith and marked as ANNEXURE-3.

4(g). That on the other hand the Casual Labourers working in the Department of Posts who were employed as on 29.11.89 were eligible to be conferred as temporary status Mazdoor on satisfying other eligibility criteria. The said stipulated criteria dated 29.11.89 has now further been extended upto 10.9.93 pursuant to a Judgment of Earnakulam Bench of Hon'ble CAT delivered on 13.3.95 in O.A.No.750/94. Pursuant to the said Judgement Govt. issued a letter No.66-52/92-SPB-I dated 1.11.95 by which the aforesaid cut of date has been extended to the recruits up to 10.9.93.

A copy of the aforesaid letter dated 1.11.95 is annexed herewith and marked as ANNEXURE-4.

Contd.....6.

Sri Prile Bhushan Roy

The applicant has not been get hold of an authentic copy of the aforesaid letter and accordingly he prays for a direction to the respondents to produce the same at the time of hearing of the case.

4(h). That the aforesaid Judgment and the circular of the Govt. of India is required to be extended to the Casual Labourers of the department of Telecommunication more so when they are similarly situated like that of the casual labourers working under the department of Posts. As stated above both the Departments are under the same Ministry and in both the cases the schemes prepared pursuant to the direction of the Hon'ble Supreme Court and hence the workers under the department of Telecommunication are also entitled to the similar benefits as has been granted to the workers under the Department of Posts.

4(i). That as stated above the applicant fulfills the eligibility criteria laid down in the aforesaid scheme since he was engaged on 1.1.88 and was continuing and so the Sub-Divisional Engineer, Telecom. Deptt. of Telecom, Patharkandi recommended the name of the applicant along with others for grant of temporary status and submitted the particulars of the applicant along with the other relevant service records including total No. of working days etc.

Contd.....7.

Sri Prilu Bhushan Roy

A copy of the aforesaid recommendation alongwith the service particulars of the applicant is annexed herewith and marked as ANNEXURE-5.

4(j). That, after the aforesaid recommendation and the names of the applicant and others were forwarded to the D.P.C. for consideration of their cases for granting temporary status as per the scheme and the D.P.C. found them eligible for granting temporary status. To that effect the respondents issued order on 9.12.97 and 22.12.97 whereby temporary status was conferred upon the applicant alongwith others.

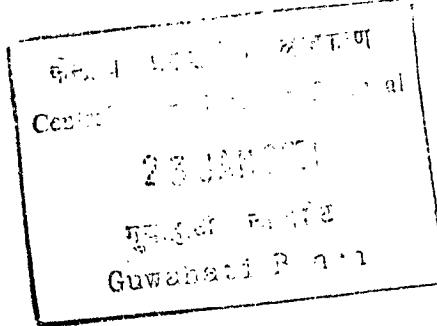
Copies of the orders dated 9.12.97 and 22.12.97 are annexed herewith and marked as ANNEXURES-6 & 7 respectively.

4(k). That, after granting temporary status by aforesaid order dt. 9.12.97 and 22.12.97 the applicant was posted at Kotamoni Telephone Exchange where he joined on 22.12.97 which was approved by T.D.M, Silchar and was communicated to the applicant on 29.1.98.

A copy of this letter dt. 29.1.98 is annexed herewith and marked as ANNEXURE-8.

Contd.....8.

Sri Prile Bhushan Roy



- 8 -

4(l). That after the aforesaid orders the applicant had been working sincerely and honestly at his place of posting and was getting his pay and allowances. He was also with a bonafide belief and expectation that his service would be regularised in due course but instead of regularising the service of the applicant, the respondent No.5 all of a sudden have issued an order on 27.6.98 communicated by Respondent No.6 by his order dt. 29.6.98 to the applicant by which the earlier order of conferring temporary status was cancelled. By this order the respondents have terminated the service of the applicant w.e.f. 29.6.98.

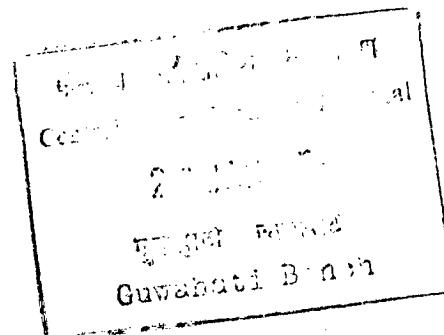
A copy of this order dated 29.6.98 is annexed herewith and marked as
ANNEXURE-9.

4(m). That the applicant states that the aforesaid order dt. 27.6.98 and 29.6.98 have been passed illegally, without giving any opportunity of hearing to the applicant and without any prior notice to the applicant. The Annexure-7 orders for granting the temporary status clearly states that before termination of the services of the temporary status Mazdoor one month notice is compulsory.

4(n). That the applicant states that the respondents have issued the aforesaid impugned orders illegally and without giving any opportunity of hearing to them. The

Contd.....9.

Sri Preeli Bhushan Roy



respondents have issued the aforesaid orders as per the dictation of the higher authority without applying their mind. In the aforesaid orders itself there is mention about the order dated 27.6.98 issued by the Telecom District Manager but the content of the aforesaid order is not clear from the impugned orders and hence the same are liable to be set aside and quashed.

4(o). That the applicant immediately made several requests to the authority concerned but when nothing has been done in the matter he was constrained to approach through his Union, this Hon'ble Tribunal by way of filing an appeal being No.O.A.141/98. The appeal was admitted on 2.7.98 and the respondents were directed not to disengage him and others and to allow him to continue in his service by order dt. 2.7.98 passed in O.A.No.141 of 1998.

A copy of this order dt. 2.7.98 is annexed herewith and marked as
ANNEXURE-10.

4(p). That, thereafter the respondents entered their appearance and filed their written statements denying all the claims of the Union. But it is pertinent to mention that the respondents admitted the position that the scheme is applicable to the Casual Employees who were engaged before the Scheme came into effect. However, this Hon'ble Tribunal disposed of the appeal

Contd.....10.

Sri Predee Bhawan Roy

- 10 -

by its Judgment and order dt. 31.8.99 directing the respondents to scrutinise and examine the case of the applicant and others in consultation with the records of each case on the basis of representation also and to pass reasoned order of each case within a period of six months. It is further directed that till disposal of the representation the interim order passed would remain in force.

