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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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O.A/T.A No. 298/2001
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO. 298/2001

Applicant (S) Loken Deori GOM

Respondant(s) N.O.I GOM

Advocate for the Applicant: S. Sarma, U.K. Narin, Mrs U.D.W

Advocate for the Respondant: Case

Notes of the Registry	Date	Order of the Tribunal
is in torn Petition: filed vide M P.N. C F for Rs. deposited vide IPO/BD No 76548544 Dated 11-8-2001 By Registrar. <i>pd</i>	20.9.01	Issue notice of motion, returnable by four weeks. Mr. S.C. Pathak, learned A. C.G.S.C accepts notice on behalf of the respondents. List on 19.10.2001 for admission. Member bb Vice-Chairman
<i>Steps taken without envelop.</i>	19.10.01	The application came for con- sideration of Admission. It is seen in para 5 of the O.A. that the applicant has not mentioned whe- ther he has made any representation in respect of the relief claimed in this O.A. The applicant may clarify of this point in the next date. for Admission. List on 21.11.01 for Admission. Member

Notice prepared and sent to
DAs for terms the Respondent
No 1404 by Regd. A.D. *in*

28/9
D No 3721 W 3724 and 28/9/07

21.11.201

Four weeks time allowed to the respondents to file written statement. List for admission on 19.12.01.

Vice-Chairman

nk m

19.12.01

List on 9.1.02 to enable the respondents to file written statement.

Vice-Chairman

No written statement has been filed.

By
8.1.02

lm

9.1.02

Mr. S.Sarma, learned counsel appearing for the applicant informed that the representation made by the applicant yet to be disposed of. The respondents have issued an order dated 20.10.2001. Sri B.C.Pathak, learned Addl C.G.S.C. prays for time for filing written statement. Prayer is accepted. List on 6.2.2002 for admission.

Member

mb

6.2.02

Heard Mr. S.Sarma, learned counsel for the applicant.

The application is admitted. Call for the records.

The respondents may file written statement, if any.

List on 8.3.2002 for order.

Vice-Chairman

mb

8.3.02

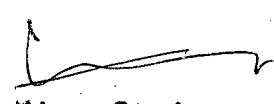
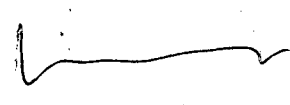
Mr. B.C.Pathak, learned counsel for the Respondents prayed for time to file written statement. Mr. S.Sarma, learned counsel for the applicant has no objection. List on 3.4.2002 for order.

Member

No written statement has been filed.

By
2.4.02

Not vide DINo 3721
dt 3724 dtd. 28/9/07

Notes of the Registry	Date	Order of the Tribunal
No. written statement has been filed. <u>30</u> 30.4.02	3.4.02	Mr. B.C.Pathak, learned Addl. C.G.S.C. for the Respondents states that he has received the para-wise comments but not received the report of the verification committee and wants time to file written state- ment. Request is accepted. List on 1.5.2002 for orders. <div>101 Shan Member</div>
No. written statement has been filed. <u>30</u> 23.5.02	mb 1.5.2002	As agreed by the parties, the case may now be listed for hearing on 24.5.2002. The ^{Respondents} ^{written} applicant may file rejoinder, ^{Statement} if any, within two weeks from today. <div> Vice-Chairman</div>
No. written statement has been filed. <u>30</u> 9.7.02	bb 1.5.2002	As agreed by the parties, the case may now be listed for hearing on 24.5.2002. The respondents may file written statement, if any, within two weeks from today. <div> Vice-Chairman</div>
	24.5.	Left off on 4/6/2002 along with the other Connected Cases. <div>ms 4/6/02 24/5</div>

4.6.02 List on 10.7.02 to enable the respondents 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 the respondents to file written statement. List the case on 14.8.2002 for orders.

Member

Vice-Chairman

mb

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 records on the next date.

List on 3.9.2002 for hearing.

Member

Vice-Chairman

31.7.02

W/S Submitted
by the Respondent Nos.
1, 2, 3 and 4.

Dr

3.9.2002

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

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

K. V. Shetty
Member

[Signature]
Vice-Chairman

pg

319/02 Communicated
to the applicant and the
Parties Counsel.
[Signature]
17/9

K

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./K.A.No. 297 & 298of 2001.

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

Sri prabir Dutta & Ors.

APPLICANT(S)

Sri S.Sarma.

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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


ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE' D.N.CHONDHURY, 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. 297 and 298 of 2001.

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. 297 of 2001.

1. Sri Prabir Dutta,
2. All India Telecom Employees Union
represented by the Circle Secretary,
Sri J.N.Mishra. . . . Applicants.

O.A. 298 of 2001

1. Sri Loken Deori
son of Tankeshawar Deori,
2. All India Telecom Employees Union
represented by the Circle Secretary
Shri J.N.Shax Mishra . . . Applicants

By Advocate Sri S.Sarma.

- Versus -

Union of India & Ors. . . . Respondents

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

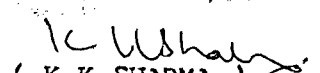
O R D E R


CHOWDHURY J.(V.C)

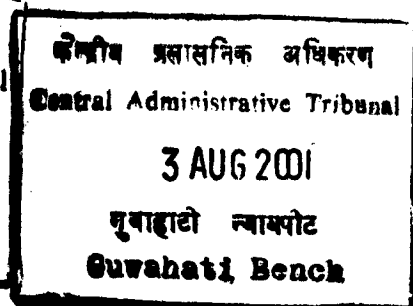
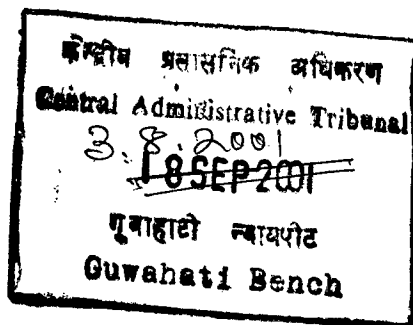
Mr B.C.Pathak, learned Addl.C.G.S.C appearing for the respondents submitted that these cases are under active consideration of the department and further verification is going on in the department. In the circumstances we dispose of the application at this stage allowing the respondents to complete the process and pass appropriate order as per law for conferment of temporary status on these applicants.

The application is accordingly disposed of. We direct the respondents to complete the exercise within three months from the date of receipt of this order.

No order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O. A No. 298 /2001

BETWEEN

Shri Loken Deori & Ors.

... Applicant.

- AND -

Union of India & Ors.

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Filed by U.K. Nain

Advocate:

File:- c:\ws\ss\casual

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. No. 298/2001.

Between

1. Sri Loken Deori. Son of Tankeshawar Deori, resident of Vill, Borpathar, Dist Golaghat.
2. All India Telecom Employees Union represented by the Circle Secretary Shri J.N. Mishra.

... Applicants.

- AND -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Sansar Bhawan, New Delhi-1.
2. The Chief General Manager Assam Telecom Circle, Ghy.-7.
3. The Telecom District Manager, Jorhat.
4. The Divisional Engineer, (Planning and Admn.) Jorhat.

... Respondents

DETAILS OF THE APPLICATION.

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

The present application is not directed against any particular order but has been made against the inaction of the part of the Respondents in not considering the case of the applicants for grant of temporary status and regularisation in the light of Apex Court verdict and the scheme prepared pursuant to the said verdict as well as subsequent clarifications issued from time to time by the Ministry concerned. The applicants through this application prays for an appropriate direction to the Respondents to extend the benefit of the scheme as well as its subsequent

FILED BY: 10
Shri Loken Deori
Applicant
Through
Shri Krishnan Nali
Advocate

clarifications by granting temporary status and subsequent regularisation.

