

GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

21/2/17

FORM NO.4  
(See Rule 42)

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

ORDER SHEET  
ORIGINAL APPLICATION NO

113 OF 2001

Applicant (s) Madanlal Sanham

Respondent(s) U.O.I Govt

Advocate for Applicant(s) Mr. D.P. Chaliha, Mr. M. Sanam

Advocate for Respondent(s) case

Notes of the Registry

Date

Order of the Tribunal

Form  
Petition  
for  
IPC/18  
Dated

56422829  
16.3.2001

1/c. Dr. Registrar 20/3/01

21.3.01

Issue notice on the respondents as to why the application shall not be admitted. Returnable by four weeks. List on 2.5.2001 for consideration of admission.

Vice-Chairman

23.3.2001

trd  
NS  
22/3/01

2.5.

Pass over to 4.5.2001.  
M. to  
A. Deb Roy  
2.5

Service of Notice  
issued to the  
respondents vide  
No. 1185-11188 dtd  
28/3/01

4.5.2001

Three weeks time allowed to the respondents to file their return, if any. List for orders on 23.5.01.

Vice-Chairman

nk m

23.5.01

On the prayer Mr. A. Deb Roy, learned Sr. S.C.S.C. the case is adjourned to 27.6.2001 for filing of reply.

List on 27.6.2001 for consideration of admission.

Vice-Chairman

trd

20  
26.6.01

- ① Service completed.
- ② No reply has been filed.

(2)

Copy of order dtel  
27/6/01 Communicated  
to the parties Counsel  
vide D/No \_\_\_\_\_  
dtd \_\_\_\_\_  
by  
28/6/07

27.6.01

Heard learned counsel for the parties.

Application is admitted. Issue notice on the respondents. Call for the records. The respondents may file written statement within four weeks from to-day.

Vice-Chairman

lm

1.8.01

Written statement has been filed. The case may now be listed for hearing on 22.8.01. The applicant may file rejoinder if any within two weeks.

Vice-Chairman

5.7.2001

W/S has been  
submitted by the Respondents.

22.8.01

The learned counsel for the applicant prays for some time on the ground that he wants to produce some ~~time~~ documents. Prayer is accepted. List on 14/9/01 for hearing.

14.8.2001

Reply has been  
filed to the W/S.

bb

14.9.01

None appears for the applicant <sup>When</sup> though it was called upon. List on again on 26.9.01 for hearing.

Member

The case is ready  
for hearing.

Vice-Chairman

lm

24  
13.9.01

26.9.01

Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is allowed to the extent indicated in the order. No. costs.

Vice-Chairman

trd

16.10.2001

Copy of the Judgement  
has been sent to the  
Office for issuing the  
order to the applicant  
as well as to the  
Add. C.G.S.C. for the  
Respondents.

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.A. No. 113 of 2001 of

DATE OF DECISION 26.9.01

Sri Madan Lal Chauhan

APPLICANT(S)

Mr. D.P.Chaliha

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE  
RESPONDENTS.

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

THE HON'BLE

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

5. Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 113 of 2001.

Date of order : This the 26th day of September, 2001.

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

Sri Madan Lal Chauhan  
Son of Sri Ramdhari Chauhan,  
resident of Village Tokercharra and  
Post Office Golokganj,  
District-Dhubri,  
at present residing at Jokerachare,  
Golokganj, Dhubri.

...Applicant

By Advocate Mr. D.P.Chaliha.

-versus-

1. The Union of India through  
the Chairman and Managing Director,  
Bharat Sanchar Nigam Ltd.,  
New Delhi.
2. The Chief General Manager,  
Assam Telecom Circle,  
Guwahati.
3. The District Telecom Manager,  
BSNL, Bongaigaon.
4. The Sub-Divisional Engineer (HRD)  
B.S.N.L., Office of the Telecom District  
Manager, B.S.N.L., Bongaigaon.


...Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

The issue involved in this application is conferment of Temporary Status on the basis of the Scheme known as Casual Labours (Grant of Temporary Status and Regularisation) Scheme 1989 which was extended from time to time. The applicant claimed himself to be a casual worker who worked under D.T.O., Bongaigaon, in Bongaigaon, Dhaligaon, Bijni, Abhayapuri, Barpeta, Jogighopa, Goalpara and Dudhnoi for the period between




1990 and 1997. In the pleading more particularly in the rejoinder the applicant has narrated in detail about the period of service rendered as casual labour under the Department. The applicant referred to the certificates issued by the Department under whom he worked as casual labour. The applicant more specifically stated that more than 12 months he worked under SDOT and the applicant was drawing monthly salary of Rs. 700/- through ACG 17 vouchers every month. He also asserted that even persons who joined later and worked as casual labour were regularised by the Department.

2. The respondents in the written statement denied the assertion. When the matter came up for hearing Mr. D.P.Chaliha, learned Senior counsel for the applicant in addition to the materials submitted earlier also placed some original documents including certificate issued by the concerned officers. In support of that the applicant worked more than 240 days during the period from 1990 to 1997. The applicant also submitted a representation. By order dated 20.12.2000 his representation was turned down on the basis of the report of the verification committee. By order dated 20.12.2000 it was intimated that as the applicant did not complete 240 days in any preceeding years and he was not in service as on 01.08.1998. Admittedly the said certificates were issued by the concerned officer though at the time of hearing the respondents referred to a counter certificate submitted by A.K.Saha, Sub Divisional Engineer where he stated that the certificate issued earlier was made on the basis of certificate given by the concerned Lineman. Certificate given by a lineman which was duly countersigned by the officer cannot be subsequently disowned unless the contents of the same is incorrect. Be that as it may, in my view the matter requires reconsideration on the basis of the material on record including records of ACG, Muster Roll and other available materials

relating to the service rendered by the applicant.

3. In the circumstances stated above, I am of the view ends of justice will be met if a direction is given to the applicant to make a fresh representation narrating all the facts to the Chief General Manager Telecom within two weeks from today. If such representation is made within the aforesaid period the Chief General Manager Telecom shall cause enquiry as to the assertion made by the applicant. In the enquiry the applicant may also produce the materials available with him in support of his claim. The respondents are accordingly directed to cause an effective enquiry as to whether the applicant could be conferred temporary status as per the Scheme on the basis of the available materials and pass a reasoned order within a period of three months from the date of receipt of such representation of the applicant. This direction has issued in the light of the decision of O.A. NO. 17 of 1998 and series.

The application is allowed to the extent indicated above. There shall however, no order as to costs.

  
(D.N. CHOWDHURY)  
Vice-Chairman

trd

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI  
BENCH AT GUWAHATI.

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

O.A. No. 113 of 2001.

Shri Madan Lal Chauhan ... Applicant

-VRS-

The Union of India & Ors ... Respondents.

I N D E X

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Filed by:-

M. C. SARMA.

Advocate.



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*Sri Madan Lal Chauhan*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::::  
GAUHATI BENCH AT GUWAHATI.

