

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./T.A No. 41/2001.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 41/2001

Babul Saikia. Jws. . . Applicant.

Versus

Union of India & Ors. Respondents.

For the Applicant(s)

B.K. Sharma
D.K. Ghorwani

For the Respondents.

CASE

NOTES OF THE REGISTRAR

DATE

O R D E R

This application is in form
but not in the proper
Petition form. It is
not in the proper
form.
59421949
30.1.2001

30.1.01

Admit. Call for the records.
Returnable on 5.3.001.

Member

Vice-Chairman

trd

5.3.01

List on 23.4.01 to enable the
respondents to file written statement.

lm

Vice-Chairman

23.4.01

List on 23.5.01 to enable the
respondents to file written statement.

Member

Vice-Chairman

pg

23.5.01

List on 25-6-2001 to enable the
respondents to file written statement.

Member

Vice-Chairman

bb

25.6.01

Mr. B.C. Pathak, counsel for the
respondents prays for and granted 4
weeks and no more time to file written
statement. The applicant will have 2
weeks thereafter to file rejoinder.
List on 21-8-2001 for order.

12-2-2001

Service of notice prepared
and issued to the respondents
vide D.O.

13-3-2001

Notice duly served
on respondent No. 2

For

20.4.01

no WPS has been

filed.

la

(2)

① Notice duly served
On R.No. 1 & 3,
Respondant No-2 are
still awaited.

② No. written statement
has been filed.

By
12.6.01

No. written statement
has been filed.

By
5.10.01

25.6.01 Sri B.C.Pathak, counsel for the
respondents, prays for and granted
4 weeks and no more time to file
written statement. The applicant will
have 2 weeks time thereafter to file
rejoinder.

List on 21-8-2001 for order.

K. C. Sharma
Member

[Signature]
Vice-Chairman

mb

21.8.01 List on 6/9/01 to enable the respondents
to file written statement and records.

K. C. Sharma
Member

[Signature]
Vice-Chairman

mb

6.9.01 On the request of Mr.B.C.Pathak, Addl.
C.G.S.C. 4 weeks time is allowed to the responde-
ts to file written statement.

List on 8/10/01 for order.

K. C. Sharma
Member

mb

8.10.01 List the case on 19.11.2001 to
enable the respondents to file written
statement.

K. C. Sharma
Member

[Signature]
Vice-Chairman

bb

19.11.01 Written statement has been
filed. List for hearing on 2.1.02.
In the meantime the applicant may
file/rejoinder if any, within 2 weeks.

K. C. Sharma
Member

[Signature]
Vice-Chairman

lm

2.1.02 List again on 8.1.02 for hearing
on the prayer of the learned Sr.C.G.S.C.
Mr A.Deb Roy.

K. C. Sharma
Member

[Signature]
Vice-Chairman

pg

No. Wks has been filed.

By
16.11.01

20.11.2001

W/s on behalf
of the Respondent No. 1, 2,
and 3. Submitted.

No. Rejoinder has
been filed.

By
1.1.02

3

O.A.No.41/2001

Notes of the Registry

Date

Order of the Tribunal

8.1.2002

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

16/1/2002
Member

[Signature]
Vice-Chairman

nk m

12/2/2002

Copy of the Judgment has been sent to the office for stamping and to the applicant as well as to the order clerk for the records.

to m 20/2/02

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXXX~~ No. 41 of 2001

DATE OF DECISION 8.1.2002

1. Shri Bubul Saikia

2. Shri Pradip Patar APPLICANT(S)

Mr B.K. Sharma, Mr S. Sarma and

Mr. U.K. Goswami ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

The Union of India and others

..... RESPONDENT(S)

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

..... ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE 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 ?

5.

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.41 of 2001

Date of decision: This the 8th day of January 2002

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

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

1. Shri Bubul Saikia,
Casual Worker, working under the
Sub Divisional Officer, Telecom.
(SDOT), Naugaon, Assam.
2. Shri Pradip Patar,
Casual Worker, working under the
Sub-Divisional Officer, Telecom,
(SDOT), Naugaon, Assam.

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma and
U.K. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Ministry of Communication,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
3. The Sub-Divisional Officer, Telecom (SDOT),
Nagaon, Assam.

.....Respondents

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


.....
O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

Conferment of temporary status is the subject matter which has again cropped in this application. The applicants claim that they worked as casual labourer under the respondents since 1989 onwards and even now according to them they are working. The respondents are not accepting that fact. According to the respondents these applicants, no doubt worked as and when required from 1989 till 1998, but neither of them completed 240 days in any calender year. Therefore, their cases could not be considered.

2. We have heard Mr S. Sarma, learned counsel for the applicants and Mr B.C. Pathak, learned Addl. C.G.S.C. Upon hearing the learned counsel for the parties, we are of the opinion that the case of these applicants are also required to be considered sympathetically. At any rate, these applicants rendered their services under the Department for a long time, though they could not fulfil the statutory period. We feel that in case vacancies arise in future these applicants shall also be accommodated against those future vacancies as per the demand of the department so that the applicants can be absorbed in due course.

3. Subject to the above observation the application is disposed of. No order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case : O.A.No. of 2001.

BETWEEN

Shri Bubul Saikia & anr.

VERSUS

Union of India & Ors.