2. JURISDICTION OF THE TRIBUNAL

That the applicants declare that the subject matter of the present application is well within the Jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The applicants declares that the present application have been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE:

4.1 That the applicants are citizens of India and as such they are entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2 That the applicants No.1 initially got his appointment as a casual worker in the in the month of January 1993 in the office of the Respondents. No 3

The applicants No.2 is the Circle Secretary All India Telecom Employees Union and he represents the interest of the casual workers listed at Annexure-A.

Since the date of engagement is not in dispute, the applicants instead of annexing all the certificates, begs to produced the certificate regarding their engagement at the time of hearing of the case.

4.3 That the applicants initially appointed as a casual

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worker in the year 1987 onwards and as such they are entitled to get the benefit of the scheme prepared pursuant to a verdict of Hon'ble Supreme Court. The applicants begs to state that since 1985 each year they have been continuously working for more than 240 days and as such they fulfill all the required qualifications as described in the scheme and its subsequent clarifications issued from time to time. Till date the have been working as casual worker but the Respondents have not yet granted them temporary status and other benefits as described in the scheme as well as its subsequent clarifications.

4.4 That the applicants beg to state that some of the casual workers of the Department of Post had approached this Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the parties was pleased to issue a direction to the official Respondents thereto to prepare a scheme. Claiming similar benefit another set of casual workers working in the Telecommunication department also approached the Hon'ble Supreme Court seeking a similar direction and the said matter was also disposed of by a similar order and direction has been issued to the Respondents to prepare a scheme on rational basis for the casual workers who has been working continuously for one year and who have completed 240 days of continuous service.

A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure-1.

4.5 That the applicants begs to state that the Respondents thereafter issued an order vide No. 269-10/89-STN dated 7.11.89 by which a scheme in the name and style "casual

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laborers" (grant of temporary status and regularisation scheme 1989) has been communicated to all heads of Departments. As per the said scheme certain benefit have been granted to the casual workers such as conferment of temporary status, wages and daily rates etc.

A copy of the order dated 7.11.89 is annexed herewith and marked as Annexure-2.

4.6 That the applicants states that as per the direction contained in Annexure-1 judgment of the Hon'ble Supreme Court and Annexure-2 schemes he is entitled to take a benefit including temporary status and subsequent regularisation. The applicants fulfills required qualifications mentioned in the said judgment and as such is entitled to all the benefits as described in the aforesaid scheme.

4.7 That the applicants begs to state that after issuance of Annexure-2 schemes dated 7.11.89 the Respondents issued an order vide No. 269-4/93-STN-II dated 17.12.93 by which the benefit conferred to the casual workers by the said scheme has been clarified.

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

4.8 That the applicants begs to state that of the Respondents thereafter have issued various orders by which modification/clarifications has been made in the aforesaid Annexure-2 scheme dated 7.11.89. By the aforesaid clarifications the Respondents have made the scheme applicable to almost all the casual workers who have

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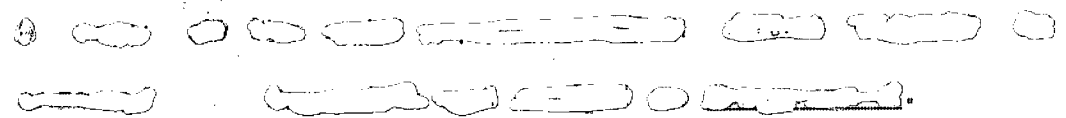
completed 240 days continuous service in a year. To that effect mention may be made order dated 1.9.99 issued by the Government of India Department of Telecommunication by which the benefit of the scheme has been extended the recruitees upto 1.8.98.

A copy of the said order dated 1.9.99 is annexed and marked as Annexure-4.

4.9 That the applicants beg to state that some of the similarly situated employees like that of the applicants had approached this Hon'ble Tribunal by way of filing OA No. 299/96 and 302/96 and the Hon'ble Tribunal was pleased to passed an order dated 13.8.97 directing the Respondent to extend the benefit of the said scheme.

A copy of the order dated 13.8.97 is annexed herewith and marked as Annexure-5.

4.10 That the applicants being aggrieved by the said action submitted representations to the concerned authority i.e. Respondent No. 2 for grant of temporary status and regularisation but till date nothing has been done so far in this matter. The applicants instead of annexing all the representations begs to annex one of such representation dated 3.1.95.

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4.11 That the applicants begs to state that. under similar facts situation numbers of casual workers had approached this Hon'ble Tribunal by way of filing various OAs and the Hon'ble Tribunal after hearing the parties to the proceeding

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was pleased to dispose of the said OAs by a common judgement and order dated 31.8.99 directing to the Respondents to consider their cases in the light of Hon'ble Apex Court verdict as well as the scheme and its subsequent clarifications issued from time to time.

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

4.12 That the applicants begs to state that his case is convert by the aforesaid judgement of this Hon'ble Tribunal. It is stated that pursuant to the aforesaid judgment and order dated 31.8.99 the Respondents have initiated a large scale proceeding for fillup atleast 900 posts of DRM under Assam Circle. However, the Respondents have only taken into consideration those casual labourers who had approached this Hon'ble Tribunal and in whose favour the Hon'ble Tribunal has given the direction. The applicants has been pursuing the matter before the Respondents but the Respondents have shown their helplessness in absence of any order of this Hon'ble Tribunal. It is therefore the applicants has come under the protective hands of this Hon'ble Tribunal, praying for an appropriate direction from this Hon'ble Tribunal to the Respondents to consider their cases for grant of temporary status and regularisation in accordance with the verdict of the Hon'ble Apex Court as well as the scheme and its subsequent clarifications issued from time to time.

4.13 That the applicants beg to state that the Respondents have acted illegally in not considering the case of the applicants only on the ground of not having an order from

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this Hon'ble Tribunal. The law is well settled that in a given case if any law is laid down for one set of employees, same is applicable to all the similarly situated employees. However, in the present case the Respondents have acted illegally in differentiating the applicants with others and for that the entire action of the Respondents is liable to be set aside and quashed.

4.14 That the applicants beg to state that as per the direction of the Hon'ble Apex Court (Annexure-1) they are is entitled to all the benefits described in the Annexure-2 schemes dated 7.11.89. The direction of the Hon'ble Apex Court is very clear and Respondents now cannot shift their burden by taking the ground of not having any order from this Hon'ble Tribunal. The judgment and order of the Hon'ble Apex Court is applicable to all the casual employees working under the Telecommunication departments and as such the applicants is also entitled to all the benefits as has been granted to others similarly situated employees like that of him.

4.15 That the applicants beg to state that presently they are the only earning members of their family and the Respondents are making a move to terminate their services in absence of any order from this Hon'ble Tribunal. It is therefore the applicants prays for an appropriate interim order directing the Respondents not to terminate his service during the pendency of this OA. It is noteworthy to mention here that till date he has been working as a casual worker under the Respondent No. 3 and other the said Respondents there are as many as 33 vacancies are in

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existence under the Group D Establishment one of which post is being occupied by the present applicants. It is therefore the balance of convenience lies very much in favour of the applicants in passing the aforesaid interim as prayed for and there is every likelihood that in case his interest is not protected by way of passing an appropriate interim order as prayed for, the Respondents may disengage him causing irreparable loss and injury.

5. GROUNDS WITH LEGAL PROVISIONS :

5.1 For that the entire action on the part of the Respondents in not granting the temporary status to the applicants violating the provisions contained in the Annexure-1 judgment and order passed by the Hon'ble Apex Court is illegal and arbitrary and same are liable to be set aside and quashed.

5.2 For that action of the Respondents in treating the applicants not at par with the other similarly situated employees to whom the benefit of the scheme has already been granted is violative of Article 14 and 16 of the Constitution of India. The Respondents being a model employer should have extended the said benefit to the applicants without requiring him to approach this Hon'ble Tribunal, more so whereas themselves have allowed the said benefit to one set of their employees. In any case the Respondents cannot differentiate their employees in regard to employment as has been done in the instant case. Hence the entire action of the Respondents is illegal and not sustainable in the eye of law.