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

O.A. No. 113/2001.

BETWEEN

Sri Madan Lal Chauhan  
Son of Shri Ramdhari Chauhan,  
resident of Village Tokercharra and  
Post Office Golokganj, District - Dhubri  
at present residing at

.... Applicant.

-VRS-

1. The Union of India through the Chairman  
and Managing Director, Bharat Sanchar  
Nigam Ltd., New Delhi.
2. The Chief General Manager, Assam  
Telecom Circle, Guwahati.
3. The District Telecom Manager, BSNL,  
Bongaigaon.
4. The Sub-Divisional Engineer (HRD)  
B.S.N.L., Office of the Telecom District  
Manager, B.S.N.L., Bongaigaon.

.... Respondents.

DETAILS OF THE APPLICATION

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

The humble petitioner challenges the impugned orders No.E.75/Pt&CM/CAT Case/2000-2001/43 dated 20.12.2000 issued by the Sub-Divisional Manager, Bongaigaon-786380. This order conveys the illegal and wrong order of the Telecom District and Sub-Divisional authorities terminating the temporary status of the applicant as Temporary Mazdoor, allegedly on account of the applicant not completing 240 days as casual labourer inspite of the fact that during the last eight years from 1990 to 1997 the applicant had more than adequate continuous service. A perusal of the documents and certificates enclosed with this application will enable the Hon'ble Tribunal to appreciate the truth of the matters.

A copy of the impugned letter dated 20.12.2000 is enclosed herewith as ANNEXURE-A.

2. LIMITATION :-

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

3. JURISDICTION :-

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

4. FACTS OF THE CASE :-

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

(b) That the applicant was enrolled as a casual labourer under Bongaigaon Sub-Division of the Telecommunication Department of the Govt. of India (now known as BSNL) in January, 1990 and worked in Bongaigaon, Dhaligaon, Bijni, Abhayapuri, Barpeta, Jogighopa, Goalpara and Dudhnoi during the years 1990 to 1993. As per the certificate of the controlling Officer, the conduct of the applicant was found satisfactory.

A copy of the said certificate is enclosed herewith as ANNEXURE-B.

(c) That the applicant rendered continuous service of more than one year during the years 1990 to 1998 out of which he was engaged on work for a period of more than 240 days. That as such he qualified clearly to be declared as Casual Mazdoor as per the scheme of regularisation of Casual labourers. During the 13 months period from May, 1993 to June, 1994 the applicant worked as casual labourers continuously in Dhubri, Gauripur, Tamahat, Sopalgram, Tipkai and Bansbari. As per certificate issued by the concerned official, the applicant's conduct was found satisfactory.

A copy of the certificate is enclosed herewith as ANNEXURE-C.

Sri Madanlal Chatterjee

(d) That the applicant was engaged as casual labourer under Bongaigaon Telecom Sub-Division for various periods in the years 1994 to 1997 and as per certificate issued by the respective officials his service was found satisfactory.

Copies of the certificates are enclosed herewith as ANNEXURES-C1, C2, C3 and C4.

(e) That under a scheme known as "Casual Labourers (grant of temporary status and Regulation) Scheme" circulated vide Govt. of India, Department of Telecommunications letter No. 269-10/89/STN dated 7.11.89, temporary status was granted to all casual labourers who rendered continuous service of at least one year, out of which they must have been engaged in work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers were designated as temporary Mazdoor.

A copy of the scheme circulated vide Govt. of India, Ministry of Communication letter dated 7.11.89 is enclosed hereto and marked as ANNEXURE-D.

(f) That vide letter No. 269-4/93-STN II dated 17.12.93 the scheme of regularisation was made applicable to casual Mazdoors of the Telecommunications department for those casual labourers who were engaged by the department during the period 31.3.85 to 22.6.88 and who were still continuing to work for such works where they

Contd.....5

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Sri Madental Choudhary

were initially engaged and who were not absent for last more than 365 days.

A copy of the letter No.269-4/935 STN II dt. 17.12.93 is enclosed hereto and marked as ANNEXURE-E.

(g) That the scheme mentioned in paragraphs (2) and (4) was in response to the observations made at directives issued by the Hon'ble Supreme Court in Writ Petition No.1280 of 1989, 1246 and 1248 of 1986 and 176, 177 and 1248 of 1989. The petitioner humbly submits that the scheme envisaged by the Hon'ble Apex Court applies <sup>mutatis</sup> ~~mutatis~~ <sup>mutatis</sup> ~~mutatis~~ to the case of the applicant.

A COPY OF THE SAID judgment of the Hon'ble Supreme Court is enclosed herewith as ANNEXURE-F.

(h) That a matter of a similar nature came up for adjudication in Hon'ble Central Administrative Tribunal, Guwahati's Original Application No.299 of 1996 and the Hon'ble Tribunal was pleased to direct the Telecom Department authorities to regularise the services of similarly placed casual labourers by granting them temporary status and regularisation.

A copy of the said orders of the Hon'ble Tribunal is enclosed herewith as ANNEXURE-G.

(i) That in view of the decisions of the Apex Court and of the Hon'ble Central Administrative Tribunal,

Sri Madanlal Chatterjee

Guwahati aforementioned, the applicant begs to claim that the Telecom authorities should grant temporary status to the applicant as he satisfied all the criteria of the scheme. Thus the applicant was employed continuously for more than one year as a casual Mazdoor and was engaged ~~as~~ work as such casual labourere for a period of 240 days in the years 1990-1997 and ~~had~~ had qualified for grant of temporary status and regularisation under the scheme drawn by the Ministry of Telecommunications, Govt. of India. That his case for regularisation was refused on the mistaken notion that he did not render a continuous service of at least one year. The applicant not only had rendered continuous service of one year, he was also engaged on work for a period of 240 days. The applicant regrets to state that the verification Committee of the Telecom Department of Bongaigaon Telecom District did not carefully scrutinise the records and committed a mistake of fact in overlooking the claim of the applicant for temporary status. Had the said Committee applied their mind and scrutinised all the records and called for the records available with the applicant they would have been convinced that the claim made by the applicant was just and fair.

Sri Madanlal Choudhary

(g) That the applicant states that he has spent the most productive and precious period of his youth in the uncertain and risky enterprise as a casual labourer without even temporary status for many years only with the hope that in future he will be

bestowed with temporary status and settle down in life. However, the impugned order has come as a bolt from the blue and has caused him mental disturbance arising out of an uncertain future.

(k) That the applicant sees hope that the Hon'ble Tribunal will be gracious enough to see the justice and equity in the case of the applicant and would be kind enough to apply the consideration shown by the Tribunal in O.A. No. 299 of 1996 to the present case of the applicant.