A copy of the Judgment & Order dt.

31.8.99 is annexed herewith and marked as ANNEXURE-11.

4(q). That the applicant then filed a representation stating his case and praying for revoking the cancellation order of conferring Temporary Status. The Respondent Scrutinizing Committee also vide letter dt. 26.4.2000 asked the applicant to appear before it on 3.5.2000 with all particulars.

A copy of this letter dt. 26.4.2000 is annexed herewith and marked as ANNEXURE-12.

4(r). That on receipt of the aforesaid letter the applicant appeared before the Scrutinizing Committee on 3.5.2000 and submitted his all particulars including the statement of working particulars.

Contd.....11.

Sri Pratap Bhawan Roy

4(s). That thereafter on 26.9.2000 the applicant was informed by the Respondent No.4 that the Scrutinizing Committee after examination of records submitted its report that the applicant did not fulfill the minimum eligibility criteria i.e. he did not complete 240 days in any calendar year preceding 1.8.98 and he was not in engagement on 1.8.98 and as such he can not be granted temporary status Mazdoor and hence his prayer rejected.

A copy of this order dt. 26.9.2000 is annexed herewith as ANNEXURE-13.

4(t). That the applicant begs to state that this order of disposal of representation amounts to approval of the illegal action of the respondents No.5 & 6 whereby temporary status granted earlier was cancelled by order dt. 27.6.98 and 29.6.98.

4(u). That the applicant begs to state that on plain reading of the order it is crystal clear that the so called inquiry report is perverse and not based on any records and also non-application of judicial mind. The applicant was engaged on 01.01.1988 and was continuing as such till 29.6.1998 and the Chart enclosed as Annexure-'5' clearly shows the working days and as such the inquiry report to the effect that the applicant did not complete 240 days in any calendar year preceding 1.8.1998 is perverse and not based on any records. Secondly,

Contd.....12.

Sri Prithu Bahuron Roy

the applicant was illegally terminated on 29.6.98 and as such the inquiry report to the effect that he was not in engagement on 1.8.98 is without any application of mind since prior to that date he was already illegally terminated.

5. GROUNDS WITH LEGAL PROVISIONS :

5.1. For that the action of the respondents are prima-facie illegal, arbitrary and violative of the principles of natural justice.

5.2. For that the respondents have acted contrary to the settled principles laid down by the Constitution of India in not giving any opportunity of hearing at the time of issuing the impugned orders dated 29.6.98.

5.3. For that the respondents have issued the impugned orders violating their own commitments and hence the same are liable to be set aside and quashed.

5.4. For that the respondents have issued the impugned orders dated 29.6.98 without any notice to the applicants and hence the same are liable to be set aside and quashed.

5.5. For that the alleged report of the Scrutinizing Committee is perverse and not based on any records and as such the same is not acceptable.

Contd.....13.

Sri Pretili Bhushon Roy

5.6. For that the alleged report of the Committee is apparently perverse and not on application of mind which is apparent from the report mentioned on in the impugned order dt. 26.9.2000.

5.7. For that the impugned order dt. 26.9.2000 passed on the basis of such report is also illegal and non-application of mind and as such the same is not maintainable in law and liable to be set aside or quashed.

5.8. For that in any view of the matter the impugned orders dt. 27.6.98, 29.6.98 and the order dt. 26.9.2000 are bad in law and liable to be set aside or quashed.

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

The applicant crave leave of this Hon'ble Tribunal to advance more grounds at the time of hearing of this application.

6. DETAILS OF REMEDIES EXHAUSTED :

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

Contd.....14.

Sri Pradeep Bhushan Roy

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

The applicant further declares that he has not previously filed any application, writ petition or suit regarding this new cause of action 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 except the O.A.141/98 already disposed of as mentioned in Para 4(o) above.

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 :-

8(a). To direct the respondents not to terminate the services of the applicant.

8(b). To set aside and quash orders dated 27.6.98, 29.6.98 and 26.9.2000 passed by the Respondents No. 5,6 and 4 respectively.

Contd.....15.

Sri Balu Bhawan Roy

8(c). To direct the respondents to extend the benefits of the scheme prepared by the respondents.

8(d). To direct the respondents to regularise the service of the applicant as Grade-D employee.

8(e). Cost of application.

8(f). Any other relief/reliefs to which the applicant is entitled to and as deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

The applicant pray for an interim order directing the respondents to allow the applicant to continue in his service pending disposal of this application by suspending impugned orders dtd. 27.6.98, 29.6.98 and 26.9.2000 contained in Annexure-9 & 13.

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

1. I.P.O. NO. 56421093

2. Date :- 4-1-2001

3. Payable at Gurahand.

12. ENCLOSURES :- As stated above.

contd.....15(A)

Sri Preli Bhulon Roy

- 15(A) -

VERIFICATION

I, Sri Pritu Bhusan Roy, s/o Sri Purna Chandra Roy, C/o Sri Prasanna Chowdhury of village-Girishganj, P.O. Girishganj, Dist-Karimganj, Assam, aged about 32 years, by caste-Hindu, by profession-Service, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4(a), 4(b), 4(l), 4(m), 4(n), 4(r) and 4(t) of the petition are true to my knowledge and those made in the paragraphs 4(c), 4(l), 4(o) to 4(s) of the petition are matters of records which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this Verification on this the 15th day of January, 2001 at Guwahati.

Sri Pritu Bhusan Roy
(APPLICANT)

Absorption of Casual Labours
Supreme Court directive Department of Telecom to take back
all Casual Mazdoor who have been discharged after 30.3.1985

In the Supreme Court of India
Civil Original Jurisdiction

Writ Petition (C) No. 1280 of 1989

Ram Gopal & Ors. ... Petitioners

-Versus-

Union of India & Ors. ... Respondents

With

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

Jant Singh & Ors. etc. etc. ... Petitioners

-Versus-

Union of India & Ors. ... Respondents

ORDER

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

The principal allegation in these petitions under Article 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as casual labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30th 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 petitioners though that was rendered in the case of casual employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also related 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 as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department."

Attested
B.K. Galalde
Advocate

17
108

ANNEXURE- 1

Annex. 1 contd.

We find the though in paragraph 3 of the writ petition. it has been asserted by the petitioners that they have been working for 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 principle. 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 for 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 fact that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-
(Kuldeep Singh) J.

