

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Salik
8.12.17

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO. 353 / 2001

Applicant (S) H. Ranaiah & ons.

Respondant (S) 1201 2 ons.

Advocate for the Applicant: Sri A. Dasgupta & S. Bhuyan.

Advocate for the Respondant: Adv. C. G. S. A. B. Choudhury

Notes of the Registry	Date	Order of the Tribunal
	26.9.01	The application is admitted. Call for the records. List on 12/11/01 for order.
This application is in form, but not in time. Condensation Petition is filed vide M. P. No. X C. F. for Rs. 79,54,886.90. Deposited vide IPO/B. No. 79,54,886.90. Dated 24.8.2001.	12.11.01	Written statement has already been filed. The applicant may file rejoinder, if any, within two weeks from today. List on 4.12.2001 for further order.
P.L. comply order dated 26/9/01.	14.12.01	Written statement has been filed. The applicant has filed the written statement today. List on 23.1.02 for hearing.
Slips received. Notice prepared and sent to D/S for issuing the Respondent No. 1 to 4 by Regd. A.B. Enrols not submitted. 5/10/01		
D No. 3874 W 3877 Dtd 8/10/01		

②
O.A.M. 353/2001

23.1.02

On the prayer of Mr. A. Dasgupta, learned counsel for the applicant, the case is adjourned to 11.2.2002 for hearing.

13.11.2001

W/s on behalf of the Respondent no. 1, 2, 3 and 4 has been submitted. mb

K. C. Sharma
Member

Vice-Chairman

11.2.2002

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

K. C. Sharma
Member

Vice-Chairman

3/12/2001

NO rejoinder has been filed.

W/S
3/12/2001

nkm

11/12/2001

W/s Rejoinder to the application submitted by the applicant.

Recd copy
M. Chandra
Adl. C. J. SC
27/02/02

Received copy
for applicant
Subm. 27/2/02

27.2.2002

Copy of the judgment handed over to the L/A for the parties.
H.S.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 353 of 2001

Date of Decision ^{11.2.2002}

Shri Heeralal Rawath and 30 others Petitioner(S)

Mr A. Dasgupta and Mr S. Bhuyan

..... Advocate for the
Petitioner(s)

-Versus-

The Union of India and others

..... Respondent(s)

Mr A.K. Choudhury, Addl. C.G.S.C.

..... Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman

No
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.353 of 2001

Date of decision: This the 11th day of February 2002

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

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

Shri Heeralal Rawath,
Sector - B Dinjan C Antt.,
Station Headquarter,
P.O. Panitola, District- Dibrugarh,

and 30 others

.....Applicants

By Advocates Mr A. Dasgupta and Mr S. Bhuyan.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Defence.
2. The General Officer Commanding,
2 Mountain Division,
C/o 99 A.P.O.
3. The General Officer Commanding,
4 Corps, C/o 99 A.P.O.
4. The Commanding Officer,
2 Mountain Division,
Ordnance Unit,
C/o 99 A.P.O.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.


.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

Conferment of temporary status has again surfaced in this proceeding in the following circumstances:

The applicants are thirtyone in number. They claim that they worked under the respondents as casual labourers continuously and intermittently for more than 240 days. But, instead of conferring them temporary status as per the Scheme they were thrown out of the department.



2. From the materials cited in the application it appears that these applicants were selected as casual labourers on daily wages through the Employment Exchange and to that effect appointment orders were issued on 1.12.1997. In para 4(viii) of the application the applicants indicated the period of service rendered by them in 1998. Though they averred that they worked for more than 240 days in a year, save and except the statement they have not shown the specific period they worked in a year. From 28.4.2001 the applicants were not allowed to work and verbally they were told that they were terminated from service. It was also averred that after the termination, steps were taken by the respondent authority for recruiting casual labourers on daily wages through the Employment Exchange. The Employment Exchange put queries to the respondents as to whether the respondents would provide any preference including age factor to the ex casual labourers who worked in the department for a considerable period. Failing to get appropriate remedy the applicants submitted representations before a number of authorities including the Ministry seeking relief. As nothing happened they moved this Tribunal praying for a direction on the respondents to consider their case for regularisation in service.

3. The respondents submitted their written statement denying and disputing the claim of the applicants. In the written statement the respondents stated that the 2 Mountain Division Ordnance Unit was responsible for providing logistic support to all the Units dependent on it. The work load of the Unit had increased manifolds as a result of additional role assigned to the Units in counter insurgency operations. The dependent Units were spread over vast areas and located in remote areas of Upper Assam and Arunachal Pradesh. As a result, to overcome the shortage of manpower sanction was sought from the higher authority to employ porters/labourers on daily wages on a required basis to tide over the additional work load of non-routine nature. The formation headquarters had accorded sanctions to the Unit for opening of supply

and.....

and services Imprest Account Budget Head 105 (F) with effect from 15.9.1997 for employment of civilian labourers and porters on daily wages. The names of the candidates were obtained from the District Employment Exchange, Dibrugarh. A Board of Officers was convened to assess the suitability of the candidates and to recommend names for employment as labourers on daily wages. These labourers were employed only to perform the tasks of non-routine nature like clearance of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across the rivers. They were paid for the actual number of days they were employed in a month out of supply and Services Imprest Account allotted by the formation Headquarters. It was specifically averred that the daily wages were paid as per the attendance register. As regards grant of temporary status, it was averred that the temporary status was not granted as ^{there} was no provision. It mentioned the communication vide letter No.15225/Org 4(Civ)(a) dated 29.1.1998 issued from the Adjutant General's Branch, Army Headquarters, New Delhi, wherein it was stated that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the Scheme i.e. 10.9.1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. In reference to seeking for additional persons, the respondents did not dispute the requisition for sponsoring additional persons by the establishment of 2 Mountain Division Ordnance Unit and that it was forwarded to the District Employment Exchange, Dibrugarh on 22.6.2001. However, in the meantime the necessity of employing additional persons was reviewed and since the necessity was not felt the process was discontinued. It was also stated that during that period the regular troops were made available for the extra work. Since the combatant manpower was readily available and it proved to be more economical to the State the Unit management decided to stop employment of the porters in future.

4. We have heard Mr A. Dasgupta, learned counsel for the applicant and also Mr A.K. Choudhury, learned Addl. C.G.S.C. at length. There is no dispute at the Bar that the Scheme for granting temporary status was introduced to regulate the employment of casual labourers in a fair manner and to avoid victimisation or unfair labour practice in conformity with the consistent legal policy laid down by the Supreme Court on this matter. The Grant of Temporary Status and Regularisation Scheme of the Government of India, 1988 was introduced for engagement of casual labourers in Central Government offices keeping in mind the decisions of the Supreme Court, more particularly the decision in Surinder Singh Vs. Engineer-in-Chief, CPWD, reported in (1986) 1 SCC 639. The whole Scheme was intended to provide work to these casual labourers on a continuous basis and to make these casual labourers regular subject to availability of vacancies. The aforesaid Scheme was again followed by the 1993 Scheme for conferment of temporary status on all casual labourers who were in employment on the date of issue of the O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week). 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 Group 'D' posts. The notification itself indicated that the guidelines contained in the O.M. should be followed strictly in the matter of engagement of casual employees. The entire Scheme was introduced with the avowed object mentioned above. Such a Scheme cannot be termed as a one-time measure as was submitted by Mr A.K. Choudhury, learned Addl. C.G.S.C. A decision on this issue has already been rendered by the Full Bench of the Central Administrative Tribunal in O.A.No.1146-HP-96 decided on 3.10.2001. The Schemes were introduced as per the constitutional mandate and in response to the decisions of the Supreme Court. As alluded earlier the Scheme

was.....

was introduced to protect the working force. When there is a perennial nature of work, in those instances the labourers who are engaged are to be conferred with temporary status. It is for the authority to take a decision in the matter in the light of the Scheme. In the instant case, the respondent authority was smarting under the misconception that the Scheme of 1993 in itself was a one-time Scheme. The Scheme is still existing and the casual labourers working under the department are to be conferred with temporary status, that is the pure and simple meaning of the Scheme. We, therefore, remand the matter to the concerned authority to examine the case on merits in the light of the Scheme of 1993 and in so doing the authority should take note of the services of the all the workers who worked for 240 days without taking note of the artificial breaks. The department will be free to take a decision on the subject on merit, keeping in mind its need, the available work force and the object of the Scheme. The respondents are directed to complete the exercise within four months from today and pass necessary speaking order as per law.