*Sri Madan Lal Choudhary*

5. GROUND S WITH LEGAL PROVISIONS:-

a) That the applicant is a casual labourer of the Telecommunications department of the Govt. of India (Now Bharat Sanchar Nigam Ltd.) and has worked continuously for more than one year and was engaged as casual labourer for a period of 240 days during the years 1990 to 1997.

b) That during the years 1990 to 1997 the applicant rendered continuous service as casual labourer for a period of more than 13(thirteen) months from May, 1993 to June, 1994. During this period the applicant was also engaged as casual labourer for more than 240 days.

c) That under a scheme known as "Casual labourers (grant of temporary status and Regularisation) Scheme" temporary status was granted to all casual labourers satisfying the conditions mentioned in paragraph 5(b) above and employed as such upto 22.6.88. Such casual

labourers were designated as temporary Mazdoor and were entitled to certain rights and privileges as mentioned in Annexure-D of this application.

d) That this Hon'ble Tribunal was pleased to direct in their judgment dated 13.8.97 on O.A. No.299 of 1996 the Telecom authorities to regularise the services of casual labourers similarly placed by granting them temporary status. It is the prayer of the applicant that the Hon'ble Tribunal be pleased to issue a similar direction in the case of the applicant as he was satisfied the conditions required by the Telecom Department for the same. The applicant had not only rendered continuous service of one year but was also engaged as casual labourer for more than 240 days.

e) That the departmental verification committee of the Bongaigaon Telecommunications Deptt did not carefully scrutinise the records of service by applying its mind, the applicant's claim for designating him as temporary Mazdoor was overlooked ~~on~~ the mistaken ground that he did not qualify for the same due to alleged absence of adequate continuous service or on the wrong premise that he was not engaged as casual labourer for more than 240 days.

f) That the applicant claims that he is fully qualified to be designated as Temporary Mazdoor if the records of service of the applicant is properly scrutinised by the authorities. That if he is designated as a temporary Mazdoor, he will be entitled to the rights and privileges of such a Mazdoor as

Sri Madhukul Chakraborty



detailed in the "casual labourers (grant of Temporary status and Regularisation) Scheme" of the Govt. of India circular No.1 circulated through Department of Telecommunications's letter No.269-10/89/STN dated 7.11.1989.

6. DETAILS OF REMEDIES EXHAUSTED:-

That the applicant has personally represented to his superiors with request to consider and treat him as a temporary Mazdoor as per Govt. circular but has not been able to draw ~~any~~ any sympathetic consideration on the plea that the matter was dealt with as per the departmental verification Committee's observations. Moreover, the impugned order ~~had~~ such a peremptory tone of finality that the petitioner is left with no alternative remedy within the department concerned.

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

The applicant declares that no similar application on this matter is pending in any forum or that no suit or proceeding is pending.

8. RELIEF SOUGHT FOR:-

That the impugned order is liable to be set aside and quashed. The Hon'ble Tribunal may kindly direct the BSNL to treat the applicant as a temporary Mazdoor with the following benefits:-

a) Wages at daily rates with reference to the minimum of the pay scale of regular group D officials including D.A. HRA and CCA.

b) 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

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Sri Madhental Chaudhary

18  
Sri Madhulal Choudhary

- 10 -

in a year (206 days in administrative offices observing 5 days week);

c) Leave entitlement will be on a pro-rata basis one day for every 10 days of work, with right to carry forward the leave at their credit on regularisation.

d) 50% of the service rendered in temporary status will be counted for retirement benefit after regularisation.

e) Productivity linked bonus at rates applicable to casual labourers;

f) Other benefit as per scheme of the Government.

9. INTERIM ORDER SOUGHT FOR:-

The applicant has not prayed for any interim order for the present. He may however, be allowed to renew his prayer during the pendency of the application.

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

1. I.P.O. No.
2. Date -
3. Payable at Guwahati.

11. LIST OF DOCUMENTS:-

As stated in the Index.

Verification.....

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

I, Madan Lal Chauhan, Son of Shri Ramdhari Chauhan, resident of Village Tokercharra and Post Office Golokganj, District Dhubri, Assam, at present residing at *South Tokercharra, Golokganj, Dhubri.* do hereby verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6 and 7 are true to my knowledge and belief and that I have not suppressed any material facts.

And I sign this verification on this the day of February, 2001 at Guwahati.

Place : Guwahati

Date : 16/3/2001.

*Sri Madan Lal Chauhan*  
Signature.

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ANNEXURE-A

BHARAT SANCHAR NIGAM LIMITED  
(A GOVERNMENT OF INDIA ENTERPRISE)

OFFICE OF THE TELECOM DISTRICT MANAGER BONGAIGAON

Memo No. E-75/PT&CM/CAT case/2000-2001/43 dt. 20.12.2000.

To,

Sri Madan Lal Chouhan,  
S/o Sri Ramdhari Chouhan  
Vill. S. Tokrerchhara,  
P.O. Golokganj, Dist. Dhubri.

Sub:- Disposal of representations of casual Labourers.

Ref:- CGMT/GH's letter No. ESTT-9/12/PT/KTD/34 dtd. 9.11.2000.

With reference to the above, I am directed to dispose off your representation on the basis of findings of the verification committee set up in the office of the telecom District Manager, Bongaigaon for making detailed scrutiny and examination of the records of casual labourers in Bongaigaon SSA, with a view to grant temporary status to the eligible casual labourers.

The committee has examined your representation in accordance with the relevant rules and orders governing the case of casual labourers of the Department and did not recommend your case for granting TSM.

Accordingly, it is to intimate you that your representation can not be granted as you have not completed 240 days in any proceeding years, and you are not in service as on 01.08.1998.

Sd/- Illegible,  
20.12.2K  
( P.C. SARKAR)  
Sub-Divisional Engineer(HRO),  
B.S.N.L.  
O/O the Telecom District Manager,  
Bongaigaon-783 380.

Copy forwarded for information Necessary action to:-

01. The Asstt. General Manager(Admn) O/O the CGMT/Gh-7
- 02 to 06. The SDOT/BPRO/NBR/DU/KKJ/BGN.
07. THE SDE(C-DOT), Nalbari.

Sd/- Illegible,

ANNEXURE-BTO WHOM IT MAY CONCERN

This is to certify that Sri Madan Lal Chouhan  
S/o Sri Ramdhari Chowhan of Village South Tokrerchara  
Pt.IV P.O. Golokganj, P.S. Golokganj in the District of  
Dhubri (Assam) worked with me as M/R nad ACC 17 voucher  
from June/90 as casual Mazdoor under sub-Division,  
Bongaigaon worked at Bongaigaon Dhaligaon, Bijni,  
Abhayapuri, Barpeta, Jagighopa, Goalpara and Dudhnoi.

His conduct was found satisfactory during his  
job period. His progressing report has given below:-

I wish him all success in his life.