5.3 For that the Respondents have acted illegally in not

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considering the case of the applicants for grant of temporary status in view of order dated 1.9.99 as well as judgment and order dated 31.8.99 passed in similar matters and hence same is liable to set aside and quashed with a further direction to the Respondents to extend the benefits of the said scheme to the applicants including all other consequential benefits.

5.4 For that in any view of the matter the action on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The applicants craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the applicants declares that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS:

That the applicants declares that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the applicants prays that the instant application be admitted, records be call for and upon hearing the parties on the

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cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

8.1 To direct the Respondents to extend the benefit of the scheme and to grant him temporary status as has been granted to the other similarly situated employees like that of him with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.2 Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays for interim order directing the Respondents not to disengage him from his current employment and to allow him to continue in his service pending disposal of this application.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(I) I.P.O. No.: 76 548544
(ii) Date: 11/8/2001
(iii) payable at Guwahati

12. LIST OF ENCLOSURES :

VERIFICATION

I, Shri Binay Das, S/o Late Gobinda Das, aged about 29 years, presently working as casual worker under SDOT Hojai Sub Division, Nogaon, do here by solemnly affirm and state that the statement made in this petition from paragraph 2,3,4,4.3, 4.10, 4.12 to 4.15 and 5 to 12 are true to my knowledge and those made in paragraphs 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.11 are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 24th day of
July, 2001.

Binay Das
Signature.

Annexure-A

SL.NO.	NAME OF MAZDOORS	UNIT	DATE OF ENGAGEMENT
1.	Sri Bipul Borah	SDOP JRT	1.12.92
2.	Sri Diyen Dutta	SDOP JRT	1.11.90
3.	Sri Jaganath Lahan	SDE Cab JRT	1.1.90
4.	Sri Arun Rajkhowa	SDE.E-10B,SDOP JRT	1.5.87
5.	Sri Biren Borah	SDOP JRT	1.1.93
6.	Sri Nirmal Ch. Baruah	do	1.1.94
7.	Sri Jivan Borah	do	1.8.94
8.	Sri Padum Handique	SDE Cab JRT	5.4.94
9.	Sri Nandeswar Borah	do	5.4.94
10.	Sri Dhiren Borah	do	5.4.94
11.	Sri Joiram Kalita	do	7.4.94
12.	Sri Robin Borah	do	5.5.94
13.	Sri Romen Sarmah	do	5.5.94
14.	Sri Anjan Dutta	do	5.5.94
15.	Sri Prasanta Gogoi	do	5.5.94
16.	Sri Bubul Borah	do	5.5.94
17.	Sri Ajit Borah	do	5.5.94
18.	Sri Hem Ch. Das	do	5.5.94
19.	Sri Jagat Rajkhowa	do	5.5.94
20.	Sri Kukheswar Borah	do	5.5.94
21.	Sri Mohesh Dutta	do	3.5.94
22.	Sri Dhiren Baruah	do	4.5.94
24.	Sri Debeswar Das	do	1.5.94
25.	Sri Nila Kanta Borah	do	2.5.94
26.	Sri Anil Saikia	do	2.5.94
27.	Sri Romesh Saikia	do	1.1.91
28.	Sri Putu Mirdha	SDOT GT	1.12.91
29.	Sri Tarun Dowarah	do	1.12.91
30.	Sri Sanjay Goswami	do	1.1.91
31.	Sri Bipul Khukan	do	1.1.90
32.	Sri Robin Chetia	do	1.6.92
33.	Sri Lakhinath Chetia	do	1.6.93
34.	Sri Loken Dowari	do	1.6.93
35.	Sri Girin Dowari	do	1.6.93
36.	Sri Prabin Chetia	do	1.6.93
37.	Sri Dharmeswar Manki	do	1.1.91
38.	Sri Binanda Borah	SDE BKK	1.2.92
39.	Sri Rajen Deka	do	16.7.92
40.	Sri Atul Gogoi	SDOT SBS	1.11.93
41.	Sri Bimal Chetia	SDOT GT	1.6.92
42.	Sri Madan Bordoloi	do	1.1.92
43.	Sri Ashim Hazarika	do	1.1.93
44.	Sri Ratnajeet Hensha	SDOT Jorhat	1.1.93
45.	Sri Sahanlal Manki	SDOT GT	17.6.90
46.	Sri Manoj Hazarika	do	1.6.92
47.	Sri Mukut Saikia	do	17.6.90
48.	Sri Apul Borbora	do	1.1.93
49.	Sri Palash Neog	do	1.1.92
50.	Sri Dilip Saikia	do	17.6.90
51.	Sri Dulal Saikia	SDE Cab JRT	1.2.92
52.	Sri Hiren Bharali	SDE BKK	1.1.92
53.	Sri Baba Saikia	do	1.1.90
54.	Sri Ranjan Phukan	SDE Cab JRT	1.2.90
55.	Sri Lakhiram Borah	SDOP JRT	1.1.91
56.	Sri Rajen Changmai	SDOT SBS	1.3.93

Attended
Ann: m/n
Advocate

57.	Sri Mohendra Borah	do	1.4.92
58.	Sri Binanda Gogoi	do	1.10.92
59.	Sri Hemanta Saikia	do	1.1.91
60.	Sri Bipin Borah	do	1.4.91
61.	Sri Latu Handique	SDOT GT	1.4.92
62.	Sri Ajoy Gogoi	SDE Cab JRT	1.6.93
63.	Sri Sushil Gogoi	SDOT Jorhat	4.6.92
64.	Sri Bipul Sarmah	SDOT Jorhat	1.1.93
65.	Sri Jyoti Chitrakar	SDOT Jorhat	4.6.92
66.	Sri Rupam Sarmah	SDOT Jorhat	5.1.93
67.	Sri Sankar Dey	SDOT Jorhat	1.1.93
68.	Sri Dibyajyoti Borah	SDOT Jorhat	1.2.96
69.	Sri Biren Malakar	SDOT Jorhat	1.2.93
70.	Sri Uttamjyoti Chitrakar	SDOT Jorhat	1.2.93
71.	Sri Pranabjyoti Cheita	SDOT Jorhat	4.6.92
72.	Sri Sapan Kumar Dey	SDOT Jorhat	1.1.93
73.	Sri Joiram Kalita	SDE Cab JRT	3.1.90
74.	Sri Manik Dey	SDE BKK	3.1.90
75.	Sri Durgeswar Gogoi	SDE BKK	1.1.90
76.	Sri Bimal Chetia	SDOT JRT	4.6.92
77.	Sri Romen Dutta	SDOP JRT	1.5.92
78.	Sri Frabin Baruah	SDE Cab JRT	1.11.91
79.	Sri Nandeswar Borah	do	1.6.92
80.	Sri Ranjit Das	SDE BKK	1.1.90

Attested
 In: *[Signature]*
 Advocate

3

-14-

ANNEXURE-1

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

A Hosted
Amr. 10/12
Advocate

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/-

Sd/-

(Ranganath Mishra) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1990.

- 16 -

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 SMF/78/98 dated 27.9.89.

Attested
22/11/89
Advocate

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).

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 quite service by giving one months notice.

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

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

NO. 269-4/93 STN II
GOVERNMENT OF INDIA.
DEPARTMENT OF TELECOMMUNICATION;. .
STN 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 Ntce Regions/Project Circles.

Sub;- Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme, 1989 engaged in circles
after 30.3.85 and up to 22.06.88.

Sir,

I am directed to refer to this office order no 269-4/93-STN dated 25 th June 1993 , where in orders were issued who were engaged by the project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who are still continuing for such works where they were initially engaged and who were not absent for last more than 365 days continuing 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 circle during the period from 31.3.85 to 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 last more then 365 days continuing from the date of issue of this order, be brought under the aforesaid scheme.