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Filed by :U.K.Goswami, Advocate. Regn. No

File No.:C:\WS7\BABUL

Date: 24.1.2001.

10
Filed by:
The Applicants
through
Ujjal Kr. Goswami
Advocate
24/1/99

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No.'2001

BETWEEN

1. Sri Bubul Saikia, Casual Worker,
at present working under Sub Divisional Officer, Telecom,
(SDOT) Nangaon. Assam. 1989
2. Sri Pradip Patar, Casual Worker,
at present working under Sub Divisional Officer, Telecom,
(SDOT) Nangaon. Assam. 7/1 1989
- Applicants.

- A N D -

1. The Union of India,
Represented by the Secretary to the
Ministry of Communication. New Delhi.
2. The Chief General Manager,
Assam Telecom Circle, Guwahati.
3. The Sub Divisional Officer, Telecom (SDOT)
Nangaon, Assam.
- Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the respondents in not considering the case of the applicants for grant of temporary status and regularisation of their respective services pursuant to scheme and directions of the Hon'ble Supreme Court by which under the similar facts situation like that of the applications, others named been benefited. This application is also directed against the action of the respondents in not implementing the order dated 31.8.99 passed in O.A Nos 107 of 1998 and ors. by the Hon'ble Tribunal, wherein directions have been issued for scrutinising their documents and to consider the cases of the applicants.

RS

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

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

4.2. That in the instant application, the applicant No 1 is a casual worker presently holding the post of casual worker under the SDOT Nagaon, i.e, the respondent No 3. The applicant entered the service under the respondents in January 1989 (1.1.89) as casual worker. In the said capacity the applicant is still continuing under the respondent No 3. The applicant No 1 is drawing his pay under the departmental pay slip i.e, ACG-17. It is noteworthy to mention here that at the time of his initial entry as casual worker, the applicant No-1 had to face a screening committee for his placement against a clear vacant post of DRM.

The applicant No 2 entered the services of the respondents as casual worker, after facing a screening committee in July 1989 (1.7.89) under the respondent No , he is still continuing as such without any break against a clear vacant post of DRM. The applicant No 2 is drawing his salary under the ACG-17

pay slip.

4.3. That the applicants as stated above are presently continuing as casual workers and all of them were appointed in various dates in the year 1989 casual basis after following the due selection process. The applicants are at present drawing their wages under departmental pay slips, ACG-17, which will show that they are casual workers of the Dept. of Telecommunication and hence the applicants pray for a direction to the respondents to produce all the relevant documents at the time of hearing of the case.

Certificates issued by the respondents showing the date of entry in respect of both the applicants are annexed herewith and marked as ANNEXURE-A-1 colly and A-2 colly.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing writ petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in

their respective posts. Pursuant to judgment the Govt. of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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

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

4.6. That the respondents after issuance of the aforesaid scheme, issued further clarification from time to time of which mention may be made of letter No.269-4/93-STN-II dated 17.12.93 by which it was stipulated that the benefits of the scheme should be conferred to the casual labourers who were engaged during the period from 13.3.85 to 22.6.88.

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

4.7. That on the other hand casual workers of the Deptt. of Posts who were employed on 29.11.89 were eligible to be conferred the temporary status on satisfying other eligible conditions. The

stipulated dated 29.11.89 has now further been extended up to 10.9.93 pursuant to a judgment of the Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in DA No.750/94. Pursuant to the said judgment delivered by the Ernakulam Bench, Govt of India, Ministry of Communication issued letter No.66-52/92-SPD-I dated 1.11.95 by which the benefits of conferring temporary status to the casual labourers have been extended up to the recruitees up to the 10.9.93. Since the Dept. of Telecommunication and Posts are under the same Ministry hence the same benefits will also be applicable to the Casual workers of Telecom.

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

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

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

4.9. That the applicants state that the casual labourers working in the Deptt of Telecommunication are similarly situated like that of the casual workers working in the Deptt.of Posts.

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

4.10. That the applicants beg to state that in view of aforesaid scheme as well as the verdict of the Hon'ble Supreme Court, they entitled to be regularised more so when there is at present more than 900 posts of DRM have been allotted to Assam Circle.

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

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

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

4.13. That the applicants beg to state that the action of the respondents towards the non implementation of the case of the applicants are with some ulterior motive only to deprive them from their legitimate claim of regularisation. The main crux of their prayer was for regularisation and grant of temporary status and for consideration of their cases against the 900 posts as mentioned above but in reply, the respondents have not issued any order as yet. The respondents being a model employer ought to have granted the benefit of temporary status as per the scheme without requiring them to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicants fulfill the required qualification as per the said scheme.

4.14. That the applicants state that in a nutshell their whole grievances are that to extend the benefit of the aforesaid scheme as well as similar treatment as has been granted to the casual workers working under Deptt. of Posts in regard to treating the cut of date of engagement as has been modified from time to time by issuing various orders, of which mention may be made of order dated 1.9.99 by which the benefit of the scheme has been extended to the recruitees up to 1.8.1998.

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

4.15 That the applicant begs to state that highlighting their grievance, they had approached the Hon'ble Tribunal by way of filing OA No. 112, and 192 of 98 praying for grant of temporary status and regularisation. The Hon'ble Tribunal was pleased to dispose of the said OA along with other connected matters vide its order dated 31.8.99 with a direction to the respondents to consider their cases after due scrutinise of the documents.