1. January/90	ACC - 17	25 days
2. Feb/90	ACC - 17	25 "
3. March/90	ACC-17	25 "
4. April/90--M/R No.CA 16299/96 W/No.2/90-91	ACC-17	26 "
5. May/90 M/R CA 16299/9 W/No.5/90-91	ACC - 17	25 "
6. June/90 M/R C.A. 16299/11 W/No.7/90-91	ACC - 17	26 "
7. July/90 Cable work at Bijni	ACC - 17	28 "
8. Aug/90 M/R C.A. 16299/17 W/No.90-91/13	ACC - 17	25 "
9. Sept/90 Digging Cable work at Goalpara	ACC - 17	25 "
10. Oc/90 Digging work at Agia Road	ACC - 17	28 "
11. Nov/90 Digging work at Goalpara	ACC - 17	15 "
12. Dec/90 Cable work at Agiaroad & Goalpara	ACC - 17	18 "
13. Feb/91 Cable work at Abhayapuri	ACC - 17	19 "
14. March/91 Cable work and weir desboundle work at Dudhnoi	ACC - 17	18 "
15. April/91 M/R No.CA 449/5 W/No.17/91-92	ACC -	25 "
16. May/91 Digging work at Dhaligaon	ACC - 17	21 "
17. July/92 Cable work at Barpeta Road	ACC - 17	15 "
18. Aug/92 D.P. & Cable work at Barpeta	ACC - 17	15 "
19. Sept/92 Cable work at Pathsala	ACC - 17	16 "
20. Oct/92 D.P.& Cable Joint work at Bongaigaon "		18 "

Contd....2

-2-

21. Nov/92 Cable & D.P. work at BGN	ACC - 17	14 days
22. Dec/92 Cable work at BGN	ACC - 17	20 "
23. January/93 D.P. & Cable work at BGN	ACC - 17	19 "
24. Feb/93 D.P. & Cable work at BGN	ACC - 17	13 "
25. March/93 D.P. & Cable work at BGN	ACC - 17	18 "
26. April/93 New Line Connection work	ACC - 17	15 "
Cable at Bongaigaon	ACC - 17	15 "

Sd/- P. Chakraborty,

02.7.91  
Bongaigaon.

ANNEXURE-C

To whom it may concern

This is to certify that Sri Madan Lal chouhan S/O. Ramdhari Chouhan of Vill. Golak ganjin district of Dhubri (Assam) work with me as ACC 17 voucher from the date May ,93 to June ,94 as a usual Mazdoor in the telecommunication Deptt. during time of construction work of new lines under Dhubri Sub-Division. Worked at Dhubri Gauripur Tamahat Sapatgram. Tipkai and Basbari.

His conduct was found satisfactory during his job period.

I wish him all success in his life.

Sd/- Anandlal Patel

ANNEXURE-C1

To whom it may concern

This is to certify that Sri Madan Lal Chouhan S/o Ramdhari Chouhan of Vill. S. Tokercharra, P.O. - Golokganj, P.S. Golokganj in the district of Dhubri, (Assam) work with me as ACG 17 voucher from the date Dec'94 to July'95 as a casual Mazdoor in the Telecommunication Dept., during time of construction work of new lines under Dhubri Sub-Division, worked at Golokganj Agomoni, Basbari, Bagribari.

His conduct was found satisfactory during his job period.

I wish him all success in his life.

Countersigned

Sk. Amruddiz  
S.i G.K.J.

Sd/- Illegible,

27.11.95

Junior Telecom Officer(Group)

Dhubri-785301



To whom it may concern

This is to certify that Sri Madan Lal Chauhan S/o Sri Ramdhari Chouhan of Vill. South Tokrerchara Pt-V, P.O. Golokganj, P.S. Golokganj in the District of Dhubri (Assam) work with me as ACG 17 voucher from the date August'95 to July'96 as a casual Mazdoor in the Telecommunication Deptt., during time of construction work of Cable under Dhubri Sub-Division.

His conduct was found satisfactory during his job period.

I wish him all success in his life.

Sd/- J.N. Jhads

Dhubri.

ANNEXURE-C3

DEPARTMENT OF TELECOMMUNICATION

To,

The S.D.O. Telegraphs,  
Dhubri.

No. S-13/SDE/GP/96-97

Dated 14.3.97.

Subject : Nuts & bolts for 8 Nos of  
MARR Towers for SDOT/Dhubri.

As per your written requisition the following  
stores are given to you for kind disposal to your staff  
Sri Madan Lal Choudhury C.M. under SDOT/Dhubri.

8 Nos of Nalt & bolts for MARR tower 2 bags(Two).

Sd/- Illegible,

14.3.97

Sub-Divisional Engineer Phones

Goalpara-783101.

ANNEXURE-44

CHALLANS

Dept. of Telecom

To whom it may concern

This is to certify that Sri Madanlal Chouhan Telephone exchange of Mankachar who is carrying 10(ten) Nos of New P. Batton Telephone from Dhubri to Mankachar for new exn purpose under Mankachar Telephone Xge.

Signature of Sri Madanlal

Chouhan is attested herewith.

Sd/- Madanlal Chouhan  
25.10.97

Sd/- Illegible,

25.10.97

Junior Telecom Officer  
(Group) Dhubri.

11/11/89

ANNEXURE-~~1~~ 4.D.

(17)

CIRCULAR NO. 1  
GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
31.10.89  
STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles  
Copy to. M.T.H.I New Delhi/Bombay, Metro Dist.Madras/  
Calcutta.

P.S. to Heads of all other Administrative Units.

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

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

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

3. In this connection, your kind attention is invited to letter No.270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be re-trenched. These instructions were reiterated in D.O letters No.270-6/84-STN dated 22.4.87 and 22.5.87 from member(pers.and Secretary of the telecom Department) respectively. According to the instructions subsequently issued vide this office letter No.270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrifications 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

29  
17/17

SMF/78/98 dated 27.9.89.

ANNEXURE

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

sd/ Assistant Director General (STN)

2. This order is issued with effect from 1.10.89.

Copy to. P.S. to MDS (C).

4. P.S. to Chairman Commission.

A) 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.

Labourers fulfilling the conditions of casual labourers as prescribed in the rules.

rendered eligible for casual labour.

Against the casual labourers.

Attested.

Advocate.

are NOT available.

B) Till regular Group 3 labourers are available to absorb all the casual labourers.

casual labourers will be absorbed as far as possible.

the details given below.

Temporary Status:

i) Temporary status will be conferred on all the casual labourers currently employed in the service at least until they are engaged on full time work.

officers observing the casual labourers designated as temporary.

ii) Such conferment of temporary status would be without prejudice to the creation of regular posts.

iii) Conferment of temporary status on casual labourers would not involve any change in their responsibilities.

engagement will be on daily basis.

be deployed as and when required.

circles on the basis of their unit/territorial.

iv) Such casual labourers will be brought on to the regular posts and selected through regular recruitment.

ANNEXURE

6. Temporary Status for CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

i) Name of the scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication. 1989".

ii) This scheme is applicable to the casual labourers employed by the Department of Telecommunications. They will not be admissible. The provisions in the scheme would be as under:-  
iii) 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.

(11/11) 2

ANNEXURE-1 B.D.

