

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 366/2001

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet... 366/2001Pg. 1to. 4.....
2. Judgment/Order dtd. 03/09/2002Pg. No. separate order Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 366/2001Pg. 1to. 34.....
5. E.P/M.P..... NilPg.to.....
6. R.A/C.P..... NilPg.to.....
7. W.S.....Pg.to.....
8. Rejoinder.....Pg.to.....
9. Reply.....Pg.to.....
10. Any other Papers.....Pg.to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 366 / 2001

Applicant (S) Jun DM

Respondant(S) U.O.I Form

Advocate for the Applicant: B.K. Sharma, S. Sarma, V.K. Nair, Mrs V.D.M

Advocate for the Respondant: C.G.S.E.

Notes of the Registry

Date

Order of the Tribunal

This application is in form
but not in the form of a
Petition. It is not filed vide
M. P. No. X C.F.
for Rs. 50/- deposited vide
IPO/BB No 76548542

Dated 11.8.2001

By Registered

WS
12/9/07

19.9.01

Heard Mr. S. Sarma, learned
counsel for the applicant.
Application is admitted. Issue
notices. Call for the records.
Notice returnable on 17.10.2001 for
further orders.

Vice-Chairman

trd

17.10.01

Service is not complete.
List on 28.11.01 for orders.

pg

The Received Notice
has been sent to the
respondent by Regd A.D.
1/10/01

No 3702 W 3704

11d 28/9/07

Service report are
all awaited,

By 11.10.01

Member

Service report are still awaited.

By
27.11.01

No. written statement has been filed.

By
3.1.02.

No. written statement has been filed.

By
31.1.02.

No. written statement has been filed.

By
4.4.02

No. written statement has been filed.

By
17.5.02.

No. W/S has been filed.

By
9.7.02.

28.11.01

On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents, 4 weeks time is allowed to file written statement.

List on 4.1.02 for written statement.

mb

4.1.02

List on 1.2.2002 to enable the respondents to file written statement.

mb

1.2.02

List on 6.3.2002 to enable the respondents to file written statement.

mb

6.3.02

List on 5.4.2002 to enable the Respondents to file written statement.

mb

5.4.02

List on 8.5.02 to enable the respondents to file written statement.

lm

8.5.02

List on 7.6.02 to enable the respondents to file written statement.

lm

4.6.02

List on 10.7.02 to enable the respondents to file written statement.

Member

Member

Vice-Chairman

Vice-Chairman

Vice-Chairman

Vice-Chairman

Vice-Chairman

Vice-Chairman

(3)

3

O.A. 366/2001

Notes of the Registry) Date

Order of the Tribunal

10.7.02

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

No WLS has been
b'leed.

Eg
13.8.02r

mb

IC (U) Sh...
Member



Vice-Chairman

14.8.2002

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

List on 3.9.2002 for hearing.

IC (U) Sh...
Member


Vice-Chairman

mb

Notes of the Registry Date

Order of the Tribunal

28/10/2002

3.9.02

Copy of the Judgement
has been sent to the
Office for the
purpose of the application
as well as to the
Govt Adv. for the
Registry.
HJ

pg

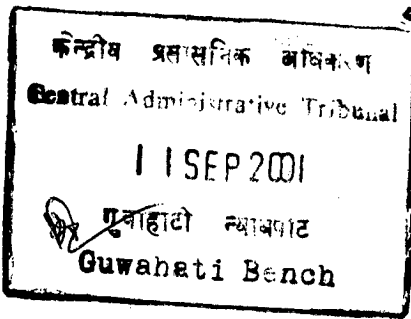
Heard counsel for the parties.

Hearing concluded. Judgment delivered
in open Court, kept in separate sheets.

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

Member

Vice-Chairman



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

O.A. No. 366 of 2001

BETWEEN

Shri Jun Das. Applicant.

AND

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

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 10
2.	Verification	11
3.	Annexure-1	12, 13
4.	Annexure-2	14, 15
5.	Annexure-3	16
6.	Annexure-4	17, 18, 19, 20
7.	Annexure-5	21 to 28
8.	Annexure-6	29
9.	Annexure-7	30, 31
10.	Annexure-8	32
11.	Annexure-9	33
12.	Annexure-10	34

Filed by : Alsha Das

Regn.No.:

File : JUN

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A.No. 366 of 2001

BETWEEN

Shri Jun Das
Casual Worker
working under Telecom District Manager
Nagaon (Assam).
..... Applicant.