3. The engagement of the casual mazdoors after 30.3.85 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 instruction of the Head Quarter dated 30.3.85 should also be analyzed and disciplinary action be initiated against defaulted officers.

4. It is also decided that engagement of any casual mazdoors after the issuance 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 Head of the Circle, concerned Class-II Officers and amount paid to such casual mazdoors towards 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 service of the casual mazdoors who have rendered at least 240 days (206 days in 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 condition laid down in I.D.Act 1947 under section 25 F.G. & H.

Attested
Ami Bask
Achwaite

-21-

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)

Asstt. Director General (STN.)

copy to :-

1. All the staff members of Dept. JCM.
2. All recognised Unions/Associations.
3. Budget TE-I/TE-II/SNA/CVC/PAT/NCS/Sr Sections of the Telecom Commission.
4. SPP-I Section Dept. of Posts, New Delhi.

NO RECTT-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.
- 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 REM Guwahati.
19. The A.D. (Staff) C.O. Guwahati.
20. The concerned circle Secretaries of Service Unions.

sd/=

(K.S.K. Prasad Sarma.)

Asstt Director Telecom (E & R.)

O/O CGMT Ulubari, Ghy-7.

22-
ANNEXURE-4

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/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
Tun: 1003
Adm: 1003

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 and similar facts. In both the applications the applicants have prayed for a direction to the respondents to give them certain

Attested
Anil Kumar
Advocate

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.

- 27 -
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.
.....
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 Bhuvan 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.
.....
6. O.A.No.131/1998
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.

-
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.

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.

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.

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.

11. O.A. No.145/1998
 Shri Dhani Ram Deka and 10 others. Applicants
 By Advocate Mr.I.Hussain.
 - versus -
 The Union of India and others. Respondents.
 By Advocate Mr.A,Deb Roy, Sr. C.G.S.C.

12. O.A.No. 192/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By Advocates Mr.B.K. Sharma, Mr.S.Sarma
 and Mr.U.K.Nair.
 -versus-
 The Union of India and others..... Respondents
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

13. O.A.No.223/1998
 All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By advocates Mr. B.K.Sharma and Mr.S.Sarma.

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

14. O.A.No.269/1998

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

O R D E R

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 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.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 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 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)

ANNEXURE

কেন্দ্রীয় প্রশাসনিক আদালত
Central Administrative Tribunal
31 JUL 2002
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by
D. C. Pathak
29/7/02
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

O.A. No.298/2001

Shri Loken Deori & ... Applicants
Others.

- versus -

Union of India & Others ... Respondents.

(Written statements for and on behalf of the respondent
No. 1,2,3 and 4)

The written statements of the abovenoted respondents
are as follows :

1. That a copy of the O.A.298/2001 (referred to as the "application") has been served in the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondents No.2,3 & 4 are to some extent different than the interest of the respondent No.1. However, at present as agreed by the respondents, written statements as common for all of them are filed in the case. In case any difference/or subsequent development comes up, the respondents crave the leave of this Hon'ble Court to allow them file separate or additional written statements to that extent.

(2) That the statements, which are not specifically admitted, are hereby denied by the respondents.

(3) That before traversing the various statements made in the application, the respondents raise the preliminary objections regarding locus standi and jurisdiction to adjudicate the matter as under :

(A) The OA is jointly filed by Sri Loken Deori and the AITEU represented by Sri J. N. Mishra, Circle Secy. as applicant no. 1 and 2 respectively in para 4.2 of the OA it has been stated that the applicant no. 2 is the Circle Secretary, AITEU, Assam Circle and he represents the interest of the casual workers listed at Annexure - A thereto.

The above submission of the applicant no. 2 is erroneous, twisting of fact, amounting to deliberate misrepresentation before the Hon'ble Tribunal. In fact the service union of which the applicant no.2 is the Circle Secretary is known as 'The All India Telecom Employees Union Line staff and Group D'. As per the clarification issued by Govt. of India, (Deptt. of Pers. and Trg.) only regular Govt. servant to whom CCS (Conduct) Rules 1964 apply can form service union. Since the CCS (Conduct) Rules do not apply to the casual labourers they cannot form union nor they can become members of Service union formed by regular employees. The All India Telecom Employees Union Line Staff and Group D also cannot espouse the cause of casual labourers.

The Service union are cadre based i.e. a group of regular employees belonging to specified cadre will

constitute a category for the purpose of forming and subscribing to a particular service union. According to the categorisation of line staff and Group D employees as per O.M.No.13-1/85-SRT(Vol.II) dated 19-4-94, include - the Line Staff of the Telecom Engineering, Group 'D' employees of the Telecom Engineering, Telegraph Traffic, Accounts Wing of the Department.

Therefore, the A.I.L.S. and Group 'D' Employees union cannot have casual mazdoors as its members. The union has no authority to represent the case of casual workers.

According to Rule of CCS (Conduct) Rules, the CCS (Conduct) Rules do not apply to the casual labourers. The Govt. of India DOPT, has also clarified under their U.O.No.2-2/91-JCA dated 22-4-94 that the CCS (RSA) Rules 1993 are not applicable to casual labourers. The impact of the Rules is that the casual labourers cannot become members of any service union formed under CCS (RSA) Rules, 1993. It is pertinent to mention here that the preliminary objection about the maintainability of OA filed by service union more particularly the AITEU L/S and Group 'D' on behalf of casual workers was raised by the Respondent Deptt. in OA No.114 of 1998. While passing the interim order dated 3-6-98 in that OA, the Hon'ble Tribunal was pleased to record the objection and fixed next date for hearing on the preliminary objection. This OA.114/98 was disposed of in a common

judgement and in their common order dated 31-8-99 passed in OA No.107/98 and 14 applications including the above mentioned OA No.114/98 the Hon'ble Tribunal was again pleased to record the objection of the Respondent Deptt. However, the objection did not receive the due consideration of the Tribunal as nothing was decided by the Hon'ble Tribunal on merit, although the Hon'ble Tribunal directed each and every individual applicants, not the Trade Unions, to file representation ; this indicates that the Trade Unions cannot espouse for casual labourers. The member of the service union is restricted to Govt. Servants only. Neither the Casual/Labourers nor the TSM are Govt. Servants and they are not eligible to become Member/Office bearer of the service union more particularly the union represented by applicant No.2. They are not civil servants and do not hold any civil posts.

The so called Casual labourers on whose behalf the OA has been filed by Respondent No.2 cannot be members of the union he represents. The applicant no.2 has no authority to represent the case of the Casual labourers particularized in Annexure 'A'.

For the sake of justice and fairness it is desirable to maintain a clear distinction between the Govt. Servants working in the Deptt./BSNL and the casual Mazdoors. Any unholy nexus between these two distinct groups is likely to jeopardise the process as it is the regular employees who actually utilize the service of Casual Mazdoors and most the Casual Mazdoor's approach the CAT on the strength of doubtful certificates

issued by the Line Staff. The union cannot be permitted to take side with the Casual labourer.

The OA is therefore not maintainable and liable to be dismissed on the grounds stated above.

(B) That the Govt. of India in pursuance to the New Telecom Policy 1999, in order to corporatise the functions of Department of Telecom, created a Company named and styled as "Bharat Sanchar Nigam Ltd." (referred as "BSNL") with effect from 15-9-2000. This Company has been duly registered under the Companies Act, 1956. In accordance with the said policy, the Govt. of India has transferred all the business, assets and liabilities of Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) to the said new Company w.e.f. 1-10-2000. The Department of Telecom, Ministry of Communications, Govt. of India, retained the matter of policy formulation with them. This was done vide Office Memo No.2-31/2000-Restg. dated 30-9-2000.