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.

vii) No benefits other than the specified above, will be admissible to casual labourers with temporary status and Electricity connection etc.

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

ix) If a labourer with temporary status commits 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.

x) 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. The officer under the Department/ non reference.

@@@

3.3. The scheme should be granted this office.

4. The reference of Member

6. These are the members of the Committee of Members  
(Finance & Accounts) for the year 1993-94. ANNEXURE-3. E

NO. 269-4/93 STN II  
GOVERNMENT OF INDIA.  
DEPARTMENT OF TELECOMMUNICATIONS  
STN SECTION.

Dated New Delhi 17, Dec. 1993.

Copy to :-

1. All Heads of Telecom Circles/Metro Telecom Distt.
  2. All Heads of other Administrative Offices.
  3. All Heads of Ntce Regions/Project Circles.
  4. SPT-I Section of Telecom Deptt.
- Subj: Casual Labourers (Grant of Temporary Status and NO (FC) Regularisation) Scheme, 1989 engaged in circles forwarded for after 30.3.85 and up to 22.06.88.

1-2. The matter is referred to the concerned circles for their consideration.

Sir, I am directed to refer to this office order no 269-4/93-STN dated 25th 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.

1. The matter is referred to the concerned service unions.

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 than 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.



(18) 37

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.

CASUAL LABOUR  
SCHEME.

Yours faithfully.

(S.K.Dhawan)

Asstt. Director General (STN.)

NO.66-5740-1-94

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 car 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.

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

NO.66-52/92-SPB/I

dated 1.11.'95.

No.

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

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

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

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

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Quarter dated 30.6.85  
action be initiated.

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6. It is also the duty of the Bureau to see that the issue of liability to the Government for the receipt and suit of the Government of the House of Representatives is paid to the amount paid to the Government recovered from the Government in violation of the law.

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In the Supreme Court of India who  
Civil Original Jurisdiction. The Telecom  
Writ Petition (C) No 1280 of 1989. The writ  
Ram Gopal & ors. .... Respondents.  
Petitioners. time of

-versus-

Union of India & ors ..... Respondents.  
With (Singh) J.  
Writ Petition Nos 1246, 1248 of 1986 176, 177 and 1248 of 1988  
Jant Singh & ors etc. etc. .... Petitioners.

-versus-

Union of India & ors. .... Respondents.

### ORDER

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

The principal allegation in these petitions under 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 than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 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".

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

Sd/-

( Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

( Kuldeep Singh) J.

1990.

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ANNEXURE - # 4

prayed for a direct order in the matter of the benefits which are being offered to the Postal Department in the Postal Department.

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH**

1. D.A. No. 299 of 1996 of India Telecom Employees Union Original Application No. 299 of 1996: e. Guwahati, represented by the Union and also by Shri Uden Pradhan, a member of 302 of 1996.

Engineer, Date of order : This the 13th day of August, 1997, by the Union and also by Justice Shri D.N. Baruah, Vice-Chairman.

The applicant D.A. No. 299 of 1996

the original application to the original All India Telecom Employees Union,

Online Staff and Group-D,

2. Assam Circle, Guwahati & Others. Applicants.

of Telecom and Versus Union of India & Ors. Respondents.

Postal Department under D.A. No. 302 of 1996.

All India Telecom Employees Union, Online Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

labourers. However, Versus Union of India & Ors. Respondents.

Advocate for the applicants, Shri B.K. Sharma

Advocate for the respondents, Shri S. Sharma

Advocate for the respondents, Shri A.K. Choudhury

labourers employed under Addl. C.S.S.C. Union of India & Ors. reported in (1996) in the department to prepare a scheme for absorption of the labourers.

**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 benefits, which are being given to their counter parts working in the Postal Department. The facts of the cases are: Telecommunication

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 Anil Kumar 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 all 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 core 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 applicant stated that pursuant to the judgment of the Apex Court in daily rated casual letter 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 benefits

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 the 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.

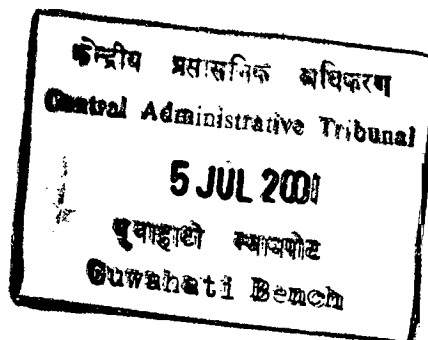
3. O.A.299/96 is also of similar facts. The grievances of the applicants are also same.

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 discision 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.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 113 OF 2001

Shri Madanlal Chouhan

- Vs -

Union of India & Others.

- And -

In the matter of :

Written Statement submitted by the  
respondents

The respondents beg to submit the written  
statement as follows :

1. That with regard to para 1, the respondents beg to state that the order No. E-75/PT & CM/CAT Case/2000-2001/43 dated 20.12.2000 ( Annexure 'A' to the OA ) was passed by the office of the TDM, Bongaigaon in compliance to the common judgement and order dated 31.08.99 passed by the Hon'ble Tribunal in a host of cases. The order was passed after due application of mind to the fact and materials of the case particularly those brought out by the verification committee specially set up to examine the engagement particulars of the applicants/casual mazdoors on the basis of authentic records .

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

3. That with regard to para 4(b), the respondents beg to state that the respondents completely deny the averment made in para 4(b). The applicant was not engaged for any work of the Department during 1990 to 1993. The Certificate (Annexure B) issued by Shri P. Chakraborty, J.T.O.(Retd.) is factually wrong and incorrect. That the contents of the certificates is utterly false is evident from the fact that the certificate which is shown to have been signed and issued on 02.07.1991 contains information about the engagement up to April' 1993. More-over Shri Chakraborty JTO never worked at Borpeta, Pathsala or Dudhnoi and he has never conduct any field works at these places.

4. That with regard to para 4(c), the respondents beg to state that the respondents deny the statement made in para 4(c) so much so that the applicant was not engaged for any work during the period from May 1993 to June 1994.

The Annexure 'C' certificate issued by Shri Anandlal Patel SI Dhubri (Retd.) and countersigned by Shri A.K. Saha, JTO is false. Shri A.K. Saha, presently working as SDE has admitted in writing that he had countersigned the certificate without verifying the correctness. He has asserted that the applicant did not work as casual labourer during the period.

A copy of the written statement of Shri A.K. Saha is furnished at Annexure - R1 .

5. That with regard to para 4(d), the respondents beg to deny the averment made in para 4(b) and also to add that the applicant was not engaged as casual labourer during the period from 1994 to 1997. (The certificate as Annexure

35- 43

The certificate as Annexure C<sub>1</sub> , C<sub>2</sub>, C<sub>3</sub> and C<sub>4</sub> issued by lowest level field workers are false, fabricated and factually incorrect. Shri Amiruddin, IM has admitted in writing that the certificate signed by him is totally false and fake. Similarly the Annexure 'C' certificate signed by Shri J.N. Jha, Cable Splicer, Dhubri is obviously false as a cable splicer in no circumstances can employ a casual labourer to assist him continuously for about 1(one) year.