VERSUS

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

DETAILS OF THE APPLICATION

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

This application is directed against the action on the part of the respondents in not considering his case for grant of temporary status and regularisation in the light of Hon'ble Apex Court judgement and the scheme prepared pursuant to the said judgement and its subsequent clarification issued from time to time. This application is directed against the action on the part of the respondents in not treating the applicant at par with the other similarly situated employees like that present applicant, whom the benefit of the scheme has been extended.

Filed by through
applicant
Jun Das. A
Advocate
1/9/2001

the

JDas

8

2. LIMITATION:

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

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and a permanent resident of Assam as such he is entitled to all the rights, privileges and protection guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant got his initial appointment as casual worker under the respondent No.3 in the month of December 1993. The applicant continued as such till the date of filing of the OA. It is pertinent to mention here that subsequently the service of the applicant has been converted to contractual service. The respondents however, have not issued any particular order converting his service condition and therefore for a considerable length of time that fact remained undiscovered.

4.3. That the casual workers of Department of Posts claiming regularisation of their services moved the Hon'ble Apex Court by way of filing Writ Petition. the Hon'ble Apex Court directed the Department concerned to prepare a scheme

for a regularisation of their services. Claiming similar benefit the casual workers of Department of Telecom also preferred Writ Petition praying for similar direction. Upon hearing the parties, the Hon'ble Apex Court directed, the Telecom Department to prepare a scheme on rational basis with a further direction to regularise the service of those casual workers who have completed one year of continuous service. Pursuant to the aforesaid judgement, the respondents have prepared a scheme in the name and style as "Casual Labour Grant of Temporary Status and Regularisation" scheme of 1989. In the said scheme the date of effect has been mentioned as 1.10.89 onwards. The said scheme was circulated by the respondents by issuing a letter dated 7.11.89 to all the Heads of the Department.

A copy of the said judgement and the letter dated 7.11.89 are annexed herewith and marked as Annexure-1 & 2.

4.4. That after issuance of the aforesaid scheme of 1989, the respondents have issued an order dated 17.12.93 by which it has been decided to extend the benefit of the scheme to the recruitees who got their initial appointment in between the years 1985 to 1988.

4.5. That after such development, there has been several agitation and complaint from the worker union side. However, the respondents remained rigid to their stand. Situated thus, some of the casual workers moved the Hon'ble Tribunal (Ernakulam) Bench by way of filing OA No.s 750/94 praying for extension of cut off date of the scheme. The Hon'ble Central Administrative Tribunal (Ernakulam) Bench

JDS

10

allowed the prayer made by the aggrieved employees and direction has been issued to extend the benefit of the said scheme up to 1.9.93. Pursuant to the said judgement in (OA 750/94) the respondents have issued an order dated 1.11.95 extending the cut off date of the scheme up to the recruitees up to 10.9.93.

A copy of the said order dated 1.11.95 (Extract) is annexed herewith and marked as Annexure-3.

4.6. That even after issuance of the aforesaid order dated 1.11.95, the respondents did not allow any Casual Worker for the said benefit. Situated thus the employees union against the matter before the respondents. But the respondents have rejected their claim. The union member thereafter, preferred application before the Hon'ble Central Administrative Tribunal, Guwahati. Which were registered and numbered as OA Nos 299 and 302 of 1996. The Hon'ble Tribunal after hearing the parties to the proceedings was pleased to allow the said applicants vide its Judgement and Order dated 13.8.97.

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

4.7. That the respondents even after the judgement and order dated 13.8.97 did not allow any of the employees (casual worker) the benefit of the scheme. Situated thus most of the casual workers including the present applicant preferred various OAs claiming implementation of the judgement and order dated 13.8.97, with a further prayer for

grant of temporary status under the scheme. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OAs with a common judgement and order dated 31.8.99, directing the respondents to consider the cases of the each of casual worker including the present applicant (OA No.192/99) taking into consideration the Annexure-1 Judgement and the Annexure-2 scheme within a stipulated time frame.

A copy of the said judgement and order dated 31.8.99 is annexed herewith and marked as Annexure-5.

4.8. That the applicant begs to state that the respondents immediately on receipt of the said judgement issued an order dated 1.9.99 by which the cut off date of the scheme has been extended up to the recruitees eligible as on 1.8.98.

A copy of the said order dated 1.9.99 is annexed herewith and marked as Annexure-6.