By the said O.M. dated 30-9-2000, the Govt. of India also made it clear by Clause-4, that for the period of transition and transfer, the cases pending before the Courts/Tribunals/Arbitrators etc. were to be defended by the Company as assignee/successor in interest of the Govt./Department of Telecom and such arrangement were made limited upto 31-12-2000. By Clause-5, it was also made categorically clear that in the matter relating personnel (Government Servants) pending before various Tribunal, High Courts and Supreme Court, the Company will defend as assignee or successor in interest as per existing

Rules till the time employees are on deemed deputation with the Company. By Clause-6, it was also made clear that so far as the judgement/order/award already delivered prior to 1-10-2000, such judgement/order/award etc. would be implemented in letter and spirit by the Company in accordance with the rules, regulations, directions and statutes. All these instructions came into force with effect from 1-10-2000. The Department of Telecom also on 23-1-2001 issued the Notification of the "Resolution" which was published in the Gazette of India, Part-I, Section-I dated 17-3-2001.

Thereafter, the management of BSNL discussed with trade unions about the modality of absorption of Group 'C' and 'D' employees including casual labours in BSNL. The decision adopted were placed before the Board meeting held on 9-11-2000. The Board of Directors empowered the management of BSNL to negotiate with the Trade Unions bodies. Accordingly, the management and the Trade Union Bodies approved certain proposal on its meeting held on 2-1-2001. The minutes of the said meeting was circulated under No.BSNL/4/SR/2000 dated 2-1-2001. By the said settlement, the case of Casual labours were also decided. According to Clause-3 of the said settlement it was resolved that Left and cases of casual labourers would be settled by BSNL in accordance with Order No.269-94/98-STN-II dated 29-9-2000. As per condition laid down in the letter dated 29-9-2000 all the left and cases of casual labourers were to be referred to Headquarter separately for consideration for regularisation.

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(c) That the instant OA No.298/2001 has been filed after 1-10-2000 when the BSNL came into existence. Moreover, the O.M. dated 30-9-2000 is silent about the matter of casual labourers. However, BSNL by its own decision dated 2-1-2001 has agreed to settle the pending cases in terms of Circular letter dated 29-9-2000. Under such circumstances, BSNL being a registered Company, a body Corporate, can sue or be sued by its name for its claims and liabilities and others rights and duties. On formation, the BSNL will not come automatically within the jurisdiction of Central Administrative Tribunal as provided under the Central Administrative Tribunal Act, 1985 and Rules framed thereunder. A Corporation, a Society or other body, may be brought under the jurisdiction of the Central Administrative Tribunal only by separate notification as provided as a condition precedent under Sub-Section 2 of Section 14(3) of the CAT, Act, 1985. The Calcutta Bench of Hon'ble CAT in O.A.No.198/2001 (Biswanath Banerjee Vs Vol & Ors.) took a similar view and held vide order dated 1-3-2001 that unless BSNL is notified that Court had no jurisdiction to entertain such petition.

Under these facts and circumstances and the legal provisions, the applicants had no locus standi to file the instant case and at the same time this Hon'ble Tribunal also shall not exercise its jurisdiction and power as it has no jurisdiction to adjudicate such matter. Hence, the application is liable to be dismissed with cost.

The copies of Order dated 3-6-98 and 5-6-98 passed in O.A.114/98, Govt. of India letter No. 10-4/94-SR/Pt. dated 28-4-97, letter No.29-18/91-SRT dated 24-12-92, letter

No.13-1/85-SRT dated 3-5-94 with Annexure, O.M. dated 30-9-2000, Gazette Notification dated 17-3-2001, Minutes of meeting dated 2-1-2001, letter dated 29-9-2000 and CAT order dated 1-3-2001 are annexed as Annexure - R1, R2, R3, R4, R5, R6, R7, R8 and R9 respectively.

(4) That with regard to the statements made in para 1 of the application, the respondents state that there is absolutely nothing to show if the applicants have any right to file this application. There is also nothing on record to show whether the applicant had ever worked under the respondents. Therefore, the application being filed without any cause of action, is liable to be dismissed with cost.

(5) That with regard to the statements made in para 2, the respondents re-assess the foregoing statements of this written statements and state that the application is liable to be dismissed for want of jurisdiction.

(6) That with regard to the statements made in para 3 of the application, the respondents state that the application is hopelessly barred by limitation and is liable to be dismissed.

(7) That with regard to the statements made in para 4.1, the respondents have no comment to offer.

(8) That with regard to the statements made in Para 4.2 and 4.3, the answering respondents state that these statements are contradictory, misleading ones and not

supported by any proof thereof. The Annexure - A as annexed to the application showing the names and dates are vague, baseless and not correct in itself. This is a fictitious document manufactured by the applicants with ulterior motive to deceive the respondents for wrongful gain and also to mislead this Hon'ble Tribunal. The applicants have stated that their initial appointment was in the month of January, 1993, whereas again stated that they were initially appointed in the year 1987. It is also stated that they were regularly working since 1985. It is also claimed that their engagement is not disputed by the respondents. The respondents vehemently dispute the illegal claim of the applicants and state that this claim is baseless and without any evidence. The applicants have not stated as to why they have not produced the records/proofs in support of their claims and what prevented them from submitting such proof with the application. If the applicants submit any document/proof subsequently, that would be false and manufactured ones. The applicants in Annexure-A to the application has indicated some alleged dates of engagement but no date is shown for disengagement/termination. These are matter of facts and very much known to such individuals. Hence, it is a false case.

(9) That with regard to the statements made in para 4.4 and 4.5, the respondents state that these are matter of records hence limited to such records only ; nothing is admitted beyond such records.

(10) That with regard to the statements made in para 4.6 and 4.7, the respondents state that the applicants have nothing to show that they are entitled to the benefit of the scheme of 1989 ; hence the claim is denied. It is also made clear that by letter dated 17-12-93, the respondents issued warning to erring officials and accountability was fixed for engaging casual labourers inspite of ban orders.

(11) That with regard to the statements made in para 4.8 and 4.9, the respondents state that these being matter of records nothing is admitted beyond such records.

(12) That with regard to the statements made in para 4.10, the answering respondents state that the respondents did not receive any such representation dated 3-1-95 at any point of time as alleged in this para. Moreover, the Annexure - 6 is not the alleged copy of representation dated 3-1-95, whereas that is the copy of judgement passed in OA.107/98 (series). From the above facts, it is now clear that how the applicants are falsifying their case. This case is entirely false and baseless.

(13) That with regard to the statements made in para 4.11 and 4.12, the answering respondents state that this Hon'ble Tribunal by order dated 31-8-99 disposed of the cases with direction to verify the record on the basis of individual claims/representation ; did not decide anything on merit. But there is nothing on the part of the applicants to show that they were in any way similar to those applicants. Hence, the applicants are not similarly situated to such applicants in O.A.107/98 (series) and not entitled to any relief.

(14) That with regard to the statements made in para 4.13, the respondents state that the allegation is baseless and false. While the applicants alleged inaction in one hand, they have alleged non-consideration of this case on the ground of not having an order from this Hon'ble Tribunal. It is surprising as to how they came to know about the "ground" for inaction. It is a clear case of falsehood, hence the application is liable to be dismissed.

(15) That with regard to the statements made in para 4.14 and 4.15, the answering respondents re-assert the foregoing statements made in this Written Statements and state that the applicants are not entitled to any relief whatsoever under any ~~law~~ law or rules.

(16) That with regard to the statements made in para 5.1 to 5.4, the respondents state that in view of the facts and circumstances of the case and provisions of relevant laws, the grounds shown are no grounds to sustain in law. Hence, the application is liable to be dismissed with cost.

(17) That the respondents have no comments to the statements made in para 6 and 7 of the application.

(18) That with regard to the statements made in para 8.1 to 8.3 including the para 9, the respondents state that the application has been made for as many as 80 persons and the application is filed by 2 persons, whereas the Prayer is made for the relief for one person. This indicates the veracity and falsity of statements. Under the facts and circumstances of the case, evidence in hand and the

provisions of law, the applicants are not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost as false and devoid of any merit. Moreover, the application is liable to be dismissed for non-joinder of necessary parties, i.e.

