

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No... 289/2001

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

E.P/M.A No.....

1. Orders Sheet.....Pg. 01.....to 03.....
2. Judgment/Order dtd... 02.09.2002 Pg..... 01.....to 06.....
3. Judgment & Order dtd 04.17.4.20 Received from H.C/Supreme Court
4. O.A.....Pg..... 01.....to 37.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

08/12/17

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Original APPLICATION NO. 289 OF 2001

APPLICANT (S) Dandi Ram Gayan

RESPONDENT (S) U.O.I & ORS

ADVOCATE FOR APPLICANT(S) S. Sarma, U.K Nair, Miss D.Das

ADVOCATE FOR RESPONDENT(S) Case...

Notes of the Registry	dated	Order of the Tribunal
<p>1. Application is in form No. 289 of 2001 for admission to the U.O.I. & ORS for the purpose of employment. No. 66791650 Date: 23.7.2001 By: <u>Dr. K. K. Sarker.</u> <u>mb</u> <u>31/7/2001</u></p> <p>Notice prepared and sent to D/S for U.O.I. & ORS No 1 to 3 by Regd A.D. vide D/No 3003/2001 dated 18/8/01 - <u>10/8/01</u></p> <p>① Service report are still awaited. <u>mb</u> <u>6.9.01</u></p> <p>No written statement has been filed. <u>mb</u> <u>8.10.01</u></p>	<p>7.8.01</p> <p>mb</p> <p>7.9.01</p> <p>mb</p> <p>9.10.01</p> <p>mb</p> <p>22.11.01</p> <p>bb</p>	<p>The application is admitted. Call for the records.</p> <p>The status quo shall be maintained. List on 7/9/01 for further order.</p> <p><u>U. K. Nair</u> Member</p> <p><u>Dr. K. K. Sarker.</u> Vice-Chairman</p> <p>Mr. B. C. Pathak, on behalf of the respondents seeks 4 weeks time to file written statement. Prayer allowed. List on 9/10/01 for order.</p> <p><u>U. K. Nair</u> Member</p> <p>List on 22/11/01 to enable the respondents to file written statement.</p> <p><u>U. K. Nair</u> Member</p> <p><u>Dr. K. K. Sarker.</u> Vice-Chairman</p> <p>List on 2.1.2002 enabling the res- pondents to file written statement.</p> <p><u>U. K. Nair</u> Member</p> <p><u>Dr. K. K. Sarker.</u> Vice-Chairman</p>

(31) ✓
No written statement
has been filed.

By
21.11.01

2.1.02

List on 31.1.2002 to enable
the respondents to file written statement.
Order of status quo dated 7.8.2001 shall
continue.

mb

Member

Vice-Chairman

31.1.2002

List again on 28.2.2002 enabling
the respondents to file written statement.

Member

Vice-Chairman

bb
28.2.02

List on 2.4.2002 to enable the
Respondents to obtain necessary instructions.

Member

Vice-Chairman

mb

2.4.02

At the request of Mr. B.C. Pathak, learn-
ed Addl. C.G.S.C. for the Respondents four
weeks time is allowed to file written state-
ment. List on 3.5.2002 for orders.

mb

3.5.02

Written statement so far filed.
The case may now be listed for hearing on
3.6.02. The applicant may file rejoinder
if any, within 2 weeks.

Member

Vice-Chairman

lm

4.6.02

List on 10.7.02 to enable the respon-
dents to file written statement.

Member

Vice-Chairman

lm

10.7.02

Heard learned counsel for the parties. On
the prayer made on behalf of the respondents
further four weeks time is allowed to file writ-
ten statement. List on 14.8.2002 for orders.

Member

Vice-Chairman

No written statement
has been filed.

By
1.1.02

Order dated 2/1/02 communicated
to the parties concerned.

By
21/1/02

No written statement
has been filed.

By
30.1.02

No written statement
has been filed.

By
2.5.02

No. wks has been
filed.

By
9.7.02

No. wks. has been
filed.

By
13.8.02

97
O.A. 289/001

Notes of the Registry

Date

Order of the Tribunal

14.8.02

The case relates to conferment of temporary status. The respondents have filed written statements in O.A. Nos. 364/2001, 120/2001, 298/2001, 403/2001, and in O.A. No. 163/2001, the Respondents have filed a Review application which will also be taken up together with the O.A. Since the matters are of similar nature, all the cases may be listed for hearing on 3.9.2002. In the other applications where written statements have not been filed, the respondents are directed to produce the relevant records on the next date.