4.9. That the respondents pursuant to the aforesaid judgement and order dated 31.8.99, constituted a committee to examine each individual cases for extending the benefit of the scheme of 1989. The committee at the time of considering the cases issued various orders to the local Head Office to furnish data of casual workers working under them. Accordingly, the local Head Office furnished the available data of the casual workers by filing a particular form. It is pertinent to mention here that in case of present applicant, the Junior Telecom Officer (Long Distance) Nagaon, preferred the format and SDOT concerned

12

has approved the same. The said statement was duly communicated to the said committee who was entered with the job of verification.

A copy of the statement submitted by the JTO is annexed herewith and marked as Annexure-7.

4.10. That the applicant begs to state that in case of other similarly situated employees, the result of the committee has communicated with their findings. But in case of the present applicant till date nothing has been communicated by the said committee. It is further stated that the very Constitution of the committee was wrong and same has been constituted in violation of statutory rules guiding the field. On the other hand the committee took in to consideration certain irrelevant fact without there being any reference. Admitting the present applicant has completed 240 days of continuous service under the respondents and he fulfills all the required qualification as mentioned in the scheme. Again the respondents themselves have asked for production of records but same were not considered by the committee constituted for that purpose.

4.11. That the applicant begs to state that the respondents thereafter realising their mistakes committed by the committee members issued various official communications clarifying the stand. amongst those communications mention may be made of communications dated 15.1.2001, 15.2.2001 and 22.3.2001 by which it has been pointed out that the cut off date of 1.8.98 as has been imposed has got no basis. The aforesaid orders mainly speaks of cut off date, and break in

service and indication has been made for relaxation of the same.

Copies of the orders dated 15.1.2001, 15.2.2001 and 22.3.2001 are annexed herewith and marked as Annexure-8, 9 and 10 respectively.

4.12. That taking into consideration the overall aspects of the matter, the case of the applicant is required to be considered under the scheme of 1989 for grant of temporary status and regularisation. The applicant further states that there are numbers of vacancies still in existence under the respondents and the respondents can very well accommodate the present applicant in the said vacant post. The applicant could come to know that those vacancies are going to be filled up by outsiders without considering the case of the applicant. Hence, the applicant prays for an interim order from this Hon'ble Tribunal directing the respondents not to fill up those vacant posts without first considering the case of the applicant.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents are illegal, arbitrary and violative of Article 14 and 16 of Constitution of India and same are liable to be set aside and quashed.

5.2. For that the respondents have acted illegally in not considering the case of the applicant who fulfills all the required qualification/condition precedent for grant of temporary status under the scheme and as such direction

JMS.

M

needs to issue to the respondents to issue necessary order granting temporary status to the applicant.

5.3. For that the applicant is qualified candidate to receive the benefit of the scheme of 1989. Similarly situated employees like that of the present applicant has received the benefit of the scheme and as such there is no early reason as to why similar benefit can be granted to the present applicant. The action on the part of the respondents are illegal and arbitrary and liable to be set aside and quashed.

5.4. For that the committee inspite of receiving the necessary documents from the concerned authority did not take into consideration the case of the applicant. The committee considered most of similarly situated employees like that of the present applicant but the case of the applicant is yet to be considered which is per-se-illegal and arbitrary.

5.5. For that when a judgement is delivered by a competent Court of Law with direction to follow certain norms, the respondents are duty bound to follow the same. In the instant case the judgement and order dated 31.8.99 clearly speaks of consideration of the case of the applicant but the respondents have willfully and deliberately violated the same, another which they are liable to be punished under Law.

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

15

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

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the respondents to extend the benefit of the scheme of 1989 to the present applicant with retrospective effect with all consequential service benefit including arrears.

16

8.2. To direct the respondents to regularise the service of the applicant with retrospective effect with all consequential service benefits including arrears.

8.3. To allow the applicant to resume his duty as casual worker (TSM) taking in to consideration his past service and qualification.

8.4. Cost of the application.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

During the pendency of the OA, the applicant prays for an interim order directing the respondents not to fill up the vacant post of DRM and to allow him to continue as casual worker under the respondents.

10.

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

1. I.P.O. No. : 76 548947
2. Date : 30/8/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

17

VERIFICATION

I, Shri Jun Das, son of I.Das, aged about 32 years, resident of Jajari, P.O.- Jajari, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 1-3, 41, 42, 44, 410 & 5 to 12 are true to my knowledge and those made in paragraphs 43, 45, 46-49, & 411 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 3rd day of .Sept. of 2001.

Signature.

Jun Das

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Attested
[Signature]
Advocate.

ANNEXURE.2

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

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

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

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

Temporary Status.