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

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

The applicants inspire of their best effort could not collect the said copy of the order dated 9.11.99 and hence prays before the Hon'ble Tribunal for a direction to the respondents to produce the said copy of the order and other connected orders at the time of hearing of the case.

Copies of the representations are annexed herewith and marked as ANNEXURE-7 AND 7A.

4.17 That the applicants beg to state that after the judgment and order dated 31.8.99, they have submitted representations individually highlighting their date of appointment as well as number of working days, certificates etc. and the applicants

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were asked to appear in interview held by the respondent. However, the respondents have not yet held any interview in respect of the present applicants. The respondent No. 3 in the light of the said interview granted the benefit of the scheme to the other similarly situated employees like that of the applicants, but for the reasons best known to the respondents the said benefit have not been granted to the present applicants. Even some of the employees who were recruited even in the year 1997-98 have been granted with the benefit of the scheme ignoring the long and continuous 11 years of service of the applicants. It is also pertinent to mention here that in some cases the respondents have issued specific order of rejection.

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

4.19. That the applicants begs to state that in their cases the Annexure A-1 and A-2 certificates issued by the respondents as well as by the subordinate authorities of the respondents have not been examined properly. It is further stated that juniors to the applicants even outsiders have been granted with temporary status but only the applicants in whose case no personnel hearing, i.e. interview was held, have been denied the

said benefit of temporary status as well as its subsequent clarification issued from time to time. The aforesaid discriminatory action leads to violation of Art 14 and 16 of the Constitution of India and hence same is liable to be set aside and quashed only on the ground of same being discriminatory in nature and further direction may issued for granting temporary status to the applicants with all consequential benefits.

4.20. That the applicants beg to states that the respondents have not verified the records placed before them by the applicants. In fact the respondents have violated the direction issued by the Hon'ble Tribunal in its judgment and order dated 31.8.99.

4.21. That the applicants beg to stat that the respondent have violated the directions issued by the Hon'ble Tribunal. In implementing the said judgment and order the respondents have held interviews in other cases but same procedure has not been maintained in case of the present applicants which has resulted in hostile discrimination and same is liable to be set aside and quashed.

4.22. That the applicants begs to state that the respondents have not apply their mind properly in acting in the arbitrary manner as has been done in the present case. In fact the applicants fulfill the required criteria laid down in the scheme of 1989 itself and hence their case are required to be considered for grant of temporary status with retrospective effect and to regularise their service with full back wages etc.

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

status.

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

4.24. That the applicants begs to state that the respondents are now granting the said benefits and filling up all most 900 posts of DRM within a very short time without considering their cases. The applicants are now in employments as casual workers but in view of the aforesaid development narrated above the respondents may terminate their service. In that view of the matter the applicants prays for an interim order directing the respondents not to disengage them from their present employments and not to fill up the posts of DRM till the disposal of the case. in case the interim order is not grants the applicants will suffer irreparable loss and injury.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

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

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

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

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

5.5. For that the respondents have acted illegally in not considering the case of the applicants without examining the relevant documents submitted by the applicants as well as the authorities of their respondents. And hence the impugned action of the respondents is liable to be set aside and quashed.

5.6. For that as per the order dated 1.9.99 the cases of the applicants are required to be considered under the scheme of 1989 and since the applicant have completed 240 days of continuous service in each a year since their entry into the service, and hence the respondents are duty bound to grant temporary status as per the scheme, more so when the other similarly situated employees like that of the applicants have been granted with the said benefit.

5.7. For that the respondents have violative the judgment and order dated 31.8.99 passed by this Hon'ble Tribunal in not calling the applicants for interview. On that score alone the impugned action is liable to be set aside and quashed.

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

The applicants crave leave of the Hon'ble Tribunal to

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advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them. In view of certain management restructuring occurred in the administration of the respondents the applicants have come under the protective hands of the Hon'ble Tribunal seeking urgent relief.

8. RELIEF SOUGHT FOR:

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

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

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

8.3. Cost of the applicants.

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

9. INTERIM ORDER PRAYED FOR:

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

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 56 421949
2. Date : 30/11/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

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VERIFICATION

I, Shri Bobul Saikia, s/o Late Uma Ram Saikia, aged about 28 years, casual worker, at present working under the SDOT Nagaon, do hereby verify and state that the statements made in paragraphs 4.1, 4.2, 4.5, 4.6, 4.8-4.10, 4.12, 4.13, 4.17-4.24 & 5.1-5.8 are true to my knowledge and those made in paragraphs 4.3, 4.4, 4.7, 4.11, 4.14-4.16 are true to my legal advice and I have not suppressed any material facts. I am also duly authorised by the other applicants to sign this verification on their behalf.

And I sign this verification on this the 24th day of Jan 2001.