List on 3.9.2002 for hearing.

Member

Vice-Chairman

28.10.2002
Copy of the Judgment has been sent to the Office for issuing the fine to the applicant as well as to the Govt. Secy. for the Registry
pg

2 3.9.02
Heard counsel for the parties.
Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is ~~dismissed~~ disposed of in terms of the order. No order as to costs.

Member

Vice-Chairman

Notes of the Registry	Date	(Order of the Tribunal
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

289/2001, 364/2001, 366/2001, 372/2001, 403/2001
O.A./X.X.No.....of
109/2002 and 160/2002.

DATE OF DECISION...3-9-2002.....

Sri Dondi Ram Gayan & others.

APPLICANT(S)

Sri S.Sarma, B.Malakar and N.Borah.

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A.Deb Roy, Sr.C.G.S.C

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


ADVOCATE FOR THE
RESPONDENT(S)

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 289/2001, 364/2001,
366/2001, 372/2001, 403/2001, 109/2002 and 160/2002.

Date of Order : This the 3rd Day of September, 2002.

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

O.A. 289 of 2001

1. Sri Dondi Ram Gayan,
 2. Sri Gobin Nath,
 3. Sri Joy Gopal Das,
 4. Sri Kandeswar Konwar.
 5. Md Abdul Gafar Choudhury,
 6. Sri Thanu Ram Jha,
 7. Md. Abul Kalam and
 8. Sri Anup Bora
- By Advocate Sri S.Sarma.

. . . Applicants

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 364 of 2001

Sri Deo Kumar Rai
By Advocate Sri S.Sarma.

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents.

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

O.A. 366 of 2001

Sri Jun Das,
By Advocate Sri S.Sarma.

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents

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

O.A. 372 of 2001.

Sri Khitish Deb Nath
By Advocate Sri S.Sarma

. . . Applicant

- Versus -

Union of India & Ors.

. . . Respondents.

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

O.A. 403 of 2001

1. Md Nurmahammad Ali,
2. Md Sahabuddin Ahmed,
3. Md Alamid Choudhury,
4. Md Harimurraman Ali,
5. Sri Benudhar Das and
6. Md. Tafik Ali . . . Applicants
By Advocate Sri B.Malakar
- Versus -

Union of India & Ors. . . . Respondents.
By Sri A.Deb Roy, Sr.C.G.S.C.

O.A. 109 of 2002

Sri Dilip Kumar Tante . . . Applicant
By Advocate Sri N.Borah.
- Versus -

Union of India & Ors. . . . Respondents
By Sri A.Deb Roy, Sr.C.G.S.C.

O.A. 160 of 2002

1. Th. Subendra Singh
2. All India Telecom Employees Union
Line Staff and Group-D,
Manipur Division, Imphal
represented by Divisional Secretary,
Sri M.Kulla Singh . . . Applicants.

By Advocate Sri S.Sarma.
- Versus -

Union of India & Ors. . . . Respondents.
By Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

The issue involved in these cases pertains to conferment of temporary status in the light of the scheme prepared by the Telecom Department pursuant to the decision of the Supreme Court in Ram Gopal and others vs. Union of India and others dated 17.4.90 in Writ Petition(C) No. 1280 of 1989. Keeping in mind the plight of the casual

labourers the Supreme Court in the above mentioned case directed the authority to prepare a scheme on rational basis for absorbing as far as possible casual labourers those who continuously worked for more than one year in the telecom department. The department of Telecom also followed the suit and prepared a scheme of conferment of temporary status on casual labourers who were employed and have rendered continuous service for more than one year in the telecom department. Accordingly the scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" was prepared. By order dated 1.9.99 the Government of India, Department of Telecommunications mentioned about its approval on grant of temporary status to the casual labourers who were eligible as on 31.3.97. By the said communication it was clarified that the grant of temporary status to the casual labourers order dated 12.2.99 would be affective with effect from 1.4.97. By the said communication it was also clarified that the persons would be eligible for conferment of temporary status who were eligible as on 1.8.98. It may be mentioned that the said communication was issued to the authorities for judging the eligibility on 1.8.98 and did not naturally mean that one was to be in service on the date prescribed. on 1.8.98, what was insisted was to attain the eligibility. Numerous applications were filed before us for conferment of temporary status in the light of the scheme. In some of the cases we directed the authority to consider the cases and to pass appropriate order. In some of the cases the authority passed orders rejecting their claim. Against which the aggrieved person moved this Tribunal by way of these applications. In some of the applications written