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

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of

Attested
[Signature]
Advocate.

work.

iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they are selected through regular selection process for Gr. posts.

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

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

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

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

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

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

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

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

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

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

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

@ @ @

Attested
[Signature]
Advocate.

ANNEXURE-3.

EXTRACT.

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

NO. 66-52/92-SPB/I

dated 1.11.95.

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

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

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

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

Attested
[Signature]
Advocate.

ANNEXURE-4.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,
Line Staff and Group-D,
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,
Line Staff and Group-D
Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J.(V.C.)

Both the applications involve common question of law

Attested
[Signature]
Advocate.

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

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

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

Attested
[Signature]
Advocate.

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

Attested
[Signature]
Advocate.

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.

Attested
[Signature]
Advocate.

ANNEXURE-5.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. O.A. No.107/1998
Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.
.....
2. O.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.
.....
3. O.A.No. 114/1998
All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.
.....
4. O.A.No.118/1998
Shri Bhuban Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....
5. O.A.No.120/1998
Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.
.....
6. O.A.No.131/1998
All India Telecom Employees Union and another...Applicants.

Attested
[Signature]
Advocate.

By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Patha, Addl.C.G.S.C.
.....

7. O.A.No.135/98
All India Telecom Employees Union
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and
Mr.U.K.Nair.

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

8. O.A.No.136/1998
All India Telecom Employees Union,
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

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

9. O.A.No.141/1998
All India Telecom Employees Union,
Line Staff and Group-D and another Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

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

10. O.A. No.142/1998
All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakkar

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

11. O.A. No.145/1998
Shri Dhani Ram Deka and 10 others. Applicants
By Advocate Mr.I.Hussain.

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

12. O.A.No. 192/1998
All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By Advocates Mr.B.K. Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

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

13. O.A.No.223/1998

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

- versus -

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

.....

14. O.A.No.269/1998

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

Mr.U.K.nair and Mr.D.K.Sharma

- versus -

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

15. O.A.No.293/1998

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

and Mr.D.K.Sharma.

- versus -

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

.....

O R D E R

BARUAH, J. (V.C.)

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

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the

Attested

[Signature]

Advocate.

respondents be directed not to implement the decision of terminating the services of the casual Mazdoors . but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits

were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. No.s 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become

Attested

Advocate.

members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

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

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore , feel that theb matter should be re-examined by the respondents themselves taking in to consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scritinise and examine each case in consulta-

Attested
[Signature]
b.c.c.

tion with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

Attested
[Signature]
Advocate.

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

Dated 1.9.99.

To

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

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

Sir,

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

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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
[Signature]
Advocate.

STATEMENT SHOWING DETAILS IN RESPECT OF CASUAL LABOURES RECRUITED AFTER 30-3-84 (EXCLUSIVE THE CASUAL LABOURES RECRUITED BETWEEN 31-3-85 TO 22-6-88 FOR PROJECT/RAILWAY ELECTRIFICATION WORKS.

1. Name of the casual laboures :- Sri. J. Ven. Rao
2. Date of birth. :- 16-12-77
3. Date of appointment as :- 10-12-93
4. Period of service each year 1991 to 1997.
(Total No. working days) :- 1993 - 15 days
1994 - 240 days
1995 - 240 days
1996 - 248 days
1997 - 132 days
Total = 875 days
5. Whether employment Exchange procedure was followed in not reason thereof. :- 18 72/95
6. Reason for employing casual Laboures after 31-3-85. :- Interest of him was, Marwar 210 G.P. counter work, U/G. Cable works Thane him-walk 1215 when 2 golu phone work 2. 20 him-walks out 5 of the 5 to L.D. Nagar
7. Officer who approved employment :- of casual laboures.
8. The reason for continuance of casual laboures service in spite of order for termination. :- work-in time to him in special 51 & 52 in the period.

Signature of SL/LI period from 10-12-93 to 16-6-97

Signature of concerned JTO period from 10-12-93 to 16-6-1997

Countersignature for the period from _____

SDOT, seal.

JTO, seal.

Attested
Advocate.