अविदुल साकिया ।

Certified that Shri Bubul Saikia
s/o. Umasam Saikia an inhabitant of
Vill. Dorbin Barapungia P.O. Barapungia
P.S. Raha Dist. Nagaon (Assam). He is working
under me as casual Mazdoor on ACG - 17 as follows:

Month.	Days.
Jan./89	10 days
Feb./89	21 "
March/89	24 "
April/89	25 "
May/89	20 "
June/89	23 "
July/89	24 "
Aug./89	
Sept./89	
Oct./89	
Nov./89	
Dec./89	
Total.	147 Days.
Jan./90	23 "
Feb./90	25 "
March/90	25 "
April/90	26 "
May/90	25 "
June/90	24 "
July/90	20 "
Aug./90	23 "
Sept./90	25 "
Oct/90	26 "
Nov./90	23 "
Dec./90	25 "
Total.	287 Days.

Attended
Whigswami
Advocate

S. K. S. 2/6/94

c/s. [Signature] 14/7/94.
Junior Telecom. Officer (Dist)
Nagaon

Certified that Sri Bubul Saikia
S/o Late Uma ram Saikia an inhabitant of
vill - Dakhin Boreapujia P.O. Boreapujia
P.S. - Raha Dist - Nagaon (Assam). He is
working under me as Casual mazdoor on
A.C.G-17 Since January/91 to Dec/93,
His presence in each year above 240 day
during this period as given below:-

Jan/91	20 days
Feb/91	22 "
March/91	24 "
April/91	29 "
May/91	11 "
June/91	19 "
July/91	23 "
Aug/91	26 "
Sep/91	25 "
Oct/91	20 "
Nov/91	16 "
Dec/91	21 "
Total = 256 days	

Jan/93	12 days
Feb/93	25 "
May/93	25 "
April/93	27 "
May/93	26 "
June/93	25 "
July/93	26 "
Ag/93	28 "
Sept/93	25 "
Oct/93	24 "
Nov/93	28 "
Dec/93	7 "
Total = 278 "	

Jan/92	26 days
Feb/92	24 "
March/92	25 "
April/92	24 "
May/92	26 "
June/92	23 "
July/92	21 "
Aug/92	25 "
Sept/92	27 "
Oct/92	26 "
Nov/92	27 "
Dec/92	29 "
Total = 303 days	

The Casual mazdoor was
worked under me from Sept 1991
to Dec 1993.

[Signature]
Junior Telecom. Officer
Out-Door (East)
Nagaon.

[Signature] S.I. (O)
7/12/93

Attested
Union
Advocate

Certified that Sri Bubul Saikia

s/o Hanagom Saikia an inhabitent of Vill

Dakhin Barapujia P.O. Barapujia

I.S. Raha Dist Nagaon (Assam)

Rahaon is working under me as casual Mozdoor on ACG - 17 as follows.

No. of days present.

Jan/ 94	26	days	} 81 days
Feb/ 94	24	"	
March/ 94	14	"	
April/ 94	17	"	
May / 94	nil.		

[Signature]
Junior Telecom Officer,
Outdoor (Vizag)
Mazam

[Signature] Sl. (10)
NGb

Attested
W. Jeyaraj
Advocate

Certified that Shri BIBUL SAIKIA son of
Late Uria ram Saikia an inhabitant of Village
Dakhin Barapujio Barapujio p/s Raha (Nga)
in the district of Nagaon (Assam) .He is working under me as
Casual Mazdoor on AOG-17 as follows :-

<u>Month & Year.</u>	<u>Day.</u>
March '94	15
April '94	14
May '94	22
June '94	25
July '94	23
Aug '94	24
Sept '94	26
Oct '94	19
Nov '94	23
Dec '94	24

Total- 215 Days

Jan '95	20
Feb '95	19
March '95	20
April '95	25
May '95	23
June '95	21
July '95	24
Aug '95	23
Sept '95	25
Oct '95	22
Nov '95	21
Dec '95	25

Total- 268 Days.

Jan '96	23
February '96	18
	41 Days.

*Admission from year
1995 to Feb '26.*

[Signature]

*Attended
Mazdoor
Advocate*

*At. E. Roy
87*

Statement showing details in respect of Casual Labourers recruited after 30/03/85 (Excluding the casual Labourers re-recruited between 31/03/85 to 22/06/88 for project/Railway Electrification works)

1. Name of the Casual Labourers:- SRI BUBUL SAIKIA

2. Date of Birth :- 21.10.72

3. Date of appointment :- 1.1.89

4. Period of service each year 1985, 86, 87, 88, 89, 90, 91, 92, 93 (Total No of working days).

147	287	256	303	278	296	268	414
89	90	91	92	93	94	95	96

5. Whether employment exchange Procedure was followed, if not reason thereof ... :

4296/90

6. Reason for employing casual Labourers after 31/03/85 :-

To complete the estimated works i.e. Cable laying, wire cross etc.

7. Officer who approved employment of Casual Labourers :- J.T.O.

8. The reason for continuance of casual Labourers service inspite of orders for termination.

Quota acquired by Nubra & staff for construction work

H. C. Roy

Lower S.I.