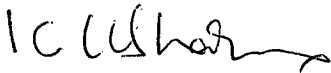
statements were filed and some documents also annexed. On assessment of documents it appears that there was no conformity with the findings reached by the authority alongwith the records produced regarding their engagements. In some cases records indicated that they were engaged for more than 240 days, whereas in the finding they were shown that they did not served for 240 days. In our opinion the matters requires a fresh re-consideration by a responsible authority so that cases of eligible casual labourers are fairly considered. To cite example with the case of O.A.372/2001 the Verification Committee report dated 12.3.02 was shown to us. The Committee consisting of S.C.Tapadar, D.E.(Admn), N.K.Das, C.A.O (Finance) and G.C.Sharma, ADT(Legal) verified and mentioned that the applicant did not complete 240 days in a calender year, whereas again column No. of days yearwise/monthwise in the Annexure the authority referred to his engagement from August 97 to August 98 which comes around 240 days on arithmatical calculation. By another verification committee meeting dated 12.3.2002 consisting of M.C.Pator, D.E(Admn), N.K.Das, C.A.O(Finance) and S.C.Das, ADT(Legal) Circle Office, Guwahati. The committee stated that the applicant completed 45 days in 1994, 20 days in 1995, 24 days in 1996, 15 days in 1997 and one day in April, 1998. The documents contradict itself. We are of the opinion that such type of enquiry or verification committee does not inspire confidence, it was seemingly done in sloven and slip shod fashion. On the other hand it should be entrusted to a responsible authority who would act rationally and responsively. After all it involves to the livelihood of persons concerned and the commitments of the Government.

We have perused

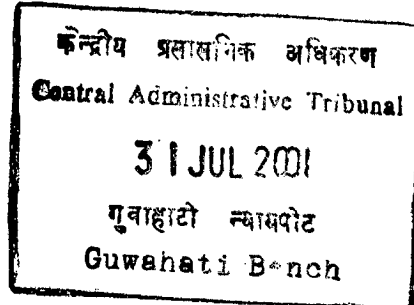
/background story of the scheme which itself reflected the approval of the authority for absorption of those people for giving the benefit of Government of India at the instance of the Supreme Court. The counsel for the respondents however pointed out that there is a big change in the administrative ^{set up} ~~of~~ the Telecom department. Referring to the new telecom policy of the Government of India 1999, whereby it decided to corporatise the Telecom department ^{through} ~~/~~ Bharat Sanchar Nigam Limited and stated that the matters are now within the domain of the BSNL. We are basically concerned in these applications as to the absorption of those casual labourers who were worked under the telecom department as on 1.8.98 and who were eligible for grant of temporary status as on that day. The office memorandum No.269 94/98 STN.II dated 29.9.2000 itself indicated the commitment of the authority for regularisation of the casual labourers. It also appears from the communication issued by the department of Telecommunication dated 3.9.2002 which expressed its concern for resolving the situation. Mr B.C.Pathak, learned Addl.C.G.S.C sought to raise a question of maintainability in some of the cases where BSNL is a party. BSNL since not notified under Section 14(2), the Tribunal has no jurisdiction to entertain the matter. In these applications the real issue is absorption of the casual labourers those who worked under the telecom department from 1.8.98. The respondents, more particularly, Telecom department committed to its policy for regularisation of such employees. In the circumstances we are of the opinion it will be a fit case to issue appropriate direction to the department of Telecom and the Chief General Manager, Assam Telecom Circle, Guwahati to take appropriate steps for considering the case of these applicants afresh by constituting a responsible committee to go through it for ^{all} ~~once for~~ and

scan their records and if in the end it found these people really fulfilled the requirement it will issue appropriate direction to the concerned authority for conferment of temporary status and their absorption as per the scheme. It is expected that the authority shall take appropriate steps after verifying the records and pass appropriate order by notifying these persons concerned. This exercise shall not be confined only to the applicants and the authority shall also deal with the cases left out from the process and examine their case independently. The matters are old one therefore we expect that the authority shall act with utmost expedition and complete the exercise as early as possible preferably within four months from the date of receipt of this order.

With these the applications stand disposed of.
There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



13

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case :

O.A.No. 289... of 2001.

BETWEEN

Shri Dondi Ram Gayan & Ors.