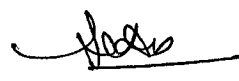
BBSL.

In the premises aforesaid it is therefore prayed that Your Lordship would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

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

I, Shri S. C. Das, presently working as the Asstt. Director (Legal) in the Office of the Chief General Manager, Bharat Sanchar Nigam Ltd. being duly authorised and competent to sign this Verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 3, 4 to 17 and 18 - are true to my knowledge and belief, those made in para 3 A, 3 B and 3 C - being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this Verification on this 29th day of July, 2002 at Guwahati.


(S. C. Das)
Deponent

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

GA 114

OF 199

8

Applicant(s) All India Telecom employees union ^{Amr.} & ~~others~~

- vs -


Respondent(s) Union of India & Ors

Advocate for Applicant(s) Mr. B.K. Sharma

Mr. S. Sarma

Advocate for Respondent(s)

C.G.S.C

Notes of the Registry	Date	Order of the Tribunal
	3.6.98 (1)	<p>This application has been filed apprehending the termination of casual labourers.</p> <p>Heard Mr S.Sarma, learned counsel for the applicants. Mr S.Ali, learned Sr. C.G.S.C receives notice today and he is not in a position to make any submission.</p> <p>List on 5.6.98 for admission.</p> <p>Mr Sarma also prays for an interim order of stay. Mr Ali submits that at this stage he is not in a position to make any submission.</p> <p>Let this case be listed on 5.6.98 for interim order. Till then status quo as on today at 11.30 A.M shall be maintained.</p>

Sd/-VICECHAIRMAN

Date	Order of the Tribunal
<p>5.6.98 (2)</p>	<p>Heard Mr B.K. Sharma, learned counsel for the applicants. The application is admitted. Mr S. Ali, learned Sr. C.G.S.C., has already entered appearance. No formal notice need be sent. Mr Ali has raised a preliminary objection regarding maintainability of the application inasmuch as the casual labourers are not members of the Union. Let the preliminary objection be decided first. Written statement and rejoinder may be filed within 2 weeks. Thereafter the case may be listed for hearing of the preliminary objection on 19.6.98. Meanwhile the interim order shall continue.</p>



Sd/-VICECHAIRMAN

Certified to be true Copy

निविधि

[Handwritten Signature]
14/7/2000

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-8

गुवाहाटी न्यायालय, गुवाहाटी-8

[Handwritten Signature]
14/7/2000

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ANNEXURE R2

Government of India
Ministry of Communications
Department of Telecom.
Sachin Deyan, New Delhi-110 001

R3A

70/1

No. 10-4/94-SR/pt

253

Dated: 28 April, 1997

To

The Chief General Manager,
Telecom Assam Circle,
Guwahati-781007.

Subject: Membership of AITU Line Staff & Group 'D'.

Sir,

Reference is invited to your letter No. UNST-6/1/Vol-III/41 dated 3-3-97 on the subject mentioned above.

As per the clarification given by the DOP & Trg. vide No. 2-2/94-JCA dated 22-4-94 (circulated by us vide No. 13-1/85-SRT dated 3-5-94), CCS(RSA) Rules, 1993 are not applicable only to Casual Labourers. The rules are applicable only to those Central Govt. Employees to whom the CCS (conduct) Rules 1964 apply. Your attention in this connection is also invited to this Department's letter No. 13-1/85-SRT (Vol.IV) dated 15-2-95 regarding categorisation of Group 'C' / Group 'D' employees for the purpose of forming service Union/ Associations under CCS(RSA) Rules, 1993.

Yours faithfully,

(DIPAK BANERJEE)

Section Officer (SR)

(A)

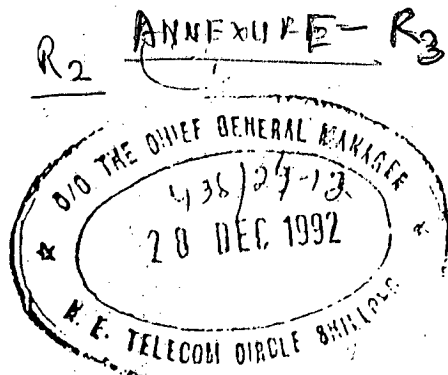
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ME
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ADT (W/F)
ADT (Legal)

-16-

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



No.29-18/91-SRT

Dated: 24/12 December, 1992.


To

The Chief General Manager
Calcutta Telephones,
Calcutta.

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

Your kind attention is invited to your letter
No. SUM-4041/NFTE/L3 & CI-IV/Corr/L dated 1-10-1992
on the subject mentioned above. The clarification asked
for therein is as under :-

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


(B.S. VERMA)
Director (SR)

Copy to:-

1. All Heads of Telecom. Circles.
2. C.G.N. Telephones, Madras.
3. C.G.N. Telephones (MIML), Bombay/Delhi.

17/5/94

Annexure - RA

-17-

(1211)

9/5/94

59

Government of India
Ministry of Communications,
Department of Telecommunications, 6018
20, Ashoka Road, Sanchar Bhawan,
New Delhi-110001.

No.13-1/85-SRT

Dated.3.5.94

To

All Heads of Telecom Circles.
Metra Telephone Districts, Calcutta/Madras.
Chief General Manager, MTNL, Bombay/Delhi.
All Heads of other Administrative Offices.

Subject:- Clarification regard^{ing} Central Civil Services
(Recognition of Service Associations) Rules 1993.

Your kind attention is invited to this office letter of even no. dated 28.2.94 and 19.4.94 on the subject mentioned above. However a copy of letter No.2-2/94-JCA dated 22.4.94 in regard to certain clarification received from the DOP&T is forwarded herewith for your kind information and guidance.

Soni Ram
(SONI RAM) 3/5/94,
SECTION OFFICER (SRT)

15/5/94

Copy to:-

1. NFTE and its affiliated Unions.
2. F.N.T.O. and its affiliated unions.
3. B.T.E.F. and its affiliated unions.
4. All other unions/Associations.
5. All unrecognised unions/Associations.

nd/- As above

24/5/94
24/5/94

-18-

Government of India
Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi the 22nd April, 1994

OFFICE MEMORANDUM

Subject : Clarification regarding Central Civil Services
(Recognition of Service Associations) Rules, 1993.

794
The undersigned is directed to invite attention of all Ministries/Departments to the Central Civil Services (Recognition of Service Associations) Rules, 1993, (hereinafter referred to as the Rules), which were notified in November, 1993 and to this Department's O.M. of even number dated 31st January, 1994 and to say that a large number of references are being received in this Department seeking clarification concerning the above-mentioned Recognition Rules. With a view to avoid further references and to expedite matters, the common points of doubt have been compiled and are clarified below for information of all Ministries/Departments.

POINTS OF DOUBT

1. Whether the Rules are applicable to casual labourers, extra-Departmental agents, Contingent paid staff, industrial employees working in Telecom factories
2. Whether a Federation or Confederation of Associations can be recognised under the Rules.
3. Whether the term "distinct category" used in Rule 5(c) means groupwise categorisation i.e. group 'A', 'B', 'C' or 'D' or cadrewise categorisation.

CLARIFICATION

No. The Rules are applicable only to those Central Government employees to whom the CCS (Conduct) Rules, 1964 apply.

These Rules do not relate to a Federation/Confederation of Associations and as such, they cannot be recognised under the present Rules.

By a distinct category is meant an Association whose members have a commonality of interest and function as a homogenous group. The responsibility for defining a "distinct category" has been left to the concerned Ministry/Department.

4. Whether the first two associations are to be recognised even if neither of them fulfills the conditions of having the minimum membership of 35%

No. Fulfilment of the condition prescribed in Rule 5(d)(1) is essential before recognition can be considered. In other words, one association, that is the first association, must have 35% membership before the second association with minimum of 15% membership, can be recognised.