Confirmed for the period from Jan '89 to Dec '90 and Jan '91 to Dec '91 as per enclosed record submitted.

from Sept 92 to Dec 96

Junior Telecommunication Officer, Trunk Exchange, Nagaur

Sub-Divisional Engineer, Nagaur

Certified that Sri Pradip Kumar - Patra,
s/o Late Maghawa Patra an inhabitant of Vill. Louphula
- Bareilly - P.O. Deghali Ati - Dist. Nagark -
He is working under that on ACC-17 since 1992 to till as
given below :-

1992	Days	1993	Days	1994	Days
August/	24	Jan/	25	Jan/	22
Sept/	22	Feb/	18	Feb/	18
Oct/	23	March/	21	March/	20
Nov/	24	April/	20	April/	21
Dec/	25	May/	21	May/	20
	<u>115</u>	June/	22	June/	18
		July/	18	July/	23
		Aug/	20	Aug/	15
		Sept/	21	Sept/	20
		Oct/	25	Oct/	21
		Nov/	20	Nov/	24
		Dec/	21	Dec/	25

Total

Total 252

Total 247

1995	Days
Jan/	25
Feb/	18
March/	16
April/	22
May/	21
June/	23
July/	20
Aug/	20
Sept/	21
Oct/	23
Nov/	22
Dec/	21

Total 252

Attested
M. G. G. G.
P. S. S. S.

for C. Roy

Certified that Sri Pradip Patar S/o. Late Madina Patar an
Inhabitant of Vill. Lawphola bari. P.O. Dighali-atl Dist. Nagaon
Assam. He is working under the On ACG-17 Since 1990 to
till date as given below :-

1989 days.
November/
December/

1990 days.
Jan/ 25
Feb/ nil
March/ 27
April/ 28
May/ 26
June/ 27
July/ 30
Aug/ 25
Sept/ 26
Oct/ 27
Nov/ 30
Dec/ 31

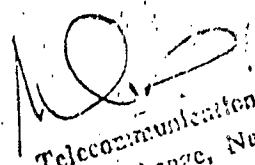
Total 302 days.


1991 days.
Jan/ 26
Feb/ 26
Mar/ 27
April/ 29
May/ 18
June/ 22
July/ 23
Aug/ 27
Sept/ 26
Oct/ 25
Nov/ 30
Dec/ 30
Total 309 days

1992 days.
Jan/ -
Feb/ -
Mar/ -
April/ -
May/ -
June/ 22
July/ 5
Aug/ -
Sept/ -
Oct/ -
Nov/ -
Dec/ -

Total 27 days.

and from the period
1990 to July, 1992.


Junior Telecommunication Officer,
Trunk Exchange, Nagaon

 HAN

Certified that Sri Pradip Pator S/O Late Magham
Pator of Dhighali Ati P.O. vill Low ~~Phula~~ Phulabari
worked as Casual Worker on A.C.S-17 for the
following days under J.T.C (Sr) NBS (J. Ghosh)

July 89 - 27 days

Aug 89 - 27 days

Sept 89 - 25 days

Oct 89 - 26 days

Nov 89 - 26 days

Dec 89 - 27 days.

[Signature] 12.14/11/95

J.T.C. (Comm. & Elect.)
Nagarni (T.C. Xing)

Attested
Rela Goshwami
Advocate

ANNEXURE-1..

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a

Attested
W. J. G. Rao
Advocate

rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the posts and Telegraphs Department".

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

Sd/-

Sd/-

(-Ranganath Mishra) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1990.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

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

Attested
W. J. G. S. S.
Advocate

SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

ANNEXURE

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

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

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

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

Temporary Status.

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

Attest
Mr. Gowan
Advocate

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.

@ @ @

ANNEXURE-..3.
EXTRACT.

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

NO.66-52/92-SPB/I

dated 1.11.93.

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 Ernakulam 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
W. J. J. J.
Attested

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.S.C.

ORDER

BARUAH J.(V.C.)

Both the applications involve common question of law and similar facts. In both the applications the applicants have prayed for a direction to the respondents to give them certain

*Attested
Urduwani
Advocate*

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

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

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a

- 33 -

year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the appli-

cant 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
W. Goswami
Advocate

- 35 -

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ANNEXURE.5

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)

*Attended
U.K. Gurnam
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

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

Attested
U.K. Goswami
Advocate

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

7. O.A.No.135/98
All India Telecom Employees Union
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and
Mr.U.K.Nair.
- versus -
The Union of India and others . . . Respondents.,
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....

8. O.A.No.136/1998
All India Telecom Employees Union,
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.
.....

9. O.A.No.141/1998
All India Telecom Employees Union,
Line Staff and Group-D and another Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.
- versus -
The Union of India and others Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.,
.....

10. O.A. No.142/1998
All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakkar
- versus -
The Union of India and others. Respondents.
By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.
.....

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

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

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

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

14. O.A.No.269/1998

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

15. O.A.No.293/1998

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

O R D E R

BARUAH.J. (V.C.)

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

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors . but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grnt 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 Mazdooors 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 13.2.1995 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

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

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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as

casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1999 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and

not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counser for the applicants also submits that the respondents can not put any cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued directin for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that the 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 scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN
SD/- MEMBER (A)

Attested
Uk G. S. Wani
Advocate

To
The Chief General Manager,
Assam Telephon. Circle,
Guwahati-781007.

(Through Proper Channel)

Sub :- Prayer for Grant of Temporary Status/Regularisation into the Service.

Ref :- CAP Guwahati Order dated 31-8-99 on Cases of Casual Mazdoors.