Annexure C<sub>3</sub> and C<sub>4</sub> are challans for transportations of Departmental Stores from stores to work site. The stores are transported by carriage contract and the challan is issued in favour of the person engaged by carriage contractor. That the challan bear the name of the applicant does not show that he was a casual <sup>labourer</sup> of the relevant period.

The applicant is the son of a Departmental IM named Shri Randhari Chouhan. With the active connivance of his father and some other line staff, the applicant had managed to do some odd works like arranging transportation of Departmental stores from one place to another on contract basis at short notice and urgent situation when the approved carriage contractor is not available.

6. That with regard to para 4(e), the respondents beg to state that according to the provision of the scheme, the casual labourers of the Department who have put in continuous 240 days duty in a year are granted Temporary Status followed by regularization.

As the applicant has not completed the required length of casual service in any year he is not entitled for the benefit of the scheme.

7. That with regard to para 4(f), the respondents beg to state that the Department of Telecom on its own extended the benefit of the scheme to all the casual labourers engaged up to 22.06.88 provided they have completed 240 days in a year.

The applicant is not entitled for the benefit of the scheme even after the extension of the cut off date as he was never engaged as casual labourers.

8. That with regard to para 4(g), the respondents beg to state that pursuant to the judgement delivered by the Hon'ble Supreme Court of India, the Deptt. of Telecom prepared a scheme in 1989 for regularisation of all casual labourers who have put in at least 240 days casual service in year. The scheme is known as casual labourers ( Grant of Temporary Status and regularisation ) Scheme, 1989 and come into effect on 01.10.1989.

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

The Deptt. has imposed a complete ban on engagement of casual labourers w.e.f. 22.6.88 and restraining order was issued to all filed units for strict adherence.

The Department of Telecom has addressed the situation on humanitarian ground and as an one time relaxation it has been decided that all casual labourers on engagement as on 1.8.98 and have completed at least 240 days should be granted Temporary Status followed by regularisation. ~~in the~~

In the process the DOT has liberalized the scheme and advanced the cut off date to 01.08.1998.

9. That with regard to para 4(h), the respondents beg to state that the O.A. No. 299/96 and 302/96 was aimed at to remove the disparity in the cut off date between the Postal Scheme and Telecom Scheme. In the relevant period of time the Postal Scheme was designed to accommodate all casual labourers engaged up to and eligible as on 10.9.93 while the Telecom scheme covered the casual labourers engaged up to eligible on 01.10.1989. Now that the provision of the Telecom scheme has been liberalised to cover all the casual labourers working as on 1.8.98 and have put in at least 240 days in a year. The Telecom scheme turned out to be more liberal and beneficial. In the changed situation reference to Postal Scheme or the O.A. No. 299/96 is not in the interest of the casual labourers of Telecom Department.

The Respondent Department has filed W.P. before the Hon'ble High Court Guwahati in the judgement and order dated 13.8.97 passed by the Hon'ble Tribunal. The same is still pending before the High Court. In view of the liberalization and relaxation granted by the Department of Telecom. The Writ petition/OAs have lost the significance and the Respondent Deptt. has granted more than what was prayed for in the OAs.

The Respondent Deptt. contested the O.A. No. 114/98 by filling the written statement of defence through which the Deptt. made a humble effort to present a clear picture of the case. After hearing both sides, the Hon'ble Tribunal was please to issue the common judgement and order

dated 31.8.99. The Respondent Deptt. has acted sincerely to comply with the orders. There is no let up in implementation of the Hon'ble Tribunal order.

10. That with regard to para 4(i), the respondents beg to state that the respondent no.2 set up separate verification committees for each SSA comprising of one DE, one SDE and one AO to Scrutinize the Departmental records to work out the engagement particulars and assess the eligibility for grant of Temporary Status to casual labourers. The casual labourers/claimant was also given an opportunity to present their case before the committee to establish their claim with information/records which may be available with them.

The committee set up for Bongaigaon examined the paid vouchers, Muster Roll and other authentic records. After detailed and thorough examination of the records the committee arrived at their findings that the applicant has not put in duty for 240 days in any year and that is not entitled for the benefit of the Departmental scheme.

11. That with regard to para 4(j), the respondents beg to state that the applicant has not put in duty as casual labourer of the Department for sufficient period to deserved the benefit of the scheme.

The order dated 20.12.2000 under attack, was issued after thorough examination of the case by a specially set up committee. The order is a fair and correct one.

12. That with regard to para 4(k), the respondents beg to state that the routine operation and maintenance of the Telecom Service are attended by Departmental regular employees of appropriate cadre. In case of any sudden spurt of activities

or for special maintenance drive, mazdoors are engaged on daily rated basis to assist the regular employees. Such casual engagement of mazdoors are necessitated by unusual situation and is of purely casual and intermittent in nature. When the special occasion disappear or the specific work for which the labour was engaged comes to end, there is no further need for continuous engagement of the labour. The mazdoor so engaged on day to day basis for very small duration are paid the remuneration at the end of the days work.

13. That with regard to para 5, the respondents beg to state that no relief can be granted to the applicant as his case has not been covered by any provision of rules/scheme of the department. The application is therefore liable to be dismissed.

Verification.....

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

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

And I sign this verification on this 3rd th day of July, 2001.

Ganesh Ch. Sarma  
Declarant



R.  
- 41 -

I have countersigned as a J.T.O. Dhubri on the certificate issued by Late Anandalal Patel, LM Dhubri regarding working from May '93 to June '94 by Sri Madan Lal Chouhan, S/O Ramdharl Chouhan, of Golokganj. But practically I was not knowing about the above working particulars of Sri Madan Lal Chouhan. As Lineman has given certificate so I have countersigned on the certificate.

Actually the certificate issued is false. Sri madan lal Chouhan did not work as a casual labour from May '93 to June '94.

*Handwritten:*  
29/4/2001

*Accounts Officer*  
J. S. P.

*Sub-Divisional Engineer*

*(A. K. Saha)*  
Sub-Divisional Engineer (C-DOT),  
Sub-Divisional Engineer (C-DOT),  
O/O the D.E., Dhubri.  
Dhubri - 786001

42 9

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI BENCH

GUWAHATI

O.A. NO. 113 OF 2001

Sri Madan Lal Chauhan

-Vs-

The Union of India and others.

-AND-

In the matter of <sup>submitted by</sup> reply ~~admitted~~ by the  
applicant to the Written Statement made by  
by the respondents.