VERSUS

Union of India & Ors.

INDEX

SL.No.	Particulars	Page No.
1.	Application	1 to 15
2.	Verification	16
3.	Annexure-A Colly	—
4.	Annexure-1	17-18
5.	Annexure-2	19-22
6.	Annexure-3	23
7.	Annexure-4	24-27
8.	Annexure-5	28
9.	Annexure-6	29-36

Filed by : S.Sarma, Advocate.

File No.:C:\WS7\DONDI

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed By:
Shri Dondi Ram Gayan
Through;
Unni Krishnan Nair
Advocate.
- Petitioner -

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

O.A.No.'2001

BETWEEN

1. Sri Dondi Ram Gayan,
2. Sri Gobin Nath.
3. Sri Joy Gopal Das.
4. Sri Kandeswar Konwar.
5. Md Abdul Gafar Choudhury.
6. Sri Thanu Ram Jha.
7. Md Abul Kalam.
8. Sri Arup Bora.

..... Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
3. The Telecom District Manager
Nagaon, Telecom Division,
Assam.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is not directed against any particular order but has been made against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applications, others named been benefited. This application is also directed against the action of the respondents in not implementing the order dated 31.8.99 passed in the Hon'ble Tribunal, wherein directions have been issued for scrutinising their documents.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

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

4.2. That in the instant application, the applicant No 1 is a casual worker presently holding the post of casual worker under the T D M Nagaon. He has been working as such since Oct 1987 and

till date he has been performing his duties continuously. In the year 1988 onwards he has completed 240 days of continuous work.

The applicant No 2 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 1.1.88. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The applicant No 3 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 31.12.87. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The applicant No 4 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 1.2.92. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The applicant No 5 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 31.1.93. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The applicant No 6 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 1.10.88. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The applicant No 7 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 1.2.93. His entry into the service was pursuant to a selection and to that effect his

17

name was sponsored by the local employment exchange.

The applicant No 8 is working as casual worker under the respondent No 3 and till date he is continuing as such. His date of initial entry into the service is 1.10.88. His entry into the service was pursuant to a selection and to that effect his name was sponsored by the local employment exchange.

The grievances raised by the applicants are similar and accordingly the cause of action and relief sought for by the applicants are same. Thus the instant applicants pray that they may be allowed to join together in a single application invoking rule 4(5)(a) of CAT (Procedure) Rules 1987 to minimise the number of litigation as well as the cost of the application.

4.3. That the applicants as mentioned above are presently continuing as casual workers and all of them were appointed in various dates on casual basis. The applicants are at present drawing their wages under departmental pay slips, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C)

18

No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt.of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation)Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

Copies of the Apex Court Judgment and the above mentioned scheme is annexed herewith and marked as ANNEXURE-1 and 2..

4.5. That as per the Annexure-2 scheme as well as the directions issued by the Hon'ble Supreme Court (Annexure-1) in the cases mentioned above, the applicants are entitled to the benefits described in the scheme. The applicants are in possession of all the qualifications mentioned in the said scheme as well as in the aforesaid verdict of the Hon'ble Supreme Court, and more specifically in the dates described above may be refereed to for the better appreciation of the factual position.

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

be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

The applicants crave leaves of the Hon'ble Tribunal to produce the said order at the time of hearing of the case.

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

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

The applicants have not been able to get hold of an authentic copy of the said letter and accordingly they pray for a direction to produce an authenticated copy of the same at the time of hearing of the instant application.

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

29

the casual labourers working in the Dept.of Posts.

4.9. That the applicants state that the casual labourers working in the Deptt of Telecommunication are similarly situated like that of the casual workers working in the Deptt.of Posts. In both the cases relevant schemes was prepared as per the direction of the Hon'ble Court delivered their judgment in respect of the casual workers in the Deptt.of Telecommunication following the judgment delivered in respect of casual workers in the Deptt.of Posts. As stated earlier both the Deptts. are the same Ministry i.e. Ministry of Communication. Therefore, there is apparent discrimination in respect of both the sets of casual labourers though working under the same Ministry. It is pertinent to mention here that the casual workers of the Deptt of Posts on obtaining the Temporary Status are granted much more benefited than the casual workers of the Deptt.of Telecommunication. Similar benefits are required to be extended to the casual workers of the Deptt.of Telecommunication having regard to the facts both the Deptts are under the same ministry and the basic foundation of the scheme for both the Deptts are Supreme Court's judgment referred to above. If the casual workers of the Deptt of Posts can be granted with the benefits as enumerated above based on Supreme Court's verdict, there is no earthly reason as to why the casual workers of the Deptt.of Telecommunication should not be extended with the similar benefits.