Sir,

With due respect and humble submission and as desired by the Honourable CAP, Guwahati, I do hereby submit my representation as follows :-

1. That Sir, I Shri Bubul Saikia beg to state that I am working in your Department as a Casual Mazdoor since 1.1.89 and by this time I have completed more than 10 (Ten) years of service, and my name listed in CAP OA. No. 112 of 1998 Serial No. 16 I am working more than 240 days in a year.

2. Hence I do hereby request you kindly to regularise me as Temporary Status Mazdoor as per existing order of D.O.T.

I therefore fervently request you kindly to absorb me and regularise my service in this Department. For this act of kindness I shall remain ever grateful to you.

With profound respect.

Yours faithfully,
SHRI Bubul Saikia.

sri Bubul Saikia.

S/O Late Umarom Saikia

Village- Dakhin Barabuni

P.O. District- Nagaon (Assam)

Working under S.O. 1/3.0.0.2. Nagaon

Attested
Advocate

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

(Through Proper Channel)

Sub :- Prayer for Grant of Temporary Status/Regularisation
into the service.

Ref :- CAC Guwahati Order dated 31-8-99 on Cases of
Casual Mazdoors.

Sir,

With due respect and humble submission and as directed by the Honorable CAC, Guwahati, I do hereby submit my representation as follows :-

1. That Sir, I am SHRE PRADIP PATAR beg to state that I am working in your Department as a Casual Mazdoor since 1-7-1939 and by this time I have completed more than 10 1/2 years of service, and my name listed in CAC on No. 192/98 Serial No. 64 I am working more than 240 days in a year.
2. Hence I do hereby request you kindly to regularise me as Temporary Status Mazdoor as per existing order of D.O.T.

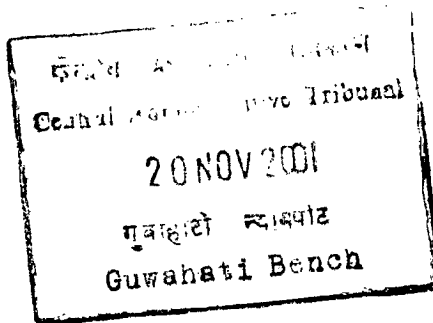
I therefore fervently request you kindly to absorb me and regularise my service in this Department. For this act of kindness I shall remain ever grateful to you.

With profound respect.

Sr Pradip Patra
Yours faithfully,

Sr Pradip Patra
S/o Lof, Maghruwa Patra
Village-Lowbulla borki
P.O. Deghaliati
P.S. Rakeh
District- Nagaon (Assam)
Working under S.D.O./S.M.O.

Attested
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : : : GUWAHATI

O.A. NO. 41 OF 2001

Sri Babul Saikia & Another.

..... Applicants.

- Vs -

Union of India & Others.

..... Respondents.

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

The Written Statements of the abovenoted respondents
are as follows :

1. That & the copy of the O.A. No. 41/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through same and understood the contents thereof. The interest of all the respondents being similar, the respondents have filed the common written statements for of them.
2. That the statements made in the application, which are not specifically admitted, are hereby denied.
3. That before traversing the various paragraphs of the application, the respondents give the brief resume of the case as under.

A large number of Casual Labourers of the respondents had approached this Hon'ble Tribunal by filing O.A.'s in O.A. No. 107/98 (Series) including the OA No. 112/98 and 192/98 where in the applicants in the instant application were also applicants. Those O.A.'s were heard at length and in the course of hearing it came to the notice of the Hon'ble Tribunal that the relevant records were not available and the facts/claims are also disputed. Therefore, the Hon'ble Tribunal instead of going to the findings of facts, passed a common order in O.A. No. 107/98 (Series) and directed the applicants to file representations stating there-in all the records and the basis of claims. On receipt of such representations from such individual applicants, the respondents were further directed to scrutinise and examine the each case in consultation with the records and to pass a re order on merits of each case within the stipulated time. As directed by this Hon'ble Tribunal, the claims of the applicants in the instant case were scrutinised and examined thoroughly from the records available with the Respondents during pendency of the case and it was found that none of the applicant were illegible for conferment of Ty. Status/Regularisation under the provisions of the scheme, 1989 or any other provisions of law. The verification committee consisting three independent members went into the records including personal hearing/ interview and they rejected the claim of the applicants with the reasons that none of them completed 240 days during any calender year for the periods they were engaged. The applicants ~~namt~~ Shri Babul Saikia and Shri Pradip Patar were

engaged by the Respondent Department. According to the verification report they rendered their service as under :

<u>Name</u>	<u>Year</u>	<u>No. of days worked</u>
1. Sri Babul Saikia	1989	16
	1990	Nil
	1991	14
	1992	07
	1993	32
	1994	124
	1995	49
	1996	40
	1997	129
	1998 ✓	91
2. Sri Pradip Patar	1991	09
	1992	68
	1996	49
	1997	45
	1998 ✓	48

In this connection it is pertinent to mention here that Shri Babul Saikia was one of the applicants in O.A. No. 112/98 and Shri Pradip Patar was also one of the applicants in O.A. No. 192/98. Both the above cases were ~~dismissed~~ disposed of alongwith the aforementioned series of cases vide judgement/order dated 31.8.99. As sure was some delay in dispsing of their representations, the appli-

applicants preferred this fresh application vide O.A. No. 41/2001.