5. The application is allowed to the extent indicated. No order as to costs.

K. K. Sharma

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

[Signature]

(D. N. CHOWDHURY)
VICE-CHAIRMAN

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

কেন্দ্রীয় প্রশাসনিক আদালত
Central Administrative Tribunal
31 AUG 2001
গুৱাহাটী বেন্চ
Guwahati Bench

O.A.NO. 353 /2001.

Sri Heeralal Rawath and Others

..Applicants.

-Vs-

Union of India and Ors.

....Respondent.

I N D E X

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Filed by -

Central
AUG 21
গুৱাহাটী ন্যায়ালয়
Guwahati Bench
GUWAHATI

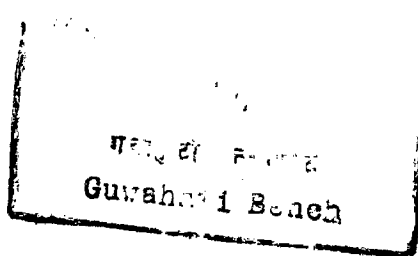
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH .

O.A 353 /2001

PARTICULARS OF THE APPLICANTS

1. Sri Heeralal Rawath
S/O. Sri Ramdeo Rawath
Sector -B Dinjan Cantt.
Station Head Quarter ,
P.O- Panitola , Dist- Dibrugarh .
2. Sri Rubul Mout
S/O Sri Pulin Mout
Vill- Dongerchuk
P.O. Bishmile
P.S. Chabua
District - Dibrugarh
Pin - 786184 .
3. Sri Umesh Kumar
S/O Late Ram Kumar
Kharjan T.E , 14 No. Line
Dist - Dibrugarh .
4. Sri Kiran Goswami
S/O Late Ramdas Baisnab (Adoptive Father)
Vill - Kajani Bari
P.O. Dinjan , P.S. Chabua
Dist -.Dibrugarh .
5. Sri Upendra Raut
S/O. Sri Shiv Charan Raut
C/O Jayram Store ,
Vill - Kajani Bari , P.O. Dinjan ,
P.S. Chabua , Dist - Dibrugarh .

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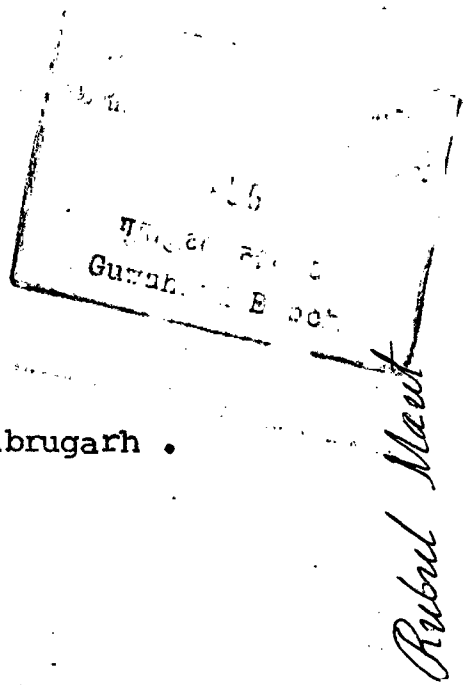


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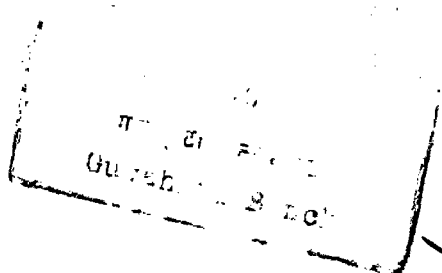
6. Sri Mohan Tanti
S/O Rajender Tanti
Vill- Dinjan (Gherkhibasti)
P.O. Dinjan , P.S. Chabua
District - Dibrugarh .
7. Sri Jaimangal Rawath
S/O. Sri Rambiraji Rawath
Sector - B , Dinjan Cantt ,
P.O. Dinjan , P.S. Chabua
Dist - Dibrugarh .
8. Sri Phonen Gogoi
S/O. Late Monuram Gogoi
Vill- Pubdeodhaigaon
P.O. Chabua , P.S. Chabua ,
Dist - Dibrugarh , Pin - 786184 .
9. Sri Kanak Das
S/O. Sri Bhola Ram Das
Sector B , Dinjan Cantt.
P.O. Dinjan ,
District - Dibrugarh , Pin - 786189 .
10. Sri Kailash Yadav
S/O Munnu Yadav
Vill. Dinjan (Gherkhi Basti)
P.O. Dinjan , Distrcit - Dibrugarh
Pin- 786189 .
11. Sri Hiralal Kurmi
S/O Late Kalipada Kurmi ,
Vill- Chaklivoria , P.O. Panitola ,
P.S. Chabua , District - Dibrugarh .
12. Sri Nar Bahadur Thapa
S/O. Sri Mon Bahadur Thapa ,
Vill - Dhigalibari , Baghbari ,
P.O. Panitola , District - Dibrugarh .

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13. Sri Deveshwar Kurmi
S/O Sri Hemonath Kurmi
Vill - Chaklivoria
P.O. Panitola , Dist- Dibrugarh .
14. Sri Tenzeng Das
S/o. Late Kushal Das
Vill & P.O. - Chabua
Dist - Dibrugarh .
15. Sri Jiten Sarkar
S/O Sri Dinesh Sarkar
Vill - Mirigaon , P.O. Mulukgaon ,
P.S. Chabua , Dist - Dibrugarh .
16. Sri Chilan Duarah
S/O Sri Aneswar Duarah
Vill - Chatiagaon , P.O. Chatiagaon .
Chabua , Dist - Dibrugarh .
17. Sri Loknath Baruah
S/O Sri Dondée Baruah
Vill - Gorpara Gaon ,
P.O. Gorpara (Dikhom)
Dist - Dibrugarh .
18. Sri Robin Das
S/O Sri Bhukul Das
Vill - Bhardhara
P.O. - Bhardhara (Kanjichowa)
Dist - Dibrugarh .
19. Sri Midul Das
S/O. Late Phukan Das
Vill- Morichagaon , P.O. Chetiagaon ,
Chabua , Dist - Dibrugarh .



Rabul Masit

20. Sri Kadam Phukan
S/O Sri Malok Phukan
Vill - Chetiapathar
P.O. Rangchangi , P.S. Chabua ,
Dist - Dibrugarh .
21. Sri Rupam Das
S/O Late Sumeshwar Das
Vill - Morichagaon , P.O. Chetiagaon (Chabua)
Dist - Dibrugarh .
22. Sri Bijay Gogoi
S/O Naren Gogoi
Vill - Chetiagaon
P.O. Chetiagaon (Chabua)
Dist - Dibrugarh .
23. Sri Ranjan Saikia
S/O Sri Kamleshwar Saikia
Vill - Pulunga, P.O. Chabua
P.S. Chabua , Dist - Dibrugarh .
24. Sri Binod Das
S/O Sri Surjya Das
Vill - Morichagaon , P.O. Chetiagaon
P.S. Chabua , Dist - Dibrugarh .
25. Sri Rajib Rajkhowa
S/O Sri Rajen Rajkhowa
Vill - Mudoigaon , P.O. Bogdung (Panitola)
Dist - Dibrugarh , Assam ,
Pin - 786183 .
26. Sri Amit Tanti
S/O. Late Bharat Tanti
Vill - Nagaon (Basti))
P.O. Dinjan , P.S. Chabua
Dist - Dibrugarh .