Sd/-
(Ranganath Misra) J.

New Delhi
April 17. 1990.

Attested
B.K. Mukherjee,
Advocate

Revd. S.

K. Misra

CIRCULAR NO. 1
Government of India
Department of Telecommunications
STN Section

New Delhi 7.11.89

269-10/89-STN

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

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

3. In this connection, your kind attention is invited to letter No. 270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in Projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O. letters No. 270-6/84-STN dated 22.4.87 and 22.5.87 from Member (Pers.) and Secretary of the Telecom. Department respectively. According to the instructions subsequently issued vide this office letter No. 270-6/84-STN dt. 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 cases 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.

Abul
A.K. Mukherjee
A.M.

Annex. 2 contd.

4. The scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No. SMF/78/89 dated 27.9.89.

5. Necessary instructions for the expeditious implementation of the Scheme may kindly be issued and payment of 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, Telecom Commission

Member (s)/Adviser (HRO), GM (Est), 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)

Recd & C
Placed to
Placed to

Placed
BK 2nd Ldr
A.D.G.

39
Annex. 2 contd.

ANNEUXRE

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 the Department of Telecommunications, 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 appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules. However, regular Group D staff rendered surplus for any reason will have prior claim for absorption against 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 casual labour for the purposes of the age limits 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 Gr. D vacancies are available to absorb all the casual labourers to whom this Scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status

- i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

✓

Attested
B.R. Zulfiqar
A.D.O.

Annex. 2 contd.

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

8. Despite conferment of temporary status, the services of a casual labourer may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one month's 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 encashment 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.

@@@

Placed
for

Placed
for

Accepted
B.R. Reddy
ADM

ANNEXURE - 3

No.269-4/93-STM - IX

GOVERNMENT OF INDIA

DEPARTMENT OF TELECOMMUNICATIONS

STM SECTION

Dated New Delhi, 17 Dec.
1993.

To,

- All Heads of Telecom. Circles/Metro Telecom Distt.
- All Heads of other Administrative Offices.
- All Heads of Ntac, Regions/Project Circles.

Sub: Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 engaged in Circles after 30.3.85 and up to 22.5.88.

Sir,

I am directed to refer to this office order No.269-4/93-STM dated 25th June, 1993, where in orders were issued to extend the temporary status to all these Casual Mazdoor who were engaged by the Project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who were still continuing for much works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those casual labourers who were engaged by the circles during the period from 31.3.85 to

contd..... 2.

Abul
A. K. Alavi,
Abu

22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more 365 days counting from the date of issue of this order, be brought under the above said scheme.

3. The engagement of casual mazdoors after 30.3.83, in violation of the instruction of the Head Quarter, has been viewed very seriously and it is decided that all past cases wherein recruitment has been made in violation of instructions of the Head Quarter dated 30.3.85 should also be analysed and disciplinary action be initial defaulting officers.

4. It has also been decided that engagement of any casual Mazdoors after the issue of order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned Class-II officers and amount paid to such casual Mazdoors to wards wages should be recovered from the person who has recruited/engaged casual labourer in violation of these instructions.

5. It is further stated that the services of the casual Mazdoors who have rendered at least 240 days (26 days in the case of Administrative offices observing 5 days a week) of service in a year on the date of issue of these orders, should be terminated after following the conditions as laid down in I.D. Act.1947 under section

25.F.G. & H.

contd.... 3.

Forwards
forwards

A. H. Patel
B. K. Patel
A. H.

- 3 -

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No.3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully

(S.K. DHAWAN)

Assistant Director General (STN)

Copy to :-

1. All the staff members of Department JCM
2. All recognised Unions/Associations
3. Budgets, TE-I/TE-II/SNA/CVC/PAT/MCS/SR sections of the Telecom Commission.
4. SPP-I Section, Department of posts, New Delhi.

NO RECCT-3/10 Part-II dated at Guwahati, 4.1.94, copy forwarded for information, guidance and necessary action to :-

- 1-2. The AMTs Guwahati/Dibrugarh.
- 3-8. The TDM, Guwahati.
9. The TDEs BGN/DR/SC/TZ/JRT/NGO
- 10-14. The STTs BGN/DR/SC/TZ/JRT
15. The C.S.C.T.O. Guwahati.
16. The A.E. I/C CTSD, Guwahati.
17. The Principal CTTC Guwahati.
18. The RFM, Guwahati.
19. The A.D. (Staff) C.O. Guwahati.
20. The Concernef Circle Secretaries of Service Unions.

(K.S.K. Prasad Sazma)
Asstt. Director Telecom (S&R)
C/o CGMT, Ulubari, Ghy-7.

A. H. S.
B.R. Mukherjee
A.D.

- 25 -

11

ANNEXURE - 4

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

No. 66-52/92-SPB/1

Dated. 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letters No. 45-95/87 SPB-I dated 12.4.91 and No. 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 benefits of the scheme to those full time casual labourers who were engaged recruited after 29.11.89 has been considered in this office in the light of the judgement of the OAT Renkukam Brencli Erakulam delivered on 13-3-95 in O.A. NO 750 / 1994 .

It has been decided that full time casual labourers recruit after 29-11-89 and upto 10-9-93 may also be considered for the grant of benefits under the Scheme .

(2) This issues with the approval of IS and P.A. vide Dy. No. 2423/95 dated 9-10-95.

391

Afternoon

Afftd
B.K. 2/95
P.R.

ANNEXURE-5

The Telecom District Engineer, Silchar, Cachar.

Sub :- Particulars of Casual Labourer.

In continuation of this Office Letter No. E-27/95-96 dt. 26.10.95, three Casual Labourer those names has been left out in the above cited letter, this are forwarded herewith for your necessary action.