Senior Telecom Officer,
LONG DISTANCE
Bhagatpur-742801

Certified that Shri Jun 31-85

an inhabitant of Village Jajari

P.O. Jajari

P.S. Jajari

District- Nagaon (Assam) . He is working under me as Casual Mazdoor on ACG-17 as follows :-

Jan/93	Jan/94	21	Jan/95.	24
Feb/93	Feb/94	19	Feb/95.	19
March/93	March/94	24	March/95.	21
April/93.	April/94.	22	April/95.	22
May/93.	May/94.	20	May/95.	20
June/93.	June/94.	18	June/95.	18
July/93.	July/94.	19	July/95.	19
Aug/93.	Aug/94.	20	Aug/95.	20
Sept/93.	Sept/94.	18	Sept/95.	20
Oct/93.	Oct/94.	19	Oct/95.	18
Nov/93.	Nov/94.	20	Nov/95.	19
Dec/93. 15	Dec/94.	20	Dec/95.	20

Total. - 15 days ✓

Total. - 240 days ✓

Total. - 240 days

Jan/96. 21	Jan/97. 25	Jan/98.
Feb/96. 20	Feb/97. 24	Feb/98.
March/96. 24	March/97. 23	March/98.
April/96. 22	April/97. 21	April/98.
May/96. 20	May/97. 18	May/98.
June/96. 20	June/97. 15	June/98.
July/96. 22	July/97. 6	July/98.
Aug/96. 20	Aug/97.	Aug/98.
Sept/96. 20	Sept/97.	Sept/98.
Oct/96. 19	Oct/97.	Oct/98.
Nov/96. 20	Nov/97.	Nov/98.
Dec/96. 20	Dec/97.	Dec/98.

Total. - 248 days

Total. 132 days

Total.

Attested
Advocate.

(S.K. Das)
Senior Telecom Officer,
LONG DISTANCE
Nagaon-782001

BHARAT SANCHAR NIGAM LIMITED :
(A Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM CIRCLE GUWAHATI - 781007.

No. ESTT-9/12/CM/15

Dated at Guwahati, the 15th January, 2001.

To,

Shri Shailendra Agarwal.
Joint D.D.G.(Pers)
Sanchar Bhawan, 20, Ashoka Road, New-Delhi - 110001.

Sub:- Grant Of Temporary Status to eligible casual labourers.

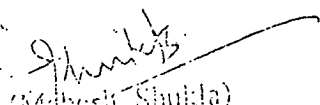
In Assam Telecom Circle, The department has to comply Hon'ble CAT's order in respect of 1290(approx) casual labourers for whom the Hon'ble CAT in numerous judgements in court case No. 112/98, 114/98, 118/98, 120/98 and 11 others has directed the department to scrutinize the records and grant the temporary status in accordance with the scheme, if found eligible. In pursuance of these CAT orders and in accordance with Directorate sanction temporary status has been already granted to 497 casual labourers so far but there are still 117 more eligible casual labourers who fulfil the criteria for grant of temporary status as on date. Despite being eligible these casual labourers could not be granted temporary status because their names were not forwarded during 1998 and Directorate in their letter No. 269-20/2000-STN II dated 04.09.2000 has put a condition to consider only those cases which were referred in 1998.

2. Vide Directorate letter No. 269-4/93-STN-II(Pt) dt. 13-2-2000, sanction for grant of Ty. status to 672 eligible casual labourers has been received. After doing thorough verification of payment particulars to casual labourers in pursuance of Hon'ble CAT orders in common judgement in case numbers 112/98, 114/98, 118/98, 120/98 and 11 others temporary status has been granted to 497 casual labourers so far and there are 175 balance sanctioned posts available as on date.

3. A number of casual labourers who were not found eligible have filed O.As before the Hon'ble CAT/Guwahati and the same are still pending. In the event of the O.As being decided in favour of the applicants the department may have to re-engage these casual labourers. The total number of posts in that event may increase.

4. Since there is no alternative in view of the above noted Hon'ble CAT's judgements and as noted in para 2(two) above Assam Telecom Circle still has balance 175 sanction posts available, it is requested that Directorate may allow Assam Telecom Circle to grant temporary status to the extent of sanction posts available. Time limit for grant of TSM expired on 31.12.2000 and more time has been requested from the Hon'ble CAT. Assam Telecom Circle strongly recommends these cases for grant of TSM since Hon'ble CAT will issue notices of Contempt if TSM is not granted despite Casual labourers found eligible.

In view of the above, you are requested to convey the Directorate approval for the proposal mentioned above.


(Mahesh Shukla)
Deputy General Manager(Admin)

Attested

Advocate.

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM CIRCLE GUWAHATI - 781007

No. ESTT-9/12/PT/KTD/40

Dated at Guwahati, the 15th February, 2001.

Shri Shailendra Agarwal.
Joint D.D.G. (Pers)
B.S.N.L. HQ, Sanchar Bhawan.
Ashoka Road, New-Delhi - 110001.