27. Sri Binod Dihingia
S/O Sri Susen Dihingia
Vill - Dihingiapar
P.O. Dinjay Satta (Chabua)
Dist - Dibrugarh .
28. Sri Atul Chetia
S/O Sri Lubeshwar Chetia
Vill - Bogoritoliagaon ,
P.O. Mohmara (Bhikom)
Dist - Dibrugarh .
29. Sri Fulena Prashad
S/O Sri Harilal Prashad
Vill - Kajani Bari ,
P.O. Dinjan , P.S. Chabua ,
Dist - Dibrugarh .
30. Sri Kulendra Gogoi
S/O Sri Ghonen Gogoi
Vill - Naharani , P.O. Borchapuri (Panitola)
Dist - Tinsukia .
31. Sri Manik Chetia
S/O Late Budeshwar Chetia
Vill - Chetiagaon , P.O. Chetiagaon ,
P.S. Chabua , Dist - Dibrugarh .

PARTICULARS OF THE RESPONDENTS .

1. Union of India
(Represented by Secretary to the Govt. of India ,
Ministry of Defence) .
2. General Officer Commanding
2 Mountain Division
C/O 99 A.P.O.

Conted.. 6

3. General Officer Commanding
4 Corps, C/O 99 A.P.O
4. Commanding Officer
2 Mountain Division
Ordinance Unit
C/O 99 A.P.O .

1. PARTICULARS FOR WHICH THE APPLICATION IS MADE :-

This application is for absorbtion of the applicants in the establishment of 2 Mountain Division , Ordinance Unit , Dinjan by conferring Temporary Status and for re - gulafisation as Mazdoor .

2. JURISDICTION OF THE TRIBUNAL :-

This application is within the Jurisdiction of this Hon'ble Tribunal .

3. LIMITATION :-

This application is within the period of limitation .

4. FACTS OF THE CASE :-

1) That the applicants are citizen of India having their permanent place of residence as indicated above .~~Th~~ This application is with respect to a Common Cause of action for absorbtion and grant of temporary status and regularisation of services of the applicant . Accordingly the applicants crave leave of this Hon'ble Tribunal under Rule 4 (5)(a) of Central Administrative Tribunal Procedure Rules , 1987 to file this application .

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- ii) That the applicants are unemployed youth having their registration in Dibrugarh employment exchange .
- iii) That in the year 1997 the authorities of 2 MTN DIV, Ordinance Unit sent requisition to the local employment exchange for sponsoring names of candidates for recruitment of casual mazdoors . Pursuant to that the applicants were sponsored by their employment exchange directing them to appear before the Commanding Officer 2 MTN DIV , Ordinance Unit on 14.10.97 , 15.10.97 & 16.10.97 .

A copy of the letter dtd. 13.10.97 issued by the Asstt. Director of Employment Exchange , Dibrugarh to one of the applicant is annexed hereto and marked as Annexure - 1 .

- iv) That on receipt of the aforesaid letter the applicants appeared before the interview Board . All of them succeeded after getting qualified in physical test , viva - voce etc.
- v) That the applicants were selected for employment to the post of Casual Labour . Appointment Orders with respect to applicant no. 1 to 28 were issued by the Commanding Officer 2 MTN DIV, Ordinance Unit on 1.12.97 . They were directed to join their duties on and from 2.12.97 and accordingly they joined their duties on 2.12.97 .

Copies of the appointment letter issued by Commanding Officer is annexed as Annexure - II series .

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- vi) That the applicants no. 29,30,31 were in the waiting list for appointment . However they were subsequently appointed in the month of April , 1998 . The applicant no. 29 & 30 join their duties on 23.4.98 . The applicant no. 31 join his duties on 28.4.98 .
- vii) That since the date of joining the applicants had been rendering their continuous service without any interruption .
- viii) That from 2nd Dec. 1997 to March 1999 , the applicants were paid their full wages for all working days excepts sunday and holidays . During this period all these applicant had completed more than 240 working days . from April 1999 to 28th April 2001 though the applicant had been continuously working for all working days but unfortunately on record they shown to have worked 19days in a month . This was done with an oblique motive to frustrate their claim for regularisation after having temporary status . Be as it may the applicant completed more than 240 working days in a year . The applicants have been able to collect the number of working days as recorded in the attendant register maintained by the authorities from Feb 1998 to Dec 1998 . It appears from that attendant register that applicants had completed more than 240 working days in the year 1998 . Details particulars number of days worked by the applicant in each month commencing from Feb 1998 to Dec 1998 are furnished below in the tabular form -

1998
Richard Maat

-9-

YEAR 1998

APPLICANT NUMBER	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL DAYS
1	23	25	26	24	25	26	25	26	24	24	26	274
2	23	25	26	24	26	26	22	25	24	22	18	261
3	23	25	26	24	25	26	25	26	24	23	26	272
4	23	25	16	13	26	25	23	26	24	24	26	251
5	23	25	25	24	26	25	25	20	7	23	26	259
6	23	25	23	24	24	25	24	26	24	24	25	267
7	23	25	26	24	24	26	24	24	20	24	26	266
8	23	25	23	23	25	25	NIL	-	-	23	25	192 +
9	23	25	26	24	25	26	25	26	24	20	26	270
10	23	25	16	15	26	26	25	26	24	24	26	256
11	23	25	22	24	26	23	25	25	24	24	26	267
12	23	25	24	24	26	25	21	22	23	23	25	262
13	23	25	23	24	25	26	25	26	24	23	26	272
14	23	25	26	24	26	26	25	26	18	10	24	253
15	23	25	19	24	26	24	25	26	22	22	26	262
16	23	25	23	23	26	23	22	25	22	23	26	264
17	23	25	19	20	24	26	25	23	24	23	26	258
18	23	25	22	23	26	26	23	25	24	22	20	259
19	23	25	19	3	NIL	26	23	26	24	21	23	213
20	23	25	23	24	21	24	21	26	24	24	19	255
21	23	25	24	23	26	26	19	24	24	24	24	262
22	23	25	24	24	26	26	24	24	24	24	23	267
23	23	25	22	23	25	26	23	26	24	24	26	267
24	23	25	26	23	26	23	25	26	24	24	26	270
25	23	25	24	24	25	26	24	26	24	24	26	271
26	23	25	26	24	25	26	25	26	24	24	26	274
27	23	25	20	24	26	25	24	26	22	24	24	263
28	23	25	24	21	26	26	25	26	24	24	26	270
29	7	24	26	26	24	26	24	24	26	NIL	NIL	207 x
30	7	24	26	26	11	23	24	23	22	NIL	NIL	179 x
31	3	24	26	NIL	22	24	24	22	25	NIL	NIL	170 x

ix) The applicants begs to state that according to rule in Force a casual employee after working 240 days is entitled to have temporary status . They are also entitled to be regularised in the service . In the instant Case though all applicants had completed more than 240 working days in a year , but , they were not conferred with the temporary status . All these applicants are entitled to have to their monthly wages at per with the regular employee in their initial scale on completion of 30 working days in a month . These benefit of temporary status were not extended to the applicants . They were paid with their daily wages as being paid to the other casual labourers . Which is for less than their actual entitlement . They were also entitled to be regularised after having the temporary status .

x) That from 28th April 2001 the applicants have not been allowed to work . All of them were terminated from their services by verbal orders of the Concern Officer under whom they had been working .

xi) That though the applicants were dis-engaged but the concern authority sent requisition for sponsoring some persons for engagement of casual labour in the establishment of 2MNT Division , Ordinance Unit , C/O. 99 A.P.C where the applicant had been working as casual employee vide their notification No. CIV/EST Dt. 22nd June 2001 .