The applicants begs to submit the Parawise reply  
to the Written Statement as follows :-

- 1) The applicant disagrees with the remarks made in para 1 of the Written Statement and begs to emphasise that the impugned order dated 20-12-2000 was passed by the office of the .T.D.M. ,Bongaigaon without consulting the complete records available as can be seen from the material which will be adduced in connection with replies to paragraphs of the Written reply below will prove beyond doubt that the order dated 20-12-2000 was passed without due application of mind.
- 2) That with regard to para 3 of the Written Statement the applicant begs to state that he is in possession of

contd....2

clear & proof of his engagement as casual labour under  
D.T.O., Bongaigaon in Bongaigaon, Dhaligaon, Bijni, Abhay<sup>a</sup>puri,  
Barpeta, Jogighopa, Goalpara and Dudhnoi. The certificate  
signed by Shri P. Chakraborty, the J.T.O. is clearly signed  
by him on the seal of the office of the D.T.O. Bongaigaon.  
It is true that due to typographical error the annexure B  
to the O.A. was dated 2-7-91. However the original contained  
the date 2-7-91 for engagement of the applicant into May 1991  
and contained the date ~~30-11-93~~ 30-4-93 for the applicant's  
engagement as casual labour (engagement under ACG 17 Voucher)  
for period from July '92 upto April, 1993. ~~Rm~~ This will be  
clear from perusal of a photostate copy of the said Annexure-B  
enclosed herewith.

The applicant seeks the permission of the Hon'ble  
Tribunal to produce the original at the time of hearing  
of the same is considered necessary.

In this connection the applicant begs to state that  
Shri Chakraborty was a high and gazetted official of the  
Department and could not be expected to sign the certificate  
if he was not satisfied about correctness of its contents.  
The applicant also begs to state that he had indeed ~~worked~~  
under him, though as an humble casual worker and the  
contention of the respondents that Shri Chakraborty never  
worked under Bongaigaon D.T.O. can be only taken as a  
desperate effort to avoid the responsibility arising out

contd....3

of the certificate issued by Shri Chakraborty. The applicant begs to put the respondent to strict proof of the contention by production of original records of deployment of Shri Chakraborty during all this relevant period.

3) That with regard to the statement made by the respondents in para 4 of the Written Statement, the applicant begs to state that the contention of the respondent is evasive and misleading. It is not understood how a responsible and high official of the status of Junior Telecom Officer can countersign a false certificate. By doing so he would be falsifying an important official record and open himself to severe disciplinary action. It is to be noted that the said official Shri A.K. Saha has in the meantime been promoted as Sub-Divisional Engineer and it would be nothing less than a paradox that he has been promoted despite his admittedly serious fault of falsification of official records which the respondents are at pains to prove in this case. The applicant begs to state that the remarks of the respondents in this regard are made in order to ~~maximise~~ avoid the issue of regularisation of the applicant as the certificate in question unquestionably entitles him to .

Moreover, the applicant begs to state that the respondents <sup>have</sup> ~~leave~~ probably obtained the statement from Shri Saha (Annexure R), of present Sub-Divisional

45-

Engineer under DET Dhubri under duress... as he is still a serving officer and hence may not have any <sup>alt</sup> alternative but to sign the certificate for obvious reasons. However in case the respondents still persist in this contention the applicant begs to put the respondents to strict proof as to what action they have taken ~~in~~ as Shri Saha for this alleged official misdemeanour.

4) That with regard to the statement made by respondents in para 5 of the Written Statement, the applicant begs to state that he has clear proof of his engagement as casual labour. The certificate enclosed as Annexure-C to the application is correct as the same is signed by an official of the <sup>rank</sup> ~~name~~ of supervisor (S.I. Golakganj) and is countersigned by a gazetted officer of the ~~name~~ <sup>rank</sup> of Junior Telecom Officer (Group), Dhubri. The ~~original~~ original certificate is in possession of the applicant and it is prayed that he be permitted to ~~produce~~ produce the same before the Hon'ble Tribunal at the time of hearing to <sup>prove</sup> ~~beyond~~ doubt that the contention of the respondent made in this regard is indefensible and is <sup>made</sup> ~~well~~ to avoid responsibility to regularise the service of the applicant as per prevailing instructions of the Government.

It is further submitted that the certificate submitted by the applicant as Annexure-C<sub>1</sub>, C<sub>2</sub>, C<sub>3</sub> and C<sub>4</sub> were submitted as they were issued by the respective officials to him. They were signed and countersigned by

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- 46- 61

responsible gazetted officers over their <sup>official</sup> seals and the applicant fails to understand have such important documents can be signed if they are false as contended by the respondents. It is <sup>avowed</sup> ~~aversed~~ that all these certificates are correct and clearly prove the engagement of the applicant as casual labourers for various ~~periods~~ periods mentioned therein. The applicant begs to seek the Hon'ble Tribunal's permission to produce the originals at the time of hearing.

5) The contention of the respondents in sub para 3 of para 5 of the Written Statement that the applicant is the son of Lineman named Ramdhari Chauhan ~~is~~ is correct. However the suggestion that ~~he~~ he managed to do only odd jobs in convenience with his father and <sup>some</sup> ~~save~~ other Line staff is not correct. The applicant was engaged as casual labour by Senior Officials of the Department concerned as ~~r~~ proved beyond beyond doubt by the certificates issued to him. His father had nothing to do with his engagement and the fact that his father worked as Lineman in the Department did not disqualify him from being engaged as a ~~rank~~ casual labour. As a matter of fact the applicant worked as casual labourer even upto 1998 apart from working as courier for carrying important stores medicals from place to ~~place~~ place in the department. Unfortunately for reasons best <sup>known</sup> ~~known~~ to the administration, he was not <sup>favoured</sup> ~~forward~~ with required certificates for these periods in a most unfair manner. The applicant would like to mention here that during this period <sup>2</sup> ~~more~~ more than twelve months the SDO/T was Shri A.K. Dutta

contd...6

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under whom MARR Towers work was being done by the Department and the applicant was drawing a monthly salary of Rs.700 through ACG 17 vouchers every month. The applicant was forced to work on these poor salaries only in the hope that some day his service as casual labourer would be regularised. However, the department treated him unfairly and did not issue the required certificates. The applicant however likes to point out that the ACG voucher records of his casual labours of that ~~five~~ time should be available even now and requests the Hon'ble Tribunal to order that the same be produced before it to prove the contention of the the applicant.

6) The applicant begs to mention that many of his co-workers, some of whom entered service as casual labour much after him, were regularised in August 2000 as per Govt. Circular although in his case the impugned order was issued to deprive him of regularisation. Some of the names of such co-workers are (1) Shri Nirod Ch. Roy (2) Shri Madan Saha (3) Shri Mazibur Rahman (4) Shri Dulal Kalita (5) Shri Jabbar Ali (6) Shri Lal Miya (7) Shri Mazidur Rohman and (8) Shri Mahibul Haque. It is submitted that all these colleagues of the applicant had records of service exactly like that of the applicant but it was only the applicant who was left <sup>behind</sup> ~~believed~~ for reasons best known to the administration.

me 7) AS regards the remarks made in para 6 of the Written statement, the applicant begs to disagree with the

- 48 -

contention that he did not possess the required by the beg to service as casual labour. As <sup>proved</sup> proceed by production of the relevant certificates duly signed at countersigned by gazetted officer, the service of the applicant was adequate and <sup>hence</sup> ~~have~~ he was entitled to regularisation as casual labour as per extent instructions.