The copy of verification report duly signed and submitted by the verification committee and the respective communications/notice given to the applicants are annexed as Annexure- R/1 (series) and R/2 (series).

4. That with regard to the statements made in para 1 of the application, the answering Respondents state that admittedly there were some delay in implementing the order dated 31.8.99 passed in O.A. Nos. 112/98 and 192/98. But the respondents complied with the direction given by this Hon'ble Tribunal in O.A. No. 112/98 and 192/98 (in series) and found the 4 applicants as stated above, ineligible for grant of Reg. Status/Regularisation.

5. The Respondents have no comments to offer with regard to the statements made in para 2, 3 and 4.1 of the application.

6. That with regard to the statements made in para 4.2 and 4.3 of the application the respondents state that the claim of the applicants are false and based on false documents and hence the correctness of the Statements are denied. In this connection the answering respondents reasserting the fore-going statements, further state that the Deptt. of Telecom has already initiated disciplinary and punitive proceedings/actions against those erring officers/officials

-5-

who indulged in issuing false and fabricated certificates standing illegally some Casual labourers to have been engaged by the Deptt. This is also a case of that nature, hence would come under the same procedure.

7. That with regard to the statement made in para 4.2 to 4.15 ~~in~~ of the application, the Respondents state that these being matter of records shall remain to the extent of such records only and nothing is admitted beyond such records.

8. That with regard to the statement made in para 4.16, 4.17 and 4.18 of the application, the answering Respondents reiterate and reassert the foregoing statements and further state that there was ~~xxx~~ slight delay in implementing the order dated 31.8.99, passed by the Hon'ble Tribunal in O.A. No. 107/98 (series) including the O.A. No. 112/98 and 192/98, and indisposing the representations of the applicants. However, as indicated above, the cases of the applicants were duly considered strictly as per direction of this Hon'ble Tribunal and the claims of the applicants were rejected on the basis of the report of the verification committee.

9. That with regard to the statement made in para 4.19, the Respondents state that the so-called certificate allegedly issued by some authorities has bearing with the engagement of the applicants as Casual labourers by the Department. Those are all false, bogus and manufactured documents which has no basis or authority for taking cognizance. The Respondents again reiterate the foregoing statements of this written statement.

10. That with regard to the statement made in paragraph 4.20, 4.21, 4.22 of the application, the Respondents reassert the foregoing statements made in the written statements and deny the correctness of the statement.
11. That with regard to the statement made in para 4.23 of the application, the Respondents state that the statements are out and out false as the applicants were dis-engaged from the month of June '98 (for Babul Saikia) and April '98 (for Pradip Patar) and this fact was duly communicated to them as indicated in the Annexure R/2 (series) of the written statement.
12. That The Respondents deny the correctness of the statements made in para 4.24 of the application in view of the detailed clarification made through the foregoing statements of this written statements. Hence the application is liable to be dismissed with cost.
13. That with regard to the statements made in para 5.1 to 5.8 of the application, the Respondents state that the grounds shown by the applicants justify their claims are no grounds at all as the same cannot sustain in law under the given facts and circumstances of the instant case.
14. That with regard to the statements made in para 6 and 7 of the application, the Respondents state that all the statements are not correct rather they are contradictory in the instant case. The Respondents have already disposed

of and complied with the order passed in O.A. No. 112/98 and 192/98. In view of the above facts, the instant application is hit by the principle of Res-judicates and or these is no fresh ~~xxxxx~~ cause of action to come under the instant O.A. NO. 41/2001. Hence the application is liable to be ~~disan~~ dismissed with cost.

15. That with regard to the statements made in para 8.1 to 8.4 and also para 9, the Respondents state that under the facts and circumstances of the case and also the provisions of rules and the scheme the applicants are not entitled to any relief what so ever as prayed for. And hence the application is liable to be dismissed with cost as its devoid of any merit.

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

Verification.....

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

I, Shri Ganesh Chandra Sarma, presently working as Asstt. Director Telecom (Legal) in the office of CEMT, Assam Circle, Guwahati ~~has~~ being competent and duly authorised to sign this verification, do hereby solemnly affirm and state that the statements made in paragraphs 1, 2, 4 to 15

are true to my knowledge and belief, those made in paragraphs 3. being matter of records are true to my informations derived there from and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 19th day of November, 2001 at Guwahati.

Ganesh Ch. Sarma.
Deponent.

REPORTS

The Committee constituted by CGMT, Guwahati letter No. ESTT - 9/12/Pt.I/23 dated 28-03-2001 and the TDM, Nagaon letter No. E - 182/CAT/2001-2002/51 dated 17-05-2001 met in the office of the TDM, Nagaon from 28-05-2001 to 29-06-2001 to scrutinized/rescrutinized and examine the engagement particulars/payment records of Casual Mazdoors related to different Court cases.

The details of applicant Court Casewise are as follows :-

Sl.No.	Court Case No.	No. of applicant.
1.	OA-316/2000	20
2.	OA-170/2000	2
3.	OA-277/2000	1
4.	OA-161/2000	1
5.	OA-99/2001	2
6.	OA-41/2001	2

The Committee has undertaken verification of available records of TDM office Nagaon and engagement/payment records of the Mazdoors have been scrutinized by the Committee. The finding of the Committee are as follows :-

Sl.No.	Category	Period of Engagement	No.
1.	A	Upto 30-03-85	Nil.
2.	B	Between 31-03-85 to 22-06-88	Nil.
3.	C	Between 23-06-88 to 01-08-98	28.