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Rubul Maat
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xii) The applicants represented their Case before the Employment Exchange authority who espoused their cause so that they may have preference in engagement of casual employees in the 2 Mountain Division , Ordinance Unit . Accordingly , Assistant Director Employment , District Employment Exchange , Dibrugarh vide his letter no.ACT/27/2001/1650 Dt. 3.7.2001 intimated the Commanding Officer 2 Mountain Division , Ordinance Unit seeking classification whether the applicants would have preference in engagement of casual labour in that establishment .

A copy of the letter dated 3.7.2001 issued by The Assistant Director of Employment , District Employment Exchange , Dibrugarh is annexed hereto and marked as Annexure - III .

xiii) That on receipt of that letter dated 3.7.2001 the Commanding Officer had not proceeded to engage casual labour in his establishment .

xiv) The applicants represented their case before the Hon'ble Minister Defence and submitted a representation . They also requested the Office bearers of Ordinance Mazdoor Union at Dinjan to espoused their cause before the higher authority for the purpose of their engagement with consequential benefits . The steps are also taken by the Union to approach the higher authority , but nothing has been done so far .

Rubul Marut
22

A copy of the representation submitted by the applicants before the Hon'ble Minister, Defence is annexed hereto and marked as Annexure - IV .

5. GROUND WITH LEGAL PROVISIONS

Being highly aggrieved by the action of the Respondents, the applicants prefer this application on the following amongs other grounds -

A. For that according to the rule in force a casual worker on rendering 240 days of continuous service in a year is entitled to grant of temporary status which is a pre-requisite for regularisation of service of a casual workers . This is a scheme framed by the Central Govt. called as casual labourers (Grants of Temporary Status) scheme of Govt. of India -which is applicable to the defence establishment where civilians are working . This grants of temporary status beings a casual employee within a Zone of regularisation which takes place in a phase manner . Till regularisation certain rights are conferred to him ensuring higher rate of wages and more security of service that being avail by a Ordinary casual employee . In the instant case all applicants rendered 240 continuous days of work and as such they are entitled to for grant of temporary status and regularisation .

B. For that the aforesaid Govt. Scheme provides that a casual worker conferred with temporary status cannot be dismissed or disengaged otherwise by virtue of their long

Richard Maut

23

continuous service acquired the right for grant of temporary status and as such they should not have been disengaged from their service in the manner they were disengaged . The action of the respondents is absolutely illegal and against the procedure established by law .

C. For that the service of a casual worker who rendering 240 days of continuous service in a year cannot be terminated without issuing a notice of retrenchment and paying adequate compensation according to the rule in force . Termination of service of any worker without following the aforesaid mandatory provisions of law amounts to illegal termination and such workers is entitles to be reinstated with full back wages . The applicants in view of his long continuous service work entiled for a notice of retrenchment and adequate compensation but the same was not done and they were removed from his service . This action of the respondents is against the mandatory provisions of law and as such the applicants is entitled to be reinstated will full back wages .

6. DETAILS OF REMEDY EXHAUSTED -

The applicants begs to state that they preferred a representation before the Hon'ble Minister Defence ,but till today nothing has been done .

7. MATTER NOT PENDING BEFORE ANY COURT/TRIBUNAL

The applicant declare that he has not filed any application before any court or Tribunal for adjudication of this case .

Rubul Mant
24

8. RELIEF SOUGHT

The applicant , therefore , prays that this Hon'ble Tribunal may be pleased to -

- 1) To direct the respondents to reinstate the applicants with full back wages in the post of Casual Mazdoor at 2 MTN Division , Ordinance Unit .
- ii) To direct the respondents to confer temporary status to the applicant in accordance with the rules in force and regularisation .
- iii) To pass any further or other order or orders as this Hon'ble Tribunal may deem fit and proper .

9. INTERIM RELIEF PRAYED FOR

The applicant does not pray for any interim relief .

10. PARTICULARS OF I.P.O

I.P.O Number	- 76 548869
Date of Issue	- 24.8.2001
To whom payable	- The Registrar , CAT
Payable at	- Guwahati .

11. DOCUMENTS

Detailed particulars of the documents are indicated in the Index of this application .

..... Verification

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

I, Sri Rubul Maut , Son of Sri Pulin Maut ,
aged about 25 years , resident of village -Dongerchuk,
P.O. Bishmile , P.S. Chabua , District - Dibrugarh ,
Assam do hereby declare and verify that the statements
made in paragraphs i, ii, iv, vii, x, xiii are true
to my knowledge and that made in paragraphs III, v, vi,
viii, xi, xii, xiv are true to my information derived from the
records and rest are my humble submission before this
Hon'ble Tribunal .

I sign this Verification on this the 28 th day of
August , 2001 at Guwahati .

Rubul Maut

Annexure-1

Sl.No. 10

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH.

WO.ACT/60/97/ 3620- 770 /97 dated Dibrugarh the 13/10/97

To

Shri Hiralal Rowat (3113/96/90)

Sub: Recruitment of Casual Labour

Your name has been forwarded to the Commanding Officer, 2 MTN Div. Ord Unit C/O 99 APO for a post of Casual Labour.

You are advised to report to him on 14th Oct/97 15th Oct/97 and 16th Oct/97 at 10 A.M. for interview/test.

Sd/- Illegible,

13.10.97

(Mrs. S.Khatun)

Asstt. Director of Employment
District Employment Exchange: Dibrugarh.

.....

Attested
[Signature]

17

Annexure - II (Series)

REGD BY POST

2 Mtn. Div. Ord .Unit

C/O 99 APO

270503/CIV/EST

01/Dec'97.

Rabul Mout
Dinjan Tinali
P.O. Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/-Illegible,

(VK Sharma)

col

Commanding Officer.

.....

Attested
Sd/-

Annexure- 28

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

01 Dec '97.

270503/CIV/EST

Umesh Kumar

Vill- Kharjan

P.O. Bagdung

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your service commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible

(VK Sharma)

Co.I

Commanding Officer.

Attested

Sd/-

.....

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

01 Dec '97.

270503/ CIV.Est.

Hiralal Rawat

Vill- Dinjan Tinali

P.O. Dinjan

Dist- Dibrugarh , Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day .
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/Illegible,

Co.1

Commanding Officer.

Attested
Sd/Illegible

.....

Annexure-

REGD BY POST

2 Mtn Div Ord Unit

C/O 99 APO

01/ Dec 97.

270503/CIV/EST

Kiran Goswami

Vill-Dinjan Tinali See 'B'

P.O.Dinjan

Dibrugarh,, Assam.

APPOINTMENT LETTERS

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police Verification.

Sd/- Illegible,

(VK Sharma)

CO1

Commanding Officer.

Attested

8/12/97

.....

21- 31
Annexure-

REGD BY POST

2 Mtn. Div. Ord Unit

C/O 99 APO

270503/CIV/EST

01 Dec '97.

Upendar Raut

Vill-Sain Bhrihar Tola

P.O.Sain Via Kanti

Dist-Muzzafarpur (Bihar)

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs.40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible

(VK Sharma)

CO1

Commanding Officer.

.....

Attested
S. Shrivastava

Annexure -

REGD BY POST

2 Mtn Div Ord Unit.

C/O 99 APO

01/ December, 1997.

270503 /CIV/EST

Mohan Tanti

Vill- Dinjan Tinali

P.O.Dinjan

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,

(VK Sharma)

CO-1

Commanding Officer.

Attested

Bhuyan

.....

Annexure-

REGD POST

2 Mtn.Div Ord Unit

C/O 99 APO

01/December, 1997

270503/CIV/EST

Jai Mangal Raut

Vill- Dinjan

P.O. Dinjan

Dist-Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

.....