Sl. No.	Name & Address	Caste	Date of birth	Employ. Regn. No.	Qualifica- tion.	Date of en- try Deptt.	Reason for engagement	Working particula- rs in yearwise.	
1.	Sri Ratneshwar Nath, S/o Sri Kamaleswar Nath, Vill. Narainpur, P.O. Patharkandi, Dist-Karimganj.	OBC	01.01.1970	715/95 X02.10	VIII passed.	1.2.88	To complete targeted work which was unable to complete by existing staff.	Year 1988 89 90 91 92 93 94 95	Days 248 246 253 249 251 260 248 147
2.	Sri Pritu Bhusan Roy, S/o Sri Purna Chandra Roy, C/o Sri Prasanta Choudhury, P.O. Giri- shganj, Dist-Karimganj.	S.C.	31.03.1969	2300/88 X 01.10	HSLC Passed.	01.01.88	-do-	1988 89 90 91 92 93 94 95	250 245 245 248 250 241 264 220
3.	Sri Montu Ch. Das, S/o L. Sundarmoni Das, Vill-Ghagraper-1	S.C.	01.01.1966	1538/95 X 02.10	VIII passed.	01.02.88	-do-	1989 90 91 92 93 94 95	159 244 263 272 257 246 214

The above particulars of Casual Labourers have been prepared on the basis of Certificates available from the concerned SIS only, Ghiganj. No :- E-27/95-96/Pt.II dt. 2.11.95.

Sd/- Illegible, 8.11.95
Sub-Divisional Engineer, Telecom, Patharkandi.

*After
4th October*

- 27 -

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER, SILCHAR.

[NO. E-20/Grp-D/Rectt/98. Dated at Silchar, 09.12.97.

To

The S.D.E. (Group) Telecom,
Patharkandi.

Sub :- Casual labours (Grant of temporary status and
regularisation scheme) 1989 engaged after
30.3.85 upto 22.6.88).

In pursuance of the DOT New Delhi letter No.
269-4/93-STN-II dated 17.12.93 and CGMT/Guahati letter
No. Rectt-3/10/Part-II dated 4.01.94, the following nine
Casual Mazdoors in your Sub-Division are approved for
granting of temporary status on the basis of particulars
furnished by you vide your letter No. E-27/95-96/ dt. 26.10.95
and No. E-27/95-96/Pt.II dt. 8.11.95.

You are directed to take further action after //
verification of their eligibility once again on the
points mentioned below :-

- (1) Age at the time of engagement.
- (2) Educational qualification upto VIII standard.
- (3) No of days worked yearwise.

After conferring the provisional approval for
granting of temporary status w.e.f. 9.12.97 to the Casual
Mazdoors mentioned below. Intimation is to be given to
TDM/Silchar for their place of posting which will be
decided by TDM/Silchar.

Contd.....2.

List of Mazdoors approved for TSM :-

1. Sri Debendra Kr. Sinha, S/o Sri Paye Sinha, Vill. Guramanzee, Dist-Karimganj.
2. Sri Sukumar Sinha, S/o Lt. Kala Raja Sinha, Vill. Krishnanagar, Dt. Kxj.
3. Sri Sujit Kr. Sarmah, C/o Lt. Kanti Bushan Sarmah, Vill-Sajalghat, Dt. Cachar.
4. Sri Nabendra Kr. Malakar, S/o Sri Nipendra Malakar, Vill-Iswarshree, Dt. Kxj.
5. Md. Azizur Rahman, S/o Md. Surman Ali, Vill-Hatkhola, PO, Kanaibazar, Dt. Karimganj.
6. Sri Nihar Dey, S/o Sri Nipendra Dey, Vill. Patharkandi, Dist. Kxj.
7. Lotfur Rahman, S/o Md. Akaddas Ali, Vill. Bafania, Dt. Kxj.
8. Sri Ratneswar Nath, S/o Kaneswar Nath, Vill. Narainpur, Dist. Karimganj.
9. Sri Pritu Bushan Roy, S/o Purna Ch. Roy, PO Girishganj, Dist-Karimganj.

Sd/- S.K. Samanta,
Telecom District Manager,
Silchar.

Copy to :-

The A.O.Cash, O/O TDM/Silchar.

Sd/-
Telecom District Manager,
Silchar.

A. H. Sardar
B.K. Zulfiqar
A.R.B.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE SUB-DIVISIONAL ENGINEER (GROUP)
PATHARKANDI 788724.

No. E-27/97-98/td. 22-12-97. Patharkandi, the 22-12-97.
Sub : Casual labours (Grant of temporary status and regularization notice) 1989 engaged after 30-03-85 upto 22-06-88).

In pursuance of T.D.M./Silchar letter No. E-20/Pr-D/Recruit/98 dtd. 09-12-97 the following listed casual labours are hereby conferred temporary status Mazdoor provisionally approved by the T.D.M./Silchar.

They are directed to report for duty to the undersigned temporarily. Their final place of posting will be decided by the T.D.M./Silchar and on receipt of the same further posting order will be issued for the interest of service.

1. Sri Debendra Kr. Sinha, S/o. Sri Paye Sinha, Vill. Guromangze, Dt. Karimganj.

2. Sri Sukumar Sinha, S/o. Lt. Kola Raja Sinha, Vill. Krishnagar, Dt. Kxj.

3. Sri Sujit Kr. Sarah, S/o. Lt. Kanti Bushan Samah, Vill. - Gajalghat, Dt. Cachar.

4. Sri Nabendra Kr. Malakar, S/o. Sri Nipendra Malakar, Vill. Iwarebree, Dt. Kxj.

5. Md. Azizur Rahman, S/o. Md. Turman Ali, Vill. Mathkhola, P.O. Kannibazar, Dt. Karimganj.

6. Sri Nihar Dey, S/o. Sri Nipendra Dey, Vill. Patharkandi, Dist. Kxj.

7. Motfur Rahman, S/o. Md. Akaddas Ali, Vill. Bafania, Dt. Kxj.

8. Sri Rathnawar Nath, S/o. Kaoeswar Nath, Vill. Norainpur, Dist. Karimganj.

9. Sri Pritu Bushan Roy, S/o. Purna Ch. Roy, P.O. Girishganj, Dt. Karimganj.

Terms and condition for granting of temporary status

1). The granting of temporary status is purely on temporary basis and may be terminated at any time by giving one month notice in writing by appointing authority without assigning reasons thereof.

2). The granting of temporary status carries with its liability for transfer within the S. S. A.

3). The granting of temporary status shall also liable for field service within India during war/emergencies.

4). The service condition will be governed by the relevant rules in force from time to time.

Sd/-
Sub-Divisional Engineer,
(Group) Patharkandi,
788724.