4.10. That the applicants beg to state that in view of aforesaid scheme as well as the verdict of the Hon'ble Supreme Court, they entitled to be regularised more so when there is at present more that 950 posts of DRM have been allotted to Assam Circle.

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

A copy of the said order dated 13.8.97 is annexed herewith and marked as ANNEXURE-4.

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

4.13. That the applicants beg to state that the action of the respondents towards the non implementation of the case of the applicants are with some ulterior motive only to deprive the them from their legitimate claim of regularisation. The main crux of their prayer was for regularisation and grant of temporary status and for consideration of their cases against the 950 posts as mentioned above but in reply, the respondents have not issued any order as yet. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

22✓

4.14. That the applicants state that in a nutshell their whole grievances are that to extend the benefit of the aforesaid scheme as well as similar treatment as has been granted to the casual workers working under Deptt. of Posts in regard to treating the cut of date of engagement as has been modified from time to time by issuing various orders, of which mention may be made of order dated 1.9.99 by which the benefit of the scheme has been extended to the recruitees up to 1998.

A copy of the order dated 1.9.99 is annexed herewith as Annexure-5.

4.15 That the applicant begs to state that highlighting the grievance, some of the casual workers had approached the Hon'ble Tribunal by way of filing various OAs praying for grant of temporary status and regularisation. The Hon'ble Tribunal was pleased to dispose of the said OA along with other connected matters vide its order dated 31.8.99 with a direction to the respondents to consider their cases after due scrutinise of the documents.

A copy of the order dated 31.8.99 is annexed herewith and marked as Annexure-6.

4.16 That the applicants beg to state that pursuant to the aforesaid order dated 31.8.99, the higher authorities of the respondents have issued various orders to the Divisional authorities for furnishing documents/certificates to ascertain the facts. To that effect mention may be made of order dated 9.11.99 issued by the respondent No. 3 asking for documents and certificates.

4.17 That the applicants beg to state that after the judgment and order dated 31.8.99, they have submitted representations individually highlighting their date of appointment as well as number of working days etc. in other divisions, the casual workers, who are also asked to appear in interview held by the respondent. However, the respondents have not yet held any interview in respect of the present applicants.

4.18 That the applicants beg to state that barring the cases of the present applicants, in all other cases interviews have been held for scrutinising the records but only the present applicants have been debarred for the same. The respondents have treated the present applicants differently violating Article 14 and 16 of the Constitution of India. All the other similarly placed employees (Casual workers) have been given chance to point out personally the facts and figures pertaining to their service particulars but the said opportunity has not been granted to the present applicants. Hence, the either action on the of the respondents are illegal and violative of Article 14 and 16 of the constitution of India.

4.19. That the applicants begs to state that in their cases the certificates submitted by them as well as by the subordinate authorities of the respondents have not been examined properly. It is further stated that juniors to the applicants even outsiders have been granted with temporary status but only the applicants in whose case no personnel hearing i.e. no interview was held, have been denied the said benefit of temporary status as well as its subsequent clarification issued from time to time. The aforesaid discriminatory action is liable to be set aside and quashed only on the ground of same being discriminatory in nature and further direction may issued for granting temporary status

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to the applicants with all consequential benefits.

4.20. That the applicants beg to state that the respondents have not clarified the records before issuing by the impugned order dated 9.8.2000. In fact the respondents have violated the direction issued by the Hon'ble Tribunal in its judgment and order dated 31.8.99.

4.21. That the applicants beg to state that the respondent have violated the directions issued by the Hon'ble Tribunal. In implementing the said judgment and order the respondents have held interviews in other cases but same procedure has not been maintained in case of the present applicants which has resulted the impugned action on the part of the respondents.

4.22. That the applicants beg to state that they are still continuing in their respective posts without any termination. On the other hand the respondents are now granting the temporary status to the juniors of the applicants, even some of the outsiders have also been granted with the benefits of the temporary status.