Attested

S. Khuyon

-24-

34

Annexure-

REGD BY POST

2 Mtn. Div. Ord Unit
C/O 99 APO
01/Dec, 97.

270503 /CIV/EST

~~xxx~~

Phnon Gogoi
Vill- Deendhai Par
P.O. Chabua
Dist-Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,
(VK Sharma)
Col
Commanding Officer.

Attested
8th May

25- 35
Annexure -

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

01/Dec 97.

270503 /CIV/EST.

Kanak Das,
Vill- Dinjan Tinali
P.O. Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 Per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs.) and your services, commence from 02 December, 1997.
3. Payment will be made in the first week of the following monthly only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

~~XXXX~~

Sd/- Illegible,

Col.

Commanding Officer.

.....

Attested
Shym

Annexure-

REGD BY POST

2 Mtn.Div.Ord Unit
C/O 99 APO
01/Dec 97.

270503/CIV/ESTT.

Kailash Yadav
Vill- Dinjan
P.O. Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made if the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police verification.

Sd/- Illegible,

(VK Sharma)

Col.

Commanding Officer.

Attested

Bhuyan

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27

37

Annexure-

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

270503 /CIV/ESTT.

01 Dec'97

Hiralal Kurmi

Vill- ~~Barakata~~ Bhakali Bharia Gaon

P.O. Panitola

Dibrugarh - Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs.40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(VK Sharma)

col

Commanding Officer.

.....

Attested

Sharma

28-
28
Annexure-

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

01 Dec ,97.

270503 /CIV/EST

Nar Bahadur
Vill- Dinjan
P.O.Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police Verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested

Signature

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29-

39

Annexure-

REGD BY POST
2 Mtn.Div. Ord Unit
C/O 99/ APO
01/ Dec 97.

270503/CIV/EST

Deweshwar Kurmi
Vill- Chakali Bharia Gaon
P.O. Panitola
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs and your Services commence from 02 December 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/-Illegible,

(VK Sharma)

Col

Commanding Officer.

.....

Attested

88huyen

Annexure-

REGD BY POST

2 Mtn Div. Ord Unit
C/O 99 APO

270503/CIV/EST

01/Dec 97.

Tezing Das
Vill- Dinjan Tinali
P.O. Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your Services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(V.K.Sharma)

Col

Commanding Officer.

Attested

Bhuyan.

Annexure-

REGD BY POST

2 Mtn.Div. Ord Unit
C/O 99 APO

270503/CIV/EST

01/Dec '97

Jitten Ch. Sarkar
Vill- Mirigaon
P.O. Muluk Gaon
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your Services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police verification.

Sd/-Illegible,
(VK Sharma)
Col
Commanding Officer.

Attested
Bhuyan.

Annexure-

2 Mtn.Div.Ord Unit

C/O 99 APO

01 Dec/97.

270503/CIV/Est.

Shilan Dowara

Vill- Chetia Gaon

P.O. Chetia Gaon
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nearric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hr) and your services commence from 02 December, 1997.
3. Payments will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested

S. Shyam.

Annexure-

REGD BY POST
2 Mtn. Div. Ord. Unit
C/O 99 APO

270503 /CIV/EST

01/Dec'97

Lok Nath Baruah
Vill & P.O. Garpara
Dikan
Dibrugarh , Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,
(VK Sharma)
Col
Commanding Officer.

.....

Attested
Bhuyan

-36-

Annexure-

2 Mtn. Div. Ord Unit
C/O 99 APO

270503/CIV/EST

01/December, 97.

Rabin Das
Bharadhara Village,
P.O. Chabua
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day..
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police verification.

sd/- Illegible,
(VK Sharma)
Col
Commanding Officer.

Attested
S. K. Sanyal

-35-

45

REGD BY POST

2 Mtn.Div.Ord Unit

01/Dec'97 C/O 99 APO

270503/CIV/EST

Mridul Das
Maricha Village
P.O. Chetia (Chabua)
Dibrugarh , Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(VK Sharma)

col

Commanding Officer.

.....

Attested

[Signature]

REGD BY POST

2 Mtn.Div.Ord Unit

C/O 99 APO

01/Dec'97.

270503 /CIV/EST

Kadam Phukan

Chetia Pathar

P.O. Rangchangi

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
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3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,

(VK Sharma)

Commanding Officer.

.....

Attested

Shreyan

47
-37-
REGD BY POST

2 Mtn.Div.Ord Unit

C/O 99 APO

270503/CIV/EST

01/Dec/97

Rupam Das
Moricha Gaon
P.O.Chetia gaon
Dibrugarh , Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 Dec'97.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to the Police Verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested

Shuyan

-38-

REGD BY POST

2 Mtn.Div. Ord Unit
C/O 99 APO

270503/CIV/ESTT

01/Dec,97

Bijoi Gogoi
Chetia Gaon
P.O.Chabua
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 per day .
2. Your employment is for the working day on which you are present at the time of morning mastering (0800 hrs) and your services commence from 02 Dec'1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested
Bhuyan

-39-

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REGD BY POST

2 Mtn.Div.Ord Unit

C/O 99 APO

270503/CIV/EST

01/Dec, 1997.

Ranjan Saikia,
Amguri Pulunga Gaon
P.O. Pulunga
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of monring mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

....

Attested

Sthayan

9

-40-

REGD BY POST

2 Mtn Div Ord Unit

C/O 99 APO

270503/CIV/EST

01/Dec'97

Binod Das

Vill- Marira Town

P.O.Chetia Gaon

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. ~~Pay~~ Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police Verification.

sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested

By

.....

51

-41-

REGD BY POST

2 Mtn. Div. Ord. Unit

C/O 99 APO

270503/CIV/EST

01/Dec '97

Rajiv Rajkhowa

Vill- Mudee Gaon

P.O. Bagdong (Panitola)

Dibrugarh, Assam.

APPOINTMENT LETTERS

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your Services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested
Bhuyam

REGD BY POST

2 Mtn Div. Ord Unit.

C/O 99 APO

01/Dec'97

270503/CIV/EST

Amrit Tanti -

Vill- Nagi Gaon

P.O. Dinjan

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and Your services commence from 02 December, 1997.
3. Payment will be made in the First week of the following month only for the number of days you were actually employee in the ~~service~~ previous month.
4. The employment is subject to police verification.

Sd/- Illegible,

(VK Sarmah)

Cbl.

Commanding Officer.

Attested

Shreyan

-43-

REGD BY POST

2 Mtn.Div. Ord Unit

C/O 99 APO

270503/CIV/EST

01/Dec'97

Binod Dhingia

Vill- Bharalua Gaon

P.O. Kharjan

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Nerric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 Dec'1997.
3. Payment will be made in the first week of the following month only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

Sd/ - Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested
Bshayan

44 -

54

REGD BY POST

2 Mtn Div.Ord Unit

C/O 99 APO

01/Dec '97

270503/CIV/EST

Atul Chetia

Vill- Bagoritolia

P.O. Mohmora Dikom

Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily wages (Nerric rates) @ Rs.40.80 per day.
2. Your employment is for the working day on which you are present at the time of morning mustering (0800 hrs) and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following monthly only for the number of days you were actually employed in the previous month.
4. The employment is subject to Police Verification.

Sd/- Illegible,

(VK Sharma)

Col

Commanding Officer.

Attested
Sharma

.....

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-45-

Annexure- 101 III

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE : DIBRUGARH:
NO.Act/27/2001/ 1656 / Dated Dibrugarh the 3.7.2001
To

The Commanding Officer,
2 Mtn. Div. ORD Unit.
C/O 99 APO.

Sub: Recruitment of Labour on daily wages .

Ref : Your Notification No.CIV/Est dated 22 June/2001.

Sir,

We acknowledge with thanks receipt of your above notification. We are taking immediate action to comply with your requirements.

In this connection I would like to request you kindly to let this office know whether you will be giving any preference including age factor etc to the ex casual labours who have worked in your department for a considerable period.

Please confirm immediately.