5. Whether Associations are to be recognised centrally or zone/circle/regionwise.

The Associations are to be recognised centrally on an all-Ministry/Department basis. Such Associations may have their branches in the subordinate formulations.

6. Whether the minimum membership prescribed in Rule 5(d)(1) is for the entire Department or zone/circle/regionwise etc.

The condition of minimum membership as laid down in Rule 5(d)(1) is for the entire Department. In other words, an Association must have the minimum percentage of members amongst all employees in that distinct category in that Department.

7. Whether an Association having fulfilled the conditions of Rules 5(d)(1) in the entire Department must also have the minimum membership as prescribed in Rule 5(d)(1) in each of its branches.

No.

8. Whether vacant posts will be taken into account for the purpose of calculating minimum membership.

Percentage of membership is to be determined on the number of employees in each distinct category and not on the number of posts.

9. Whether an Association of SC/ST employees can be recognised.

An Association whose membership is restricted to a particular caste, tribe or religious denomination cannot be recognised under the Rules.

10. Whether the elections of office-bearers is to be held annually in view of Rule 6(e).

The periodicity of elections would be as per the Constitution of each Association. However, the Associations are required to submit the documents detailed in Rule 6(e) annually.

3-

11. Whether the associations have to be registered under the Trade Union Act/Societies Act before they can be considered for recognition under the CCS (Recognition of Service associations) Rules, 1993. No.

12. Whether existing recognised Associations are required to seek fresh recognition under the CCS (Recognition of Service associations) Rules, 1993.

Yes. All existing recognised Associations, desirous of continuing as such, must be recognised under the CCS (Recognition of service associations) Rules, 1993 on or before 4th November, 1994.

Bir Datt
(BIR DATT)
Director(JCA)

To

1. All Ministries/Departments of the Government of India.
2. UPSC/CVC/C&AG/Commissioner of Linguistic Minorities/Commissioner for SC/ST/Backward Classes Commission/Minority Commission/PM's Office/ Lok Sabha Secretariat/Rajya Sabha Secretariat/President's Secretariat/Vice President's Secretariat/Supreme Court/High Court/Central Administrative Tribunal.
3. All attached and Subordinate offices of the Department of Personel & Training/MHA.
4. Secretary, Staff Side, National Council(JCM), 13-C, Ferozshah Road, New Delhi.
5. All Staff Members of the National Council(JCM)
6. All Staff Members of the departmental Council(JCM) Ministry of Personnel, P.G. & Pensions.

No. 2-31/2000-Kesig.

Government of India

Ministry of Communications

Department of Telecommunication Services

ANNEXURE-R5

New Delhi, the 30th September, 2000.OFFICE MEMORANDUM

Subject:- Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision, functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1st October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

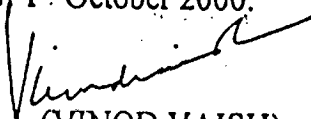
individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1st October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31st December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1st October 2000.


(VINOD VAISH)

Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.

- 23 -
- 13 - (17) (3) 65
9. Joint Secretary(A), DoT.
 10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
 11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
 12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
 13. Chief Architects - Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
 14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.
 15. Sr.DDG(TEC)
 16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
 17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
 18. Sr.DDG(IC & A)
 19. Executive Director, C-DOT.
 20. Sr.DDG(Vigilance), DoT
 20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited



[भारत के राजपत्र, भाग-I—खण्ड-1 दिनांक 17 मार्च 2001 को प्रकाशित]
[Published in the Gazette of India, Part-I, Section-1, dated 17th March 2001]

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, दिनांक 23 जनवरी 2001

संकल्प

सं० 2-31/2000-पुनर्गठन--भारत के राष्ट्रपति (प्रति, भारत सरकार, संचार मंत्रालय, दूरसंचार विभाग के माध्यम से) और भारत संचार निगम लिमिटेड के बीच 30 सितम्बर 2000 को हुए समझौता ज्ञापन की हेतुगत से, देश में दूरसंचार सेवाएं प्रदान करने, दूरसंचार नेटवर्क का अनुसंधान करने/दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा दूरसंचार फीसट्रियों को चलाये संबंधी कार्य (इहले दूरसंचार विभाग द्वारा किए जाते थे) 1 अक्टूबर 2000 से नवगठित कंपनी भारत संचार निगम लि० (बीएसएनएल) को हस्तांतरित कर दिए गए हैं।

2. दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग को सभी परिसंपत्तियां और देयताएं (दूरसंचार विभाग द्वारा चलाये जाने वाली कतिपय उच्च परिसंपत्तियों को छोड़कर जो दूरसंचार विभाग के निर्गमनाधीन यूनिटों और कार्यालयों के लिए अतिरिक्त हैं) उक्त ताराख से बीएसएनएल में अन्तर्गत हो जाएंगी।

3. उपकरणों और संयंत्रों, सामग्रियों का आपूर्ति भूमि और भवन को खरीद तथा सेवाओं की आपूर्ति के संबंध में दूरसंचार विभाग, दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा विभिन्न जागरणों, ठेकेदारों, निष्केताओं, कंपनियों और अलग-अलग व्यक्तियों से किए गए सभी मौजूदा ठेके, कलर और समझौता ज्ञापन, कारोबार के हस्तांतरण की तारीख को वैसे के वैसे बने रहेंगे और/अथवा बीएसएनएल के प्रचालनों के लिए अपेक्षित ठेके, कलर, आदि 1 अक्टूबर 2000 से बीएसएनएल को हस्तांतरित तथा चले गए माने गए हैं।

4. वर्तमान कार्य-निष्पादन हेतु इन ठेकों, करारों और समझौता-ज्ञापनों को अलग रखने तथा उक्त ठेकों, करारों और

समझौता-ज्ञापन के सहित उत्तराधिकारी/अधिन्यासी के बतौर मुकदमा चलाने और मुकदमा चलाने संबंधी क्रियाओं के मामले में बीएसएनएल पूर्ण रूप से जिम्मेदार है और किसी तरह की चुनौती, खिलवाड़ होने अथवा कार्य निष्पादित न करवाने के लिए भी वह स्वयं जिम्मेदार होगा।

5. 1 अक्टूबर 2000 से पूर्व दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई पञ्चाचार बिल, नोटिस और अन्य दस्तावेज भले यह दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा जारी किया गया हो, 1 अक्टूबर 2000 से जहाँ कहीं भी ऐसा संदर्भ आए, उसे बीएसएनएल के हवाले के रूप में पढ़ा जाए।

6. 1 अक्टूबर 2000 से बीएसएनएल द्वारा जारी किसी बिल नोटिस अथवा अन्य दस्तावेज जिसके सम्बन्ध में दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई पञ्चाचार दिया गया हो वह कहीं भी ऐसा संदर्भ आए, उसे बीएसएनएल के हवाले के रूप में ही पढ़ा जाए।

7. 1 अक्टूबर 2000 से सभी पत्रों/पत्राचार/अन्य दस्तावेजों, जिनके तहत दूरसंचार सेवा विभाग और/अथवा दूरसंचार प्रचालन विभाग को दी जाने वाली धनराशि के सम्बन्ध में भारत सरकार के पक्ष में भुगतान किया जाना है, जहाँ कहीं ऐसा संदर्भ आए, धन-राशि भारत संचार निगम लि० के पक्ष में जाहिरित होगी।

आदेश

यह आदेश दिया जाता है कि इस संकल्प की एक प्रति सभी राज्य सरकारों, सभी मंत्रालयों और भारत सरकार के विभागों को मन्त्रेयित की जाए।

यह आदेश दिया जाता है कि इस संकल्प की सामान्य मुसला हेतु भारत के राजपत्र में प्रकाशित किया जाए।

इंद्रीश कुमार
निदेशक (पुनर्गठन)

MINISTRY OF COMMUNICATIONS
(DEPARTMENT OF TELECOMMUNICATIONS)

New Delhi, the 23rd January, 2001

RESOLUTION

No. 2-31/2000-Resg.- By virtue of the Memorandum of Understanding dated 30th September

2000 entered into between the President of India, acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications (DoT) and Bharat Sanchar Nigam Limited, the business of providing telecom services in the country, maintaining the telecom network, running the telecom factories by the Department of Telecom Services (DTS) and the Department

of Telecom Operations (DIO) [which were earlier provided by Department of Telecommunications (DoT)] has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1st October 2000.