Copy to :-

- 1). The T.D.M./Silchar w.r. to his letter No. mentioned above. He is requested kindly to issue necessary instruction for their place of posting as desired by him.
- 2). The ~~AO~~ Cash, C/O., the T.D.M./Silchar.
- 3). The ~~DCI~~ (P.M.A) C/O the T.D.M./Silchar.
- 4). The ~~DCI~~ (H.R) C/O the T.D.M./Silchar.
- 5). to 13) official concerned.
- 6). E-119 (T.P) file.

Sub-Divisional Engineer,
(Group) Patharkandi,
788724.

Attd
A.K. Rautela
A.R.

20/12/97

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ANNEXURE-8

- 30 -

DEPTT. OF TELECOM,
O/O THE SDE(Gr) TELECOM PIKN.

NO. E-27/97-98

Dated - 29.1.98

In pursuance of the TDM, Silchar letter No. E-20/Gr-D/Recruitment/109 dtd. 16.01.98, the following provisionally conferred TSM's are hereby posted under this Sub-Division at the places as shown below.

<u>Sl. No.</u>	<u>Name of TSM</u>	<u>Place of posting</u>	<u>Date of Joining.</u>
1.	Sri Ratneswar Nath.	PTKN. Tele. XGE.	22.12.97
2.	Sri Sukumar Sinha.	-do-	-do-
3.	" Pritu Bhushan Roy.	KTMN. Tele. XGE.	-do-
4.	" Debendra Kr. Sinha.	DEH. Tele. XGE	-do-
5.	" Nihar Dey.	BCH. Tele. XGE	-do-
6.	" Sujit Kr. Sarmah.	BRGM. Tele. XGE	-do-

Sd/-Illegible,
S.D.E(Gr) Telcom,
Patharkandi.

Copy to :-

1. The T.D.M, Silchar.
- ii. To } Official concerned.
- iii. }
- viii. AO, Cash, O/O the TDM, Silchar.

Sd/-Illegible,
S.D.E(Gr) Telcom,
Patharkandi.

*After fed
B.R. Patharkandi
ADh -*

50
-31-

ANNEXURE - 9

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATION

No : E-27/98-99/17 (F)

Dated at Dibrugarh, 29-6-98

To : Priti Bhushan Roy

Kotamoni Telephone Exchange

Sub : Casual labourers (Grant of temporary status and regularisation scheme), 1998 engaged after 22-6-98 upto 22-6-98.

Ref : TDM Silchar Memo No. X-11/TDM-SC/CM-Recd. No. 212
Dtd. 27-6-98.

The provisional temporary status conferred on you vide TDM Silchar letter No. E-20/Grp-D/Recd. at 29-6-98-12-97 has been cancelled by TDM Silchar vide the letter X-11/TDM-SC/CM-Recd/98-99/212 dtd. 27-6-98 as you have not qualified for TSM as per your previous engagement record.

The undersigned has been directed not to engage you anymore and as such your services are no longer required with effect from the forenoon of 29-6-98.

(A. K. Bhattacharya
T. S. T. T. D. B.
Dibrugarh)

Copy to :

1. TDM Silchar for favour of kind information pl.
2. CAO O/O TDM Silchar for information pl.
3. DE (P&A) O/O TDM Silchar for information pl.

Sd/-

Attn
R.K. Bhattacharya
A.M.

32

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
G U W A H A T I.

ORDER SHEET

APPLICATION NO. 141 OF 1998.

Applicant(s) : All India Telecom Employees Union & Anr.
-Vs-

Respondent(s) :- Union of India & Ors.

Advocate for Applicant(s) :- Mr. B.K.Sharma,
Mr. S. Sarma,
Mr. U.K.Nair.

Advocate for Respondent(s) :- C.G.S.C.

Note of the Registry. | DATE | Order of the Tribunal.

2.7.98 ,

Heard Mr. B.K. Sharma learned counsel appearing on behalf of the applicant and Mr. S. Ali, learned Sr.CGSC for the respondents.

Application is admitted. Mr. B.K. Sharma prays for an interim order not to discontinue the services of the applicants. Mr. S. Ali has no instructions in this matter.

Issue notice to show cause why interim order as prayed for shall not be granted. Notice is returnable by 4 weeks.

Meanwhile, the casual workers (TSM) shall not be disengaged and they shall be allowed to continue in their services.

List it on 31.7.98 for orders.

Sd/- VICE CHAIRMAN

Sd/- Member (Admn) .

Attest
B.K. Sharma
A.Dh.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others

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

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

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

1. O.A.No.107/1998

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

-versus-

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

2. O.A.No.112/1998

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

-versus-

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

3. O.A.No.114/1998

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

-versus-

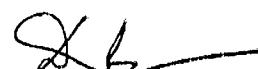
The Union of India and othersRespondents
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

4. O.A.No.118/1998

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

-versus-

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



5. O.A.No.120/1998

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

-versus-

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

6. O.A.No.131/1998

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

-versus-

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

7. O.A.No.135/98
All India Telecom Employees Union,
Line Staff and Group 'D' and
6 othersApplicants

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

-versus-

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

O.A.No.136/1998

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

-versus-

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

8. O.A.No.141/1998

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

-versus-

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

SL

10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch.Applicants

By Advocate Mr B. Malakar

-versus-

The Union of India and othersRespondents

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

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11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 othersApplicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and othersRespondents

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

....

12. O.A.No.192/1998

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

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

-versus-

The Union of India and othersRespondents

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

....

13. O.A.No.223/1998

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

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

-versus-

The Union of India and othersRespondents

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

....

14. O.A.No.269/1998

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

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

-versus-

The Union of India and othersRespondents

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

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15. O.A.No.293/1998

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

-versus-

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

.....
O R D E R

BARUAH.J. (V.C.)

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

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

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

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

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

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

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

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

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

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

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

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

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

9. No order as to costs.

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

Certified to be true Copy
गणपति गोपीनाथ

Monal Bisht
Deputy Registrar (D)
Central Administrative Tribunal
Guwahati Bench

8/3/2015

*H. K. Bhattacharjee
P.K. Bhattacharjee
A.D.M.*

Government of India
Department of Telecommunications
Office of the General Manager Telecom Silchar SSA:Silchar

No.E-20/Scrutiny/CM/2000-2001/03

Dated at Silchar, 26-4-2K

To

✓ Shri..... Priti Bhawan Roy
S/o ... Shri... Purba Ch. Roy Re/o Prasanna Choudhury
Vill Gobishganj.....
P.O. Gobishganj.....
Dist. Karimganj

Sub:- Call for appearing before scrutinizing committee of records
Of casual Mazdoors.