Yours faithfully,

Sd/- Illegible,

(S.Khatun)

Asstt. Director of Emploment
Dist. Employment Exchange, Dibrugarh.

Attested
Shreyan.

.....

Annexure-IV

To

The Hon'ble Minister of Defence
(Ministry of Defence -)
New Delhi (India).

Date ::

Sub: Prayer for permanent our jobs from
Casual Labour.

Respected Sir,

With due respect, We beg to inform you that we have been working as Casual Labour at 2 Mountain Division Ordinance Unit C/O 99 A.P.O. (At Dinjan Contl) Since 1997. After appearing proper interview, physical test, police verification etc. and after obtaining all necessary formalities by an advertisement through the employment exchange, Dibrugarh (Assam), the authority was selected and appointed us for the jobs, in the year of 1997 (2nd Dec/1997). But we are sorry to say that we are working as Casual Labours since 1997 without any Medical facilities, Monthly Ration etc. from the concern authority.

Moreover, from the date of joining at our jobs, there is no time limit for our jobs and as such we work any time (without any proper Schedule of time of ~~SWR~~ work) by the authority. Some times we work at Holidays and Sundays also, but no payment was made for the said Holidays and Sundays by the authority.

Thus, we have been facing a lots of troubles at our jobs. So, we request you kindly to take appropriate action to permanent our jobs.

contd. 2

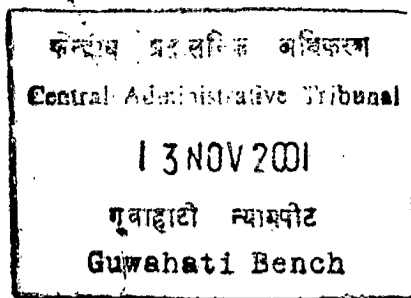
Attested
Bhagya

We, therefore, prayed before your goodself kindly look into the matter seriously and to take appropriate action to permanent our jobs from Casual labour for which we shall ever pray.

Yours faithfully,

1. Shri Tenzeng Das
2. Rubul Mait
3. Rajib Rajkhowa
4. Binod ,Dihingia
5. Bijoy Gogoi
6. Binod Das
7. Pispam Das
8. Mridul Das
9. Hitesh Gogoi
10. Atul Chutia
11. Kadam Phukan
12. Monik Chetia
13. Rabin Das
14. Phunen Gogoi
15. Bishnu Gogoi
16. Dhumar Kumar
17. Kulendra Gogoi
18. Amrit Tanti
19. Mohan Tanti
20. Kailash Yadav.
21. Jai Mangal Rowt
22. Loknath Boruah
23. ~~Illegible~~ Illegible
24. Apendu Das
25. P.Prasad
26. Sri Jiten Sarkar
27. Sri Kanak Das
28. Sri Kiran Goswami
29. Sri Ranjan Saikia
30. Nar Bahadur
31.
32.
33.
34. Sri Hira Lal Kurmi.

Attested
Bhuyan



(48)
Filed by:
A. K. Choudhury
Addl. Central Govt.
Standing Counsel.
12.11.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: GUWAHATI.

IN THE MATTER OF:

O.A. No. 353 of 2001

Heeralal Rawath & Ors.

.. Applicants

-vs-

Union of India & Ors.

.. Respondents

Written statement for and on behalf
of Respondent Nos. 1, 2, 3 & 4.

I, Col R.C.Jaswal, Commanding Officer, 2 Mountain
Division. Ordnance Unit, C/o 99APC do hereby solemnly
affirm and say as follows:

1. That I am the Commanding Officer, 2 Mountain
Division Ordnance Unit, C/o 99 APC and respondent
No. 4 in the case and as such fully acquainted with
the facts and circumstances of the case. I have
gone through a copy of the application served on me
and have understood the contents thereof. Save and
except whatever is specifically admitted in this
written statement, the other contentions and statements
may be deemed to have been denied. I am competent and
authorised to file this written statement on behalf
of all the respondents.

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2. That at the outset I beg to give a brief description of the case as under:

i) That the 2 Mountain Division Ordnance Unit is responsible to provide logistic support to all the Units depended on it. The work load of the unit had increased manifold as a result of additional role assigned to the units in counter Insurgency operations. The dependent units are spread over vast areas (700 km x 700 km) and are located in remote areas of upper Assam and Arunachal Pradesh. As a result, lots of difficulties were being faced by the unit in providing effective services due to shortage of manpower.

ii) That accordingly, a case was projected by unit to Headquarters 2 Mountain Division, the immediate superior formation, to accord sanction to employ porters/labourers on daily wages on a required basis to tide over the additional work load of non routine nature. The formation headquarters had accorded sanction to this unit for opening of supply & Services Imprest Account Budget Head 105 (F) wef 15 Sept 97 for employment civilian labourers and porters for the maintenance of troops and performing tasks of non routine nature on daily wages.

iii) That the employment of labours depended on the availability/allotment of funds under Budget Head

105(F) to the unit from local formation Headquarters and additional work load of non routine nature. The payment to the labourers was made by the CDA at the end of the month. The funds under Supply & Services Imprest Account (Budget Head 105F) is meant for employment of porter (labourefs)/CHT/Ponnies/ferries.

iv) That the process of selection of labours on daily wages started on receipt of the sanction. The names of the candidates were obtained from District Employment Exchange, Dibrugarh. A Board of officers was convened to assess the suitability of the candidates and to recommend names for employment as labourers on daily wages (nerric rates). The board of officers selected the candiddates after conducting the following tests and recommended their employment on daily wages (Nerric rates):-

- (a) 100 m run
- (b) Push ups.
- (c) Weight lifting 40 kgs.

v) That as per the nature of work content, these labourefs were employed only to perform the tasks of non routine nature which are of casual or seasonal or of intermittent nature like learance of grass to avoid fire risk during summer and also for monsoon stocking of detachments located across River Brahmaputra

and River Lohit. Accordingly, they were paid for the actual number of days they were employed for at the ~~king~~ end of the month out supply & Services Impress Account (Budget Head 105 F), lotted by the formation Headquarters.

3. That the respondents have no comments to the statements made in paragraphs 4(i) and 4(ii) of the application.

4. That the statements made in paragraphs 4(iii) & 4(iv) of the application are admitted to be true.

5. That with regard to the para 4(v) of the application I beg to state that the para 3 of the appointment letter number 270503/Civ/Est dated 01 Dec 97 clearly indicates that the payment was to be made for the number of days the individual was actually ~~em-~~ employed and they were all paid as per their attendance. There has never been any representation or complaint on that account.

6. A copy of the letter dtd. 1/12/97 is annexed hereto as Annexure- A.

6. That the statements made in para 4(vi) are correct, but it purely depended on the additional work load of non routine nature during that period.

Since there was more work, additional labours were called from the waiting list maintained for that purpose.

7, That the contention of the statements made in para 4(vii) of the applications ~~the applicants~~ is not true. The applicants were selected to be employed on daily wages (at Nerric rates) and payment was to be made for only these days on which they were called for work. Hence, the contention of rendering ~~cont~~ continuous service without interruption is not correct.

8. That as regards statements made in para 4(viii) the deponent states that as stated above, the units dependant on 2 Mountain Division Ordnance Unit were deployed/redeployed in Counter Insurgency operations in upper Assam & Arunachal Pradesh. This resulted in increased work load which required employment of additional labours for maintenance of the troops. As per nature of work and requirement of the work force some of these applicants were called for undertaking the additional tasks. They were paid as per their attendance for actual number of days they were physically employed and they ~~and~~ had never lodged any complaints.

9. That the deponent begs to state that from Apr 99 to Apr 2001, the applicants were called for work only when necessity of their employment arose. They

-6-

were all paid on daily wages as per the attendance register. As such, the contention of the applicants is not correct that the applicants worked for more number of days where as the attendance was marked for only 19 days by the management otherwise the applicants would have certainly lodged complaints on this ~~is~~ issue, which they never did.