Category - A : In this category no Labour.

Category - B : In this category no Labour.

Category - C : In this category, out of 28 Casual Mazdoors one Part Time Mazdoor at Sl/No. 12 (Mrs. Devi Rani Paul OA-316/2001) is approved for full time Casual Labour (Not for TSM as per eligibility criteria) in pursuance of CGMT, Guwahati letter No. ESTT-9/12/Pt-II/48 dated 20-09-2000. The others have not completed eligibility criteria for granting of TSM as per the verification report of the Committee. However, one case of Sri Binay Das applicant at Sl/No. 23 (case OA-170/2000) may be referred to CGMT, T/F Guwahati for examining record & taking further action at their end, as the Mazdoor was engaged in T.F. Circle before 1995.

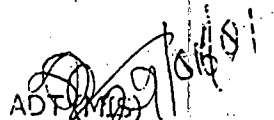
Sl/No	Name of Casual Mazdoor and OA No.	Eligibility.
1.	Sri Babul Saikia - 41/2001	Not eligible. ✓
2.	Sri Mohan Ch. Kalita - 316/2000	Not eligible
3.	Sri Chandranmal Senapati - 316/2000	Not eligible
4.	Sri Prahlad Ch. Bora - 316/2000	Not eligible
5.	Md. Nur Zaman - 316/2000	Not eligible
6.	Sri Dilip Mazumdar - 316/2000	Not eligible
7.	Sri Gajen Dewraja - 316/2000	Not eligible
8.	Sri Ananda ch. Das - 316/2000	Not eligible
9.	Sri Gokul Ch. Bora - 316/2000	Not eligible
10.	Sri Radha Kanta Bordoley - 316/2000	Not eligible
11.	Sri Dilip Kr. Bora - 316/2000	Not eligible
12.	Mrs. Devi Rani Paul - 316/2000	Not eligible for TSM but eligible for full time Casual Labour vide TDM, Nagaon letter No. E -5/CM/01-02/52 dated 18-5-2001.
13.	Sri Sanjeet Kr. Banik - 316/2000	Not eligible
14.	Sri Ashok Ch. Dey - 316/2000	Not eligible
15.	Md. Abdul Salam - 316/2000	Not eligible
16.	Sri Luit Kr. Gayan - 316/2000	Not eligible
17.	Sri Binod Kr. Saikia - 316/2000	Not eligible

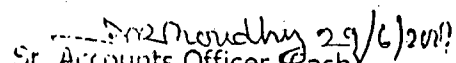
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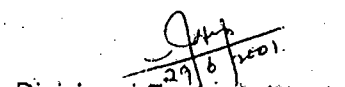
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Sl/No	Name of Casual Mazdoor and OA No.	Eligibility.
18.	Sri Sukleswar Kumar - 316/2000	Not eligible.
19.	Sri Tarun Ch. Kalita - 316/2000	Not eligible
20.	Sri Jayanta Hazarika - 316/2000	Not eligible
21.	Sri Ganesh Ch. Bora - 316/2000	Not eligible
22.	Sri Dhrubajyoti Das - 277/2000	Not eligible
23.	Sri Binoy Das - 170/2000	Not eligible in Nagaon - SSA.
24.	Sri Krishna Das - 99/2000	Not eligible
25.	Sri Madhu Singh Hira - 170/2000	Not eligible
26.	Sri Anil Das - 161/2000	Not eligible
27.	Sri Naren Ch. Bora - 99/2001	Not eligible
28.	Sri Pradipt Pator - 41/2001	Not eligible

Signature of the Committee Members


ADP (M)
O/C the CGMT
Guwahati at Nagaon


Sr. Accounts Officer (Cash)
O/C the TDM, Nagaon

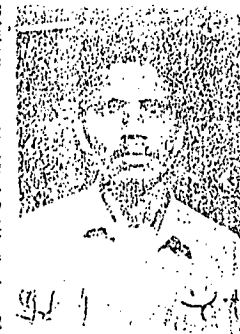

Divisional Engineer (P&A)
O/C the TDM, Nagaon

11

8/2/28

AMPHIBIOUS CORPS

PROTOCOL
TO BE
BY THE
MAZDOOR
PRESENT
THE CORP



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Verification of records of Labourers in Assam Telecom Circle

Ref: Hon'ble CAT Guwahati bench decision dated 11.03.99.

1. NAME OF THE APPLICANT : SRI PRADIP PATAR
CASUAL MAZDOOR
2. O/A NO. IF THE LABOURER HAS GONE TO COURT : OA NO. 41/2001
3. FATHER'S NAME AND ADDRESS : Late MACHUWA PATAR
VILL:- LAOPHULABORI
4. DATE OF BIRTH : 01/07/1968 P.O:- DIGHALIATI, NAGBON
5. AVAILABLE DOCUMENTS : 30 days 1 month
6. DATE OF INITIAL EMPLOYMENT (BY EMPLOYMENT EXCHANGE METHOD) : 23/12/1991 (as per paym record)
7. NATURE OF DUTY : Casual mazdoor of work
8