You are hereby requested to appear before the scrutinizing committee on 03-05-2000 with the following documents /particulars, in original, on the specified date, time and at the specified venue given below :

1. Initial engagement particulars as casual mazdoor, appointment order /sponsorship of employment exchange in your possession.
2. All documents i.e. working particulars, payment particulars till last working day, if any, available with you.
3. Age proof certificate.
4. Two copies of recent passport size photographs.

Three
Venue :- Hotel Indraprastha Regency,
Lochan Bairagi Road, Ground floor
Silchar - 788005.

I. R. P.
(I. R. PAUL)
Member, Scrutinizing Committee
Divisional Engineer (P&A)
O/o the G.M. Telecom/Silchar
Silchar SSA : Silchar

*Approved
B.K. Choudhury
ADM*



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

No. E-20/TSM Regularisation/SC/04

Dated at Silchar, the 26-09-2000

To

Sri Pritu Bhupan Roy
s/o Sri Purna Ch. Roy
c/o Prasanna Choudhury
P.O. Giriachganj Dist. Karimganj.

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Hon'ble CAT/Guahati order dtd. 31.8.99 in OA No. 112/98.

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands, disposed of.

General Manager Telecom
Silchar SSA :: Silchar.

General Manager Telecom
SILCHAR

* P 30 Apr 1997
22.12.97 Enr

* P 31.29.6.98 Ter



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 28 OF 2001

Shri Pritu Bhusan Roy

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statement submitted by the
Respondents

The respondents beg to submit the written
statement as follows :

1. That with regard to para 1, the respondents beg to state that the order dated 26.9.2000 was issued by GM, Silchar Telecom District on the basis of the verification committee's report. The said committee was set up in compliance to the common order dated 31-8-99 02.07.98 passed by the Hon'ble Tribunal in O.A. No. 112/98, 141/98 and 13 other OAs to examine the case of all casual labourers on the basis of authentic records by paid voucher, M/R, attendance sheet etc. The casual labourers were also afforded the opportunity to present their cases before the committee on the basis of whatever records lying in their possession.

The committee reached on undisputable findings that the applicant was engaged on 01.01.98 to assist the

the line staff in construction and maintenance work. He was engaged for a duration of 5(five) months from January, 1998 to June 1998. The casual service rendered by the applicant does not qualify for the benefit of Temporary Status Scheme of the department. The applicant was, therefore, intimated vide the impugned order dated 26.09.2000 why the benefit claimed by him can not be granted.

This is a reasoned order based on the unquestionable factual position and should prevail.

2. That with regard to para 2, 3, and 4.a, the respondents beg to offer no comments.

3. That with regard to para 4(b) the respondents beg to state that the applicant was never engaged for any work of the Department prior to 01.01.1998. Temporary Status was wrongly granted on a provisional basis to the applicant on the basis of incorrect certificate issued by field officer on extraneous consideration. The same was withdrawn vide order No. X-11/TDM-SC/CM Rectt./98-99 dated 27.06.98. The erroneous and illegal provisional order dated 16.01.98 is a manifestation of the multiple error and omission amounting to a racket in the field unit involving the departmental staff and the applicant among others. The respondent department took the corrective measures and after through examination the order conferring Temporary Status was withdrawn on 27.06.98. The applicant was engaged on 01.01.98 to assist the line staff and the engagement continued up to 6/98. The period of casual engagement being less than 24⁰ days, the applicant is not

entitled for the benefit of the departmental scheme. The engagement of daily rated mazdoor is not an appointment to any post according to rules. Even for Group 'D' employees, the selection process according to rules is a precondition for any appointment to Govt. Post. The applicant was not appointed to any post.

The operation and maintenance of Telecom Services are attended to by departmental employees. In case of any sudden spurt of activities or during special maintenance drive mazdoors are engaged by the fields units to assist the regular employees. Such temporary engagement of Mazdoor on daily basis become necessary on exigency of service to meet the special requirement and is of purely casual and intermittent in nature. When the special occasion disappears or the specific work for which the labour was engaged on day to day basis comes to an end as there is no further need for continuous engagement of such labourer.

4. That with regard to para 4(c), (d) and (e), the fax respondents beg to state that pursuant to the Judgement delivered by the Hon'ble Supreme Court of India, the Department of Telecom prepared a scheme in 1989 for absorption of all casual labourers who have put in at least 240 days casual service in a year. The scheme is known as casual labourers (Grant of Temporary Status and Regularization) scheme 1989 and came into effect on 01.10.89.

The scheme is intended to cover all casual labourers who were on engagement on the day of introduction of the scheme and have completed at least 240 days in one calendar year.

Under the provision of the scheme, the Department has regularized thousands of casual labourers who were engaged before 1.10.89 and have worked for more than 240 days in a year as on that date.

The Department has imposed a complete ban on engagement of casual labourer with effect from 22.06.88 and restraining order was issued to all concerned. The Telecom officers are devoid of any power/competence to engage any casual labour for any type of work. There is an irregularity of an enormous scale in the engagement of casual labourers in defiance of ban order. No selection procedure of any kind was followed in any case. Such engagement, in most of the cases, was unjustified and without jurisdiction and on choose and pick basis. The accumulated result of such mind-less engagement by field units that too without maintaining proper records has aggravated the situation to the detriment of the Department.

The Department of Telecom has addressed the situation on humanitarian ground and as a one time relaxation it has been decided that all casual mazdoor on engagement as on 01.08.98 and who have continuously worked for at least 1 (one) year would be granted temporary status followed by regularization. In the process the Department has liberalized the scheme and advanced the cut off date to 1.8.98.

5. That with regard to para 4(f) the respondents beg to state that it is already stated in para 1 above that the applicant was initially engaged in January, 1998 for a small duration of about 5 months. The Telecom DTE letter dated 17.12.93 does not help the case of the applicant as he was not

engaged during that time.