10. That with regards to para 4(ix) of the application the deponent states that the applicants were not granted temporary status as there was no provision. As per adjutant General's Branch, Army Headquarters, New Delhi letter Number 45225/Org 4(Civ) (a) dated 29 Jan 98, granting of temporary status to the casual labours was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the scheme i.e. 10 Sept 1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. Hence, the conferring of temporary status to the applicants is not applicable even if they were employed subsequently.

A copy of the letter dtd. 29/1/98 is annexed hereto as Annexure - B.

11. That with regards to the para 4(x) of the application the respondents beg to state that as the

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regular troops were being made available for additional tasks, the necessity of employing the porters was not felt. Hence, the process of employment of the porters was stopped and the applicants were not employed thereafter.

12. That the statements made in paras 4(XI), 4(xii) and 4(xiii) of the application the respondents beg to state that the requisition for sponsoring of additional persons for employment as porters/casual labours by the establishment of 2 Mountain Division Ordnance Unit was forwarded to the District Employment Exchange, Dibrugarh on 22 Jan 2001. In the mean time, the necessity of employing these porters/casual labourers was reviewed and since the necessity was not felt, the process was discontinued.

13. ~~During~~ That the respondent begs to state that during this period, the regular troops were made available for the extra work, Since the combatant manpower was readily available and it proved to be more economical to the state, the unit management decided to stop employment of the porters in future.

14. That the respondents have no comments to the statements made in para 4(xiv) of the application.

15. That the contention of the applicants made

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in para 5 of the application is not correct. In this connection, kindly refer para 14 above and Adjutant General's Branch/Organisation 4(civ)(a) dated 29 Jan 98 which clearly states that granting of temporary status to the casual labours was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the scheme i.e. 10 Sep 1993 and had rendered one year of continuous service with 240 or 206 days as the case may be on that date. Hence, the conferring of temporary status to the applicants is not applicable even if they were employed subsequently.

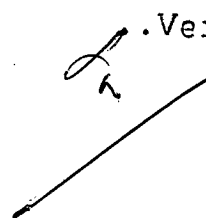
16. That the respondents have no comments to the statements made in paras 6 and 7 of the application.

17. That in view of the clarification issued on various issues above, the contention of the applicants made in para 8 of the application is incorrect and baseless and the application is liable to be dismissed.

18. That, it is further brought out that the names of all the applicants who worked in this unit were not deleted from the Employment Exchange, Dibrugarh as some of the persons employed by the unit had got permanent jobs in the government departments.

19. That the applicants are not entitled to any relief sought for and the application is liable to be dismissed with costs.

Verification..




Verification

I, Col R.C. Jaswal, Commanding Officer, 2 Mountain Division Ordnance Unit C/o 99 APO being duly authorised do hereby solemnly affirm and state that the statements made in paragraphs 1, 3, 4, 6, 11, 14 & 16 of the written statements are true to my knowledge, those made in paragraphs 2, 5, 7-10, 12, 13 & 15 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal, I have not suppressed any material facts.

And I sign this verification on this 9th day of November, 2001 at Guwahati.

Deponent


(R C Jaswal)
Col
Commanding Officer
2 Mtn Div Ord Unit

-10-10

Annexure-I (Series)

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Annexure 'A'

REGD BY POST

2 Mtn. Div. Ord .Unit

C/O 99 APO

270503/CIV/EST

02/Dec'97.

Rabul Mont
Dinjan Tinelli
P.O. Dinjan
Dibrugarh, Assam.

APPOINTMENT LETTER

1. You have been selected for employment to the post of Casual Labour on Daily Wages (Herric rates) @ Rs. 40.80 per day.
2. Your employment is for the working day present at the time of morning mustering (0800 hrs. and your services commence from 02 December, 1997.
3. Payment will be made in the first week of the following month/y only for the number of days you were actually employed in the previous month.
4. The employment is subject to police verification.

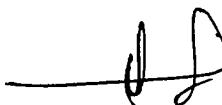
SD/-illegible

(VK Sharma)

col

Commanding Officer.

.....

CJC


1st Lt. Col

ODP

1st Commanding Officer

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/COPY/

(58)
Annexure B
IMMEDIATE

Tele : 3375033

15226/org 4(Civ)(a)

29 Jan 98

ADJUTANT GENERAL'S BRANCH
Org 4(Civ)(a)

CLARIFICATION - GRANT OF TEMPORARY STATUS AND
REGULARISATION SCHEME FOR CASUAL LABOUR

1. Grant of Temporary Status and Regularisation Scheme circulated by the Deptt of Personnel and Training under their OM No. 51016/2/90-Estt(c) dated 10 Sep 93 was disseminated to all the Branches/Dtes of Army HQ vide our note No. 71881/CL/org 4(Civ)(a) dated 29 Oct 93. Recently, while examining a case on grant of temporary status to casual employees, the DOP&T have clarified that the said scheme was a one time affair and is applicable in respect of only those casual employees who were in service on the date of the notification of the scheme, i.e. 10-9-93 and had rendered one year of continuous service with 240 or 206 days, as the case may be, on that date. Thus conferring temporary status is not applicable to those who had not completed 240 or 206 days, as the case may be, on 10 Sept 93 and also those employed as casual labours subsequently.
2. In view of the above, it is requested that all the Units/Estts under your administrative control may be apprised of the above clarification immediately for compliance.
3. Please acknowledge.

(Jagdish Singh)
JG
JG (MP)

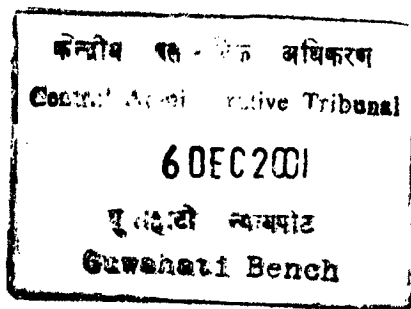
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Tele : 3375033

CTC.

IMMEDIATE

N.A.
OAG
OAG
OAG
OAG



Filed by the
Applicant

Rubul Mant

through

Subrat Bhuyar
Advocate

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

O.A. No. 353/2001.

Shri Heeralal Rawath and Ors.

..... Applicants.

-Versus-

Union of India and Ors.

..... Respondents.

In the matter of -

Rejoinder to the written statement of
Respondents No.1, 2, 3 and 4.

I, Sri Rubul Mant, son of Sri Pulin Mant, aged
about 25 years, resident of village Dongerchuk, -
P.O. Bisherial, P.S. Chabua, Dist. Dibrugarh, Assam, do hereby
solemnly affirm and state as follows :

i. That I am one of the applicants of this case.
I am well acquainted with the facts and circumstances of
this case. I have been authorised by the other applicants
to take all necessary steps of this case. I have gone
through the written statements filed by the Respondents
No.1, 2, 3 and 4 and understood the contents thereof.

Save and.....

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Revised March

Save and except whatever is specifically admitted in this written statement, other statements and contradiction may be deemed to have been denied.

ii) That with regard to the statements made in paragraphs 2(i), 2(ii), 2(iii), 2(iv) I beg to state that 2 Mountain Division, Ordnance Unit, is a permanent establishment providing logistic support to all concerned Units within the vast range of (700 x 700 km) covering remote areas of Assam and Arunachal Pradesh. This division is suffering from acute shortage of manpower which compelled them to engage a large number of casual workers to perform permanent nature of job required for providing logistic support to other establishment depending on this Mountain Division. The casual labourers are engaged with the approval of Higher Authorities. These labourers are civilian in arm force. They have been engaged after compliance of the procedure established in this regard. The applicants are some of the casual labourers engaged by 2 Mountain Division in accordance with the procedure established by law. They are registered unemployed youth having the registration in the concerned employment Exchange. On the basis of

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Rubul Marut

- 3 -

the requisition made by the 2 Mountain Division, the Employment Exchange sponsored their name for interview for the purpose of their engagement. All these Applicants had to qualify themselves after passing through a strict interview of physical fitness and other test to establish their ability to perform the incidental works required for logistic support to different establishment.

iii) That with regard to the statement made in paragraph 3(v) the applicants beg to state that it is apparent on the face of the record that the casual employees employed in 2 Mountain Division Ordnance Depot are performing permanent nature of job. It is neither seasonal nor intermittent in nature.

iv) That the statement made in paragraph 5 with regard to the contents of the order of appointment are matters of record to the effect that the payment of wage to be made for the number of working days but in the instant case the applicants were deprived of their due wages, despite having worked more than the wages paid to them. Performance of their work was recorded in the Attendance Register. It is also mentioned in paragraph 4(viii) of the

Applicants.....