Sub:- Grant of temporary status on eligible casual labourers.
Ref: CGMT/GH letter No. ESTT-9/12/CM/15 dtd. 15/01/2001.

Dear Sir,

You may like to recall my personal meeting with you on 01.02.2001 wherein we discussed the cases of 117 such casual labourers who have completed 240 days but as on 01.08.98 they were not working due to various reasons. You may recall that this includes those 13 cases also, who were disengaged on 13/09/97 and re-engaged on 18/11/98 due to Circle Office order, by concerned DE, but after break of 13 months. (Copy of the advice of the Legal Advisor is attached).

2. You may also recall that the Section Officer concerned had given the opinion that counting break periods is relevant only when temporary status mazdoors are regularised on the basis of 10 years service. He also said that break periods have no relevance when casual labourers are to be granted temporary status on the basis of completion of 240 days work in a year.

3. The 117 casual labourers in question were initially engaged as far back as 1990. Verification Committees have found that they are eligible for grant of temporary status because they have completed 240 days in more than 1 year but could not be granted temporary status due to one of the following reasons:-

- (i) They were not in service as on 01/08/98.
- (ii) Their names ~~were~~ could not be sent to the Directorate during 1998 due to mistake at this end though they were in service as on 01/08/98.
- (iii) Break is more than 1(one) year say, 13 to 14 months.

4. Since Assam Telecom Circle still has 175 balance sanctioned post available and casual labourers have completed 240 days of continuous work, it is requested that BSNL Head Quarter may kindly relax the conditions as mentioned in above paras and allow grant of temporary status to 117 casual labourers as referred above.

With regards.

Encls: 1) Order of Hon'ble CAT dtd. 31/08/99.
2) Copy of advice of Legal Advisor to DOT.
3) Copy of the CGMT/GH letter dtd. 15/01/2001.

Attested
[Signature]
Advocate.

[Signature]
(Mahesh Shukla)
Dy. General Manager (Admin)

- 34 -

ANNEXURE - 10A

भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)

कार्यालय मुख्य महाप्रबन्धक

Office of the Chief General Manager

असम दूरसंचार परिमंडल Assam Telecom Circle

Guwahati - 781 007

OFF : कार्यालय - 540040, RES : निवास - 541041

FAX NO. : 540111

K. CHHABRA
CHIEF GENERAL MANAGER

D.O.No.STES-21/160/101

Dated 22.3.2001

Dear Sri Sharma,

Kindly refer to this office letters dated 15.01.2001 & 15.02.2001 (copies enclosed) on the subject of grant of Temporary Status to the left out casual labourers, reply of which is still awaited.

2. About 1290 casual labourers had approached the Hon'ble Tribunal, Guwahati in 15 different cases making a prayer for grant of Temporary Status to them. The Hon'ble Tribunal in their common order dated 31.8.99 directed the Respondent i.e. Department of Telecom to scrutinize the cases of these casual labourers on the basis of records and to dispose off their representations with a reasoned order within six months. Three time extensions have been obtained so far and the time limit of the last extension is expiring on 31st March, 2001.

3. During implementation of judgement, 497 casual labourers under Assam Telecom Circle have been granted Temporary Status after examination of their records by the committees constituted for the purpose as per sanction given by Directorate to grant Temporary Status to 672 casual labourers vide letter No.269-4/93-STN-JI(A) dated 13.02.2000.

4. However, 117 number casual labourers could not be granted Temporary Status due to the following reasons.

- (i) Break period is 13 to 14 months in certain cases, though they have completed 240 days or more in a year and are working as on date too.
- (ii) Certain casual labourers were not on engagement as on 01.08.98, and
- (iii) The names of certain casual labourers were not forwarded to Telecom HQ during 1998 due to mistakes at SSA and unit level because of time pressure though they were actually on service as on 01.08.98 and have completed 240 days or more in a year.

5. Since Assam Telecom Circle has still 175 vacant posts available out of 672 posts sanctioned by the Directorate and 117 casual labourers in question have completed 240 days of continuous work in a year, You are requested to bestow your personal attention in the matter for according approval of BSNL HQ for grant of Temporary Status to 117 casual labourers. Since these cases are to be decided by 31st March, 2001 as directed by the Hon'ble Tribunal, an urgent action is requested please.

With Kind Regards,

Yours sincerely,

(J.K.Chhabra)

Sri B.Sharma,
Dy. Director General (Pers)
Bharat Sanchar Nigam Limited,
Sanchar Bhawan, New Delhi-110001.

Attested

Advocate.