The applicants in view of the aforesaid facts and circumstances have prayed for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

4.23. That the applicants begs to state that the respondents are now granting the said benefits and filling up all most 950 posts of DRM within a very short time without considering their cases. The applicants are now in employments as casual workers but in view of the aforesaid order dated 14.7.00 their services may be discontinued without giving them any opportunity of hearing. In that view of the matter the applicants prays for an

interim order directing the respondents not to disengage them from their present employments and not to fill up the posts of DRM till the disposal of the case. in case the interim order is not grants the applicants will suffer irreparable loss and injury.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

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

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

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

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

5.6. For that as per the order dated 1.9.99 the cases of the applicants are required to be considered under the scheme of 1989

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and since the applicant have completed 240 days of continuous service in a year, respondents are duty bound to grant temporary status as per the scheme, more so when the other similarly situated employees like that of the applicants have been granted with the said benefit.

5.7. For that the respondents have violative the judgment and order dated 31.8.99 passed by this Hon'ble Tribunal in the calling for the applicants for interview and by issuing the impugned order dated 9.8.2000 without consulting the records. On that score alone the impugned action is liable to be set aside and quashed.

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

The applicants crave leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. It is further stated that since the respondents have not yet issued any impugned order, and due to paucity of time and having regard to the urgency in the matter

the applicants even have not file any representation however, they have made several verbal representations.

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:

8.1. To direct the respondents to extend the benefits of the said scheme to the applicants and to regularised their services with retrospective effect along with all consequential service benefits.

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

8.3. Cost of the applicants.

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

9. INTERIM ORDER PRAYED FOR:

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

10.

11. PARTICULARS OF I.P.O.:

- 1. I.P.O. No. : 667916SD
- 2. Date : 23-7.2001
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

VERIFICATION

I, Shri Dondi Ram Gayan, s/o Late Hema Kanta Gayan, aged about 30 years, at present working as Casual Worker under the Telecom District Manager, Nagaon, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 4.1 to 4.3, 4.5, 4.6, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.17 to 4.23 and 5 to 12 are true to my knowledge and those made in paragraphs 4.4, 4.7, 4.11, 4.14 and 4.15 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 28th day of July 2001.

Dondi Ram Gayan.

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

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

Attested
Anil Kumar
Advocate

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

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

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

Attested
Mini Kaul
Advocate

SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

ANNEXURE

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

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

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

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

Temporary Status.

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

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

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

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

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

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

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

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

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

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

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

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

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

NO.66-52/92-SPB/I

dated 1.11.95.

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

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

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

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

Attested
Amr
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law

*Attested
Ann. 6013
Advocate*

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

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

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

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

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

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

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

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

Sd/- Vice Chairman.

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

Dated 1.9.99.

To

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

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

Sir,

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

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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
Ann. 1002
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.
Date of decision : This the 31 st day of August 1999.

The Hon'ble 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 others. Applicants..
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda

- versus -

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

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2. O.A. No.112/1998

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

- versus -

Union of India and others. Respondents..
By Advocate Mr.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 another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.

- versus -

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

.....

4. O.A.No.118/1998

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

- versus -

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

.....

5. O.A.No.120/1998

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

- versus -

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

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6. O.A.No.131/1998

Attested
Advocate

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

- versus -

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

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7. O.A.No.135/98

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

- versus -

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

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8. O.A.No.136/1998

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

- versus -

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

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9. O.A.No.141/1998

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

- versus -

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

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10. O.A. No.142/1998

All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakkar

- versus -

The Union of India and others. Respondents.
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 others. Applicants
By Advocate Mr.I.Hussain.

- versus -

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

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12. O.A.No. 192/1998

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

-versus-

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

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13. O.A.No.223/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma.
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.
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14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
Mr.U.K.nair and Mr.D.K.Sharma
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.

15. O.A.No.293/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
and Mr.D.K.Sharma.
- versus -
The Union of India and others .. Respondents.
By Advocate Mr.B.C.Pathak, Addl. Sr.C.G.S.C.
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ORDER

BARUAH.J. (V.C.)

All the above applicants involve common question 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 applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application 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 benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned 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 services 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 their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. 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 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits 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 D.A. 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 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits

46

were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits 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. No.s 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.As.

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.As is that the Association had no authority to 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 servant are not eligible to become

members or office bearers to 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 in to 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.As 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 can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to 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 Tribunal dated 13.8.1997 passed in O.A. No.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 application, 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.Malakkar, 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 Sr.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 up to 1989 and then extended up to 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 counser for the applicants also submits that the respondents can not 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 directin 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 theb matter should be re-examined by the respondents themselves taking in to 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 scritinise and examine each case in consulta-

tion 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)