Rubel Maest

- 4 -

Applicants. On this record it is evident that most of this applicants worked more than 240 days, 1998. This statement has not been denied by the Respondent in their written statement. So, it may be presumed that they worked more than a year continuously and as such entitled to have a temporary status. In the year 1999, 2000 and 2001 their attendance were not duly recorded. However from the Attendance Register of 1998 it is evident that almost all applicants have completed more than 240 days of work in a year. Accordingly the criteria laid down for conferring temporary status to a civilian in a Defence Force a civilian after completion of 240 days of work in a year is entitled to have a temporary status. As most of the employees had fulfilled the criterion to have a temporary status, it was incumbent on the part of the Respondent to confer the same after completion of the said period. But unfortunately the benefits of having temporary status was not extended to the applicant. The applicants were hopeful of getting temporary status on the basis of their attendance recorded in the year 1998 and as such lodged no complaint though they were not paid with their due wages on the basis of actual days of working in the year 1999, 2000 and 2001.

v) ...xxx.....

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Rubul Marut

v) That with regard to the statement made in paragraph 7 of the written statement the applicants beg to state that since their date of engagement they had been continuously working till they were disengaged.

vi) That with regard to the statement made in paragraph 8 of the written statement the applicants beg to state that the work performed by them are of permanent nature. They have been continuously working in 2 Mountain Division Ordnance Unit. Their long continuance of service indicates that their services were essential. It is evident from the fact that even after their disengagement the Authority concerned sent a requisition to the Employment Exchange to sponsor some persons who could be engaged in their place. In response whereof the Assistant Director of Employment Exchange, District Employment Exchange vide his letter dated 3.7.2001 sought for clarification whether the applicants, registered unemployed youth, would have any preference including age factor etc. who had worked in the Department for a considerable period. 2 Mountain Division Ordnance Unit rendering all kinds of logistic support to the various organisation of Defence Service within a vast territory of Assam and Meghalaya. Considering huge load of work,

the Authority.....

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Rubul Naut

the Authority concern with the approval of their Higher Authority, decided to engage a number of casual workers as the regular employees of their establishment cannot perform all required essential works of this establishment. All these factors clearly established the contention of the applicants that they were engaged in perennial or permanent job of 2 Mountain Division Ordnance Unit were deployed/redeployed to counter insurgency operation in Upper Assam and Arunachal Pradesh their work load was increased for maintenance of troops and as such applicants were engaged are not at all correct. It is apparent on the face of the record that service of these casual employees were essential for all purposes.

vii) That the statement made in paragraph 9 of the written statement are totally incorrect and the applicants denied the same. The avement that from April 1999 to April 2001 the applicants were called for work only when necessity of their employment arose are totally incorrect. In fact when the Respondent Authority realised that in view of the long continuous service of the applicant in the year 1998, a temporary status was to be conferred upon the applicants most of them had performed their work more than 240 days in a year. In order to circumvent the provisions of beneficial rule as made for casual employees

the.....

the Authority concerned decided to record 19 days of attendance in a month though they had to work all the days during that month. It started from the year 1999 and continued till 2001. However, the applicant did not and could not lodge any allegations against this unfair practice as they were reasonably apprehended that their lodging of protest against this unfair practice would invite a deprivation of having a temporary status. That apart as it is evident from the record that most of the applicants completed 240 working days they would have the temporary status. Accordingly they decided not to cause any annoyance of the respondents by lodging any protest for the sake of their interest.

viii) That the statement made in paragraph 10 of the written statement are totally misconceived and misplaced. Conferment of temporary status does not depend on any cut off date. It is contended that granting of temporary status to the casual labourers was a one time affair and it was applicable in respect of those casual employees who were in service on the date of notification of the scheme to grant temporary status. This contention is absolutely incorrect. Any casual employee working in any establishment of the Govt. of India including Defence establishment is entitled to have a temporary status on

completion of.....

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Rubul Marut
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completion of 240 days work in a particular year. Necessary notifications were issued by the concerned Department of the Govt. for the purpose of conferring temporary status. All relevant rules framed in this behalf stipulate that in the event of completion of 240 days of working in a establishment in a particular year, the person concerned is entitled to have a temporary status. This benefit of conferring temporary status cannot be restricted to a particular group of persons who had completed 240 required days of work on an auspicious year. This contention in support of not conferring temporary status to the applicants as they were not in service on 10th September 1993 is absolutely based on no reason.

ix) That chosen avement of paragraph 11 of the written statement will not cure the illegal action of the respondents in not granting the temporary status to the applicants. A duty was caste on the commanding officer, 2 Mountain Division, Drachance Unit, care of 99 APO to confer temporary status on the applicants who completed 240 days work in a year. Had it been conferred to them, the applicants would not have been disengaged. Structured avement of having regular troops for additional work of the 2 Mountain Division has no relevance in denying the

temporary.....

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Rubal Marat

temporary status to the applicants. It is an established principles of law that if an employee who worked for a period of 240 days in a years cannot be retrenched without compliance of the procedure established by law. Minimum requirement of such retrenchment is to afford one month's notice and to pay required compensation. Non-compliance of any of such requirement would render the action of retrenchment as void. This minimum requisite was also not complied with. Ordnance Unit is carried out by a process of systematic activities as being carried out in an Industrial Establishment. So this establishment should be construed as an Industrial Establishment for the purpose of protecting a worker as contained in section 25 F of the Industrial Dispute Act, 1947. So, it is obvious, that the action of the commanding Officer 2 Mountain Division Ordnance Unit cannot be justified in any manner whatsoever.

x) That with regard to the statement made in paragraphs 12, 13 of the written statement, the applicants beg to state that in order to deprive them the Authority concerned disengaged the applicants from their service otherwise they should have been conferred with the temporary status. Immediately after their disengagement the & Commanding Officer, 2 Mountain Division, Ordnance Unit placed a requisition to the Employment Exchange

Authority.....

Rakul Maut
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Authority for the purpose of engagement of labourers to perform the jobs performed by the applicants. When the Assistant Director of Employment Exchange enquired about the fate of the applicant, the concerned Authority did not proceed with further engagement by new recruit. All these actions transpire the oblique motive of the Authority concerned. It can easily be inferred that in order to get rid of the obligation of conferring temporary status, the applicants were disengaged.

xi) That with regard to the statement made in paragraphs 15, 17 of the written statement, the applicants beg to state that the applicants are entitled to have a temporary status and the contention of the Respondent Authority are not at all correct.

xii) That the statements made in paragraph 18 to the effect that the some of the applicants have got permanent job are not at all correct and the applicants denied the same.

VERIFICATION.

I, Sri Rakul Maut, son of Sri Pulla Maut, aged about 25 years resident of village Dongorchuk, P.O. - Bishrile, P.S. Chakma, District Dibrugarh, Assam, do hereby

declare.....

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declare and verify that the statements made in paragraphs i, ii, iii, iv are true to my knowledge and that are made in paragraphs v, vi, vii, viii, ix, x are true to my information and rests are humble submission before this Hon'ble Tribunal.

I being an authorised person verify this
Verification on this day of December, 2001.

Rubel Maant