2. All assets & liabilities (except certain assets which will be retained by DoT required for the units and offices under control of DoT) of the Department of Telecom Services (DTS) and the Department of Telecom Operations (DIO) stand transferred to BSNL w.e.f. the said date.

3. All the existing contracts, agreements and MOUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and building and supply of services, subsisting on date of transfer of business and/or required for operations of BSNL also stand transferred and assigned to BSNL w.e.f. 1st October 2000.

4. BSNL is solely responsible for honouring these contracts, agreements and MOUs for due performance and in case of disputes to sue and be sued as the successor/assigned under the said contract agreement and MOU and shall be liable for any defaults, delays or non-performance.

5. With effect from 1st October 2000 any reference in any correspondence, bills, notices, and other

documents to the Department of Telecom Services or the Department of Telecom Operations having been issued before 1st October 2000 by either the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read as reference to the BSNL.

6. With effect from 1st October, 2000 any bill, notice or other document issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read to be a reference to the BSNL.

7. With effect from 1st October, 2000 all cheques, drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom Services and/or the Department of Telecom Operations shall, wherever the context so permits and allows, be drawn in favour of 'Bharat Sanchar Nigam Limited.'

ORDER

ORDERED that a copy of this resolution be communicated to all State Governments, all Ministries and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information.

HARISH KUMAR
Director (Resig.)

DOCUMENT 2

ANNEXURE-R 7

Bharat Sanchar Nigam Limited,
(A Government of India Enterprise)

No.BSNL/4/SR/2000

Dated the 2nd January, 2001

SUB:- Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connection with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 and the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules / regulations. This is in line as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

3. ABSORPTION OF CASUAL LABOURERS

* Orders have been issued by DoT for regularizing Ayahs & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.269-94/98-STN-II dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authorities.

6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fitment formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitment in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month w.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28th Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

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-18-

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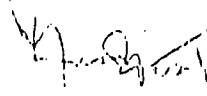
10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

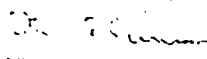
11. The Group C & D employees who appear for any promotional examination whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

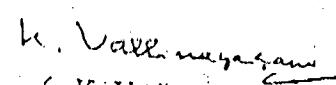
The above modalities have been worked out in consultation with the following three federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2001.

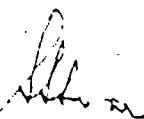
The Proforma for exercising the option is enclosed.

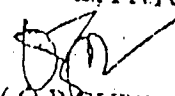

(DR.) S SETH
CMD, BSNL


(MALLIKARJUN)
SECRETARY GENERAL, BTEF


(KRANTI KUMAR)
DIRECTOR(HRD) BSNL


(K. VALLINAYAGAM)
SECRETARY GENERAL, FNTD


(S P WAR)
DIRECTOR (FIN.) BSNL


(O P GUPTA)
SECRETARY GENERAL, NFTE.

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-19-
DOCUMENT-3

No. 269-94/98 STN-II
Department of Telecom. Services
Sanchar Bhawan, 20, Ashoka Road, New Delhi.
(STN-II Section)

Dated: 29.09.2000

ANNEXURE R 102 8

All CGMs, Telecom. Circles,
All CGMs, Telephone Districts,
All Heads of Other Administrative Offices,
All the IFA's in Telecom. Circles/Districts and other Administrative Units

Sub: Regularisation of Casual Labourers

Sir,

The employees unions are demanding regularisation of all the casual labourers. This issue was under consideration for quite some time. It has been decided to regularise all the casual labourers working in the Department, including those who have been granted temporary status with effect from 01.10.2000, in the following order:-

- (1) All casual labourers who have been granted temporary status upto the issuance of Orders No. 269-1/93-STN-II dated 12.2.99, cited vide letter No. 269-13/99-STN-II dated 12.2.99 and further vide letter No. 269-13/99-STN-II dated 9.6.2000.
- (2) All full time casual labourers as indicated in the Annexure.
- (3) All part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 16.9.99.
- (4) All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 25.8.2000.
- (5) All Ayas and Supervisors converted into full time casual labourers as per order No. 269-10/97-STN-II dated 29.9.2000.

The number of casual labourers to be regularised in categories (2) to (5) above is given in the Annexure enclosed. The figures given in the Annexure are based on information received from the Circles.

The casual labourers indicated from (1) to (5) above are to be Adjusted against available vacancies of Regular Mazdoors. However, Chief General Managers are also authorised to create posts of Regular Mazdoors as per the prescribed norms, and to that extent, the prescribed ceiling for the Circle will stand enhanced.

As per this office letter No. 269-1/93-STN-II dated 12.2.99, vide which temporary status was granted to casual labourers eligible on 1.8.98, no casual labourers were to be engaged after this date and all casual labourers not eligible for temporary status on 1.8.98 were to be disengaged forthwith. Therefore, there should be no casual labourers left without temporary status after 1.8.98 [Other than those indicated in serial nos. (2) to (5) above]. However, if there is still any case of casual labourers left out due to any reasons, that may be referred to the Headquarters separately.

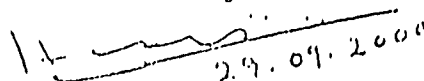
72
(11)

-30-
20

--- 2 ---

This issues with the concurrence of Telecom Finance vide their
Diary No. 3536/2000/FA-I Dated 29.09.2000.

Yours faithfully


29.09.2000

(HARDAS SINGH)

ASSISTANT DIRECTOR GENERAL (STN)

Tel No. : 371 6723 / 303 2531

Copy to :-

- 1) FS to MOC/ MOS(C)
- 2) Advisor (HRD)
- 3) DLG(Pers.)/ (E)/ (EF)/ (SR)
- 4) Dir, ST-I) / (F-I)
- 5) All recognised Associations/ Unions/ Federations
- 6) TE-II, STN-II/ SR/ SCT Sections
- 7) Guard file.



(Vinod Kumar Sharma)
Section Officer (STN-II)

-31-

DOCUMENT-6

(9) (15)
ANNEXURE-R9

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

NO. O.A. 198 OF 2001

PROVIDENT FUND, AIRTEL, H.N. Ray, Vice-Chairman
H.N. Ray, Administrative Member

RISWANATH BANERJEE

VS.

UNION OF INDIA & ORS.

For the applicant: H.N. Ray, counsel

For the respondent: H.N. Banerjee, counsel

Record on: 1.3.2001

Order on: 1.3.2001

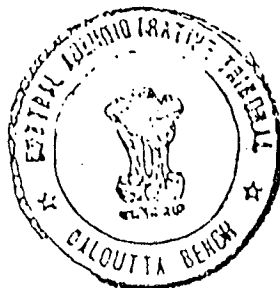
ORDER

R.N. Ray, V.C.

1. counsel for both sides are present. This case is relating to the Department of Telecom which has now become a corporate body. Bharat Sanchar Nigam Limited is definitely a corporate body under the Government of India within the meaning of Article 12 of the Constitution. But that has not been notified till today and therefore, this court has no jurisdiction to entertain such petition.

2. Accordingly, the O.A. is disposed of as 'not maintainable' at the stage of admission. The applicant may approach the appropriate forum in respect of his grievances made in this O.A. No order as to costs.

MEMORANDUM



VICE-CHAIRMAN

RECEIVED
1.3.2001
H.N. BANERJEE
COUNSEL