8) As regards para 7 of the Written Statement the applicant begsto reiterate thatthe applicant had the required service entitling him to the benefit of the scheme as he was engaged as casual labourer for more than one year and had continuous service of more than 240 days and hence was entitled to regularisation as casual laboures.

9) As regards para 8 of the Written Statement the applicant appreciates the fact that the schemex in question was extended to casual workers for period upto 1-8-98 and would pray that his case be considered for regularisation as he possess the required service as per records available with him.

10) As regards para 9, the applicant begs to disagree with the respondents and wouldsubmit that the orders issued by the Hon'ble Tribunal were fair and just and it is prayed that the Tribunal be ple<sub>a</sub>sed to put the applicant's case in the same pedestal and order that the benfit of regularisation be granted to him as in the cases referred to in those benevolent orders.

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-49- 54

The applicant is unable to after any ~~xxxxxx~~ comment as the question of Writ petition filed before the Hon'ble High Court on the judgment dated 13-8-97. However it is prayed that if the respondents have applied to scheme liberally, as claimed, the same liberal treatment may also be granted to the case of the applicant as regards regularisation.

11) As regards para 10 the applicant begs to state that while the respondent did constitute the verification committee to scrutinise the records to assess eligibility for grant of temporary states to casual labourers, it seems the said committees went through the motions in a <sup>routine</sup> ~~routine~~ manner and not by application of mind with the result that cases like that of the applicant were rejected without going through records. Even <sup>if</sup> ~~of~~ the records were seen by the committee, either their decision was clouded by prejudices (as is apparent in remarks of the respondent in sub-para 3 of para- 5 of the Written Statement) or they did not apply their mind to carefully go through the records. In the result, the material available in the clear certificate of Gazetted Officer in Annexure-'C' of the application ~~by~~ was ignored and injustice was done to the applicant by rejecting his prayer through the impugned order. The said certificate clearly proved that the applicant had service of more than one year and that he had put in 240 days of service in 13 months period May 1993 to June 1994. In this view of the matter the rejection of the claim of the applicant for regularisation is not at all justified.

me

12) As regards para 11, the applicant reiterate what is stated in para 11 hereof and begs to state that he had a clear case for regularisation under extant Govt. instructions. The impugned order based on wrong recommendation of the verification committee is thus liable to be set aside.

13) As regards para 12, the applicant begs to state that the argument set forth therein does not appear to be in consonance with facts. After all the respondents have themselves admitted in para 8 of the Written Statement that the genesis of the scheme "Casual Labourers )Grant of temporary status and regularisation) Scheme 1989 was large scale utilisation of casual labour in all their works for many years. Therefore, the claim that all their works are done by Departmental regular employees is not borne out by facts. The extent of regularisation done all over the locations during the last ten years will prove the hollowness of the claim. However, this matter has bearing on the present petition which seeks relief of regularisation on legitimate grounds.

14) As regards para 13 the applicant begs to state that his claim for regularisation of service from 1990 as casual labour with consequent benefits arising thereto is based on justified grounds backed by unquestionable records and that the Hon'ble Tribunal may be pleased to pass such order/orders as the Hon'ble Tribunal deems fit and proper under the circumstances of the case.

Verification ....

VERIFICATION

I, Madan Lal Chauhan, Son of Shri Ramdhari Chauhan, resident of village Tokercharra and P.O. Golokganj District-Dhubri, Assam, at present residing at Tokercharra, Golokganj, Dhubri, do hereby verify that the statements made in paragraphs 1 to 14 are true to my knowledge and belief and that I have not suppressed any material facts.

And I sign this Verification on this 13<sup>th</sup> day of August, 2001 at Guwahati.

Place : Guwahati

Date : 13/8/2001

*Madan Lal Chauhan*

Signature

Filed by

DR. M. C. SARMA

Advocate 13/8/2001

TO WHOM IT MAY CONCERN

ANNEXURE B

This is to Certify that Sri Madan Lal Chowhan - 52-  
S/O. Sri Ramdhari Chowhan of Village South Tokrekhara Pt. IV  
P.O. Golakganj P.S. Golakganj in the District  
of Dhubri (Assam) worked with me as M/R nad ACC 17 voucher from Jun/90  
as Casual Mazdoor under sub-Division Bongaigaon worked at Bongaigaon  
Dhaligaon, Bijni, Abhayapuri, Barpata, Jogighopa, Goalpara and Dudhnoi.

His conduct was found satisfactory during his job period. His  
progressing report has given below :

I wish him all success in this life.

1. January/90	Acc. ACC - 17	25 days
2. Feb /90	ACC- 17	25 "
3. March /90	ACC - 17	25 "
4. April/90-- M/R No. C.A. 16299/06 W/No.2/90-91	ACC- 17	25 "
5. May /90 M/R C.A. 16299/9 W/No 5/90-91	" - 17	25 "
6. June/90 M/R C.A. 16299/11 W/No 7/90-91	" - 17	26 "
7. July/90 Cable work at Bijni	" - 17	18 "
8. Aug/90 M/R C.A. 16299/17 W/No 90-91/13	" - 17	25 "
9. Sept/90 Digging Cable work at Goalpara	" - 17	21 "
10. Oct/90 Digging work at Agia Road	" - 17	18 "
11. Nov/90 " " at Goalpara	" - 17	15 "
12. Dec/90 Cable work at Agia Road & Goalpara	" - 17	18 "
13. Feb/91 Cable work at Abhayapuri	" - 17	19 "
14. March/91 Cable work and Wair desbound work at Dhudnoi-----	" 17	18 "
15. April/91 M/R No. C.A. 449/5 W/No. 17/91-92	" 00	25 "
16. May/91 Digging work at Dhaligaon	" 17	21 "

*P. Chakraborty*  
02.7.91

TELEGRAPHY  
BONGAIGAON-783380  
PHONE NO. 283  
Con.- Page No.-2

- 12 -  
- 53 -

61  
Days

Bhaskar  
30.1.93

BONGAIGAON-78380  
(TELEGRAPH)  
PHONE NO. 28

17. July/92 Cable work at Barpeta Road	ACG	17		
18. Aug/92 D.P. & Cable work at Barpeta	"	17		
19. Sept/92 Cable work at Pathsala	"	17		
20. Oct/92 D.P & Cable joint work at Bongaigaon.	"	17	18	"
21. Nov/92 Cable & D.P work at BGN	"	17	14	"
22. Dec/92 Cable work at BGN	"	17	20	"
23. January/93 D.P, & Cable work at BGN	"	17	18	"
24. Feb/93 D.P & Cable work at BGN	"	17	13	"
25. March/93 D.P. & Cable work at BGN	"	17	18	"
26. April/93 New Line Connection work Cable at Bongaigaon	"	17	15	"