6. That with regard to para 4(g) & (h), the respondents beg to state that the O.A. No. 299/96 was aimed at ending the alleged discrimination between the Postal Scheme and Telecom Scheme as regards the cut off date. Till that time, the DOT scheme was available to casual *1* mazdoor who were engaged upto 22.06.88 where as the Postal Scheme accommodated all casual labourers who entered the Postal Department upto 10.09.93. Now that the DOT scheme has been liberalized to take care of all Casual Mazdoor entered upto 1997 provided they are otherwise eligible. The O.A. No.299/96 and the judgement dated 13.08.97 has lost it's relevance. The same is of no help to the applicant as his case was covered and considered undered a more liberalized policy. In any case the initial date of engagement is not a ~~determining~~ factor in the instant case, the number of days put on duly by the applicant is the guiding factor.

6. That with regard to para 4(i) the respondents beg to state that the applicant does not fulfill the eligibility criteria laid down in the scheme even after the extension of the cut of date. The applicant was engaged to assist the line staff for five months from 01.01.98 to 05/98 and thereafter disengaged as there was no need for further engagement. The small duration of engagement does not make him eligible for the benefit of the scheme even by the relaxed standard.

7. It is transparent on the face of the recommendation letter (Annexure-5) that the engagement particulars had been prepared on the basis of the certificate issued by line

staff. The certificate which formed the basis of the recommendation was on detailed enquiry, found to be false and incorrect. More ever, the line staff are not authorized to issue certificates. That being so, no reliance can be made on the letter dated 08.11.95 as the same is factually incorrect, mis-leading and malafide.

7. That with regard to para 4(j), the respondents beg to state that the basis of the factually incorrect and wrong information supplied by the SDOT, Patharkandi, order for conferment of Temporary Status to the applicant and others were issued under order dated 09.12.97 (Annexure-6) and 09.12.97 (Annexure-7).

8. That with regard to para 4(k), the respondents beg to state that the letter dated 29.01.98 the SDE(G) Patharkandi wrongly showed the applicant as having joined duly on 22.12.97 as TSM. This is utterly wrong. The applicant joined the department for the first time on 01.01.98. He did never worked in the department before 01.01.98 either as casual labourers or Temporary Status Mazdoors.

9. That with regard to para 4(l), the respondents beg to state that the applicant manipulated the wrong certificate issued by ~~five~~ field staff and recommendation letter of SDOT, based on which the TDM/Silchar wrongly conferred the Temporary Status without verifying the engagement particulars from authentic records like paid vouchers etc. on the strength of the manipulated Temporary Status order, the applicant joined duty on 01.01.98 and worked for 5 months.

After the issuance of order dated 09.12.97, 23.12.97 and 29.01.98 reports were received by the authority raising strong suspicion about the correctness of the engagement particulars submitted by the field officer which led to the conferment of Temporary Status. On preliminary enquiry it transpired that the engagement particulars/length of casual service furnished by the SDOs were incorrect.

The matter was referred to vigilance wing of the Telecom District for detailed investigation. The ~~SDE~~ SDE(Vig.) made a through enquiry on the basis of authenticated records and found that the applicant had never worked in the department before 01.01.98 and that the certificate issued by the SDO, Patharkandi was totally false, misleading and apparently malafide.

Following above findings the order dated 09.12.97 was cancelled by TDM Silchar and SDE(Group) Patharkandi vide order dated 27.06.98 and 29.06.98 (Annexure 9 to A).

Copy of the order dated 27.06.98 is annexed hereto and marked as Annexure - R1 .

It became clear that the applicant had not put in service in the department when his name was recommended by SDO for grant of Temporary Status . The SDO relied on the false certificate issued by the field staff. Clearly, the applicant made a fraudulent attempt in connivance with some dishonest departmental staff to gain undue benefit. This is a criminal conspiracy and liable to be severely dealt with.

The C.B.I. authority also came to know about the malpractice in the Silchar Telecom District from their own source and seized the relevant file on 16.04.98 for detailed investigation at their end. The investigation is still

is still in conclusive.

10. That with regard to para 4(m) & 4(n), the respondents beg to state that the order dated 27.06.98 and 29.06.98 have been passed after detailed examination as explained above. The said order was essential to terminate the ill acquired status by fraudulent means. Total service rendered by the applicant on the basis of irregularly acquired order is limited to less than 6 months only. Prior notice is not essential to terminate the service in the given circumstances.

11. That with regard to para 4(o), the respondent beg to state that the O.A. No. 141/98 was filed on 02.07.98 by the service union on behalf of the applicant and similarly situated other person. It was stated in that OA that the applicants were continuing in their job as on that date.

ix On the face of the submission, the Hon'ble Tribunal was pleased to issue the interim order dated 02.07.98 directing the respondents to allow the applicants to continue in their present service.

The applicant were, in fact, dis-engaged on 29.06.98 and they were not on job on 02.07.98. The applicant to that OA was wrong in submitting that they were on job as on 02.07.98. As the applicants were not on job there was practical difficulty in complying with the Tribunal's order dated 02.07.98.

12. That with regard to para 4(p), the respondents beg to state that the respondent department contested the O.A. No. 141 by filing written statement and refused all claims of the applicants.

After hearing both sides, the Hon'ble Tribunal passed the common Judgement and orders dated 31.08.99 directing the respondents to scrutinize and examine the case of the applicant in consultation with the records of each case and representation of the applicant and to pass a reasoned order in each case.

13. That with regard to para 4(q), the respondents beg to state that pursuant to the above order dated 31.8.99, the respondent No.2 formed SSA level Verification Committee to verify the claim of each casual labourer. The Committee was constituted by drafting one Senior time-scale level Engineering officer and one Accounts Officer of the concerned SSA and one officer from the circule Administration (all Gazatted level officers). The committed was given access to all records of the SSA to find out full engagement particulars of the casual labourers. The casual labourers were also given an opportunity to present their case before the committee to meet the ends of natural justice. The committee, after through scrutiny of all connected records, submitted its finding in respect of all casual labourers. Based on the finding of the committee, the head of respective SSA have assessed the eligibility of casual labourers for grant of the benefit of the scheme. The casual labourers thus found to satisfy the eligibility conditions, have been granted Temporary Status. In so far as the present applicant is concerned, the varification committee set up for Silchar Division, committee examined all departmental records and found that the applicant was put on duty as follows .

12

-10-

January, 1998 = 31 days.

February, 1998 = 28 days.

March, 1998 = 31 days.

April, 1998 = 30 days.

May, 1998 = 31 days.

June, 1998 = 28 days.

Total 179 days

The committee examined the records and ascertained that the applicant was not for a single day prior to 01.01.98.

Copy of the letter of the finding of the Committee are Annexed as R₂.

14. That with regard to para 4(s), the respondents beg to state that on the basis of findings of the committee as above, the TDM Silchar passed the order dated 26.09.2000. The order is a speaking and reasoned one. It was informed to the applicant in clear term that he had not completed 240 days of casual service and he is not entitled for the grant of Ty. Status even by relaxed standards and extended cut of date.

15. That with regard to para 4(t), the respondents beg to state that the order dated 26.09.2000 was issued on the basis of the findings of the committee who had examined all the paid vouchers M/R's to ascertain the actual engagement particulars. Paid vouchers and MIR are the only authentic records of engagement of Mazdoor and amount paid to them as wages. If there has been an engagement of mazdoor there is bound to be a voucher of payment of wages. If there is no paid voucher there can not be any engagement of Mazdoor as no Mazdoor would never work for the

department without wage.

16. That with regard to para 4(u), the respondents beg to state that in view of the findings of the verification committee other records like certificates issued by field staff and reports submitted by field office became void and no reliance can be made on this manufactured records.

VERIFICATION

I, Shri Ganesh Chandra Sarma, Asst. Director Telecom.(Legal)
being authorised do hereby verify & and declare
that the statements made in this written statement are true
to my knowledge, information and believe and I have not
suppressed any material fact.

And I sign this verification on this 4th day
of May, 2001.


Declarant

Asst. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781001

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER : SILCHAR

Re : X-11/TDM-SC/CM-Recrt/98-99/212 Dated at Silchar, 27-06-98

To :

The SDE Group
Patharkandi.

Sub : Casual Labourers (Grant of temporary status and regularisation scheme), 1989 engaged after 30-3-85 upto 22-6-88.

Ref : Letter No. E-20/Grp-D/Recrt/97, dtd. at Silchar, 9-12-97.

As per above mentioned letters, provisional TSM status was conferred to the following casual mazdoors. Later on posting order was given to them vide letter No. E-20/Grp-D/Recrt/109 dtd. at Silchar, 16-1-98.

1. Sri Ratneswar Nath-Patharkandi Telephone Exch.
2. Sri Pritiwar Bhusan Roy-Kotamoni Telephone Exch.
3. Sri Sukumar Sinha-Patharkandi Telephone Exch.
4. Sri Debendra Kr. Sinha-Dullavcherra Telephone Exch.
5. Sri Nihar Dey-Bazaricherra Telephone Exch.
6. Sri Sujit Kr. Sarmah-Baraigram Telephone Exch.

As per SDE Vigilance, D/O TDM, Silchar report vide letter No. AVO/CON/98-99/1 dtd. 25.6.98, all the above casual mazdoors were absent for the last more than 365 days counting from the date 17-12-93. They do not qualify for regularisation as TSM, as per their previous engagement record in the deptt.

As per this finding, the provisional TSM status, which was conferred to them, vide letter No. E-20/Grp-D/Recrt/97, dtd. at Silchar, 9-12-97, is hereby canceled with immediate effect. You are hereby ordered not to engage those persons anymore.

Copy to :

1. CAO D/O TDM Silchar for information. No pay is to be drawn against the above persons from 29-6-98.
2. DE (P&A), D/O TDM Silchar. Please ensure the implementation of this order.

Sd/-
Telecom District Manager
Silchar.

Sd/-
Telecom District Manager
Silchar.

✓ (SS. Baruah)
Mr. Chakraborty
15/7/98

ANNEXURE "C" (Page - 1)

09

Classification of records of Casual Labourers in Assam Telecom Circle.

Ref. Hon'ble CAT Guwahati bench decision dtd. 31-08-99.



NAME OF THE APPLICANT : SRI PRITU BHUSAN ROY.

2. O/A NO. IF THE LABOURER HAS GONE TO COURT : 112/98

3. FATHER'S NAME AND ADDRESS : Sri Lurna Chandra Roy
c/o. Basanna Choudhury Vill. Girishganj
P.O. Girishganj Dist. Karimganj

4. DATE OF BIRTH : 31-03-1969

5. AGE AS ON 01-08-1998 : 29 yrs. 4 months 01 days

6. DATE OF INITIAL ENGAGEMENT
MODE OF SELECTION (THROUGH
EMPLOYMENT EXCHANGE OR
ANY OTHER
METHOD) : NIL

7. NATURE OF DUTY PERFORMED

8. PRESENT STATUS OF THE MAZDOOR

9. SPECIMEN SIGNATURE OF THE MAZDOOR : Pritu Bhawan Roy

10. ENGAGEMENT PARTICULARS
FROM THE DATE OF INITIAL
ENGAGEMENT (as per
attached sheet) TILL 01-08-9811. RECOMMENDATION OF THE
COMMITTEE WHETHER CASUAL
LABOUR SHOULD BE GRANTED
TEMPORARY STATUS OR NOT
KEEPING IN VIEW GIDE LINE12. RECOMMENDATION OF THE SSA
HEAD/UNITGeneral Manager Telecom
SILCHAR

Not recommended

9/6/2000
SMAO/SSA 2/4/98

Circle Office member

SMAO/SSA
(cont) 9/6/2000

DE (P&A)/SSA 9/6/2000

Dipak
Sachan

ANNEXURE "C" (Page-2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME OF THE APPLICANT: Sri PRITU BHUSAN Roy
CASUAL MAZDOOR

SIGNATURE OF THE COMMITTEE MEMBERS

monodhij g/c h/c

(M.R. Choudhury)

Mr. A. Q. Cash

O/O the GMTHSC

~~Sup D~~
~~(LR Paul) 9/6/22~~
D.E. (P&A)
O/O the G.M.T./Sc.

ANNEXURE "C"(Page-2)
ITEM PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

NAME OF THE APPLICANT Sri PRITU BHUSAN ROY
CASUAL MAZDOOR

SIGNATURE OF THE COMMITTEE MEMBERS:

9/6/2000
(Sankar Das)
SDE(IURC/CH)
(Circle Office Member)

✓ M.R. Choudhury
Sr. A.O.Cash
O/O the GM

~~Imp D~~
(J.R.P.D.H)
D.E. (P&A) 9/16/21
O/O 1116 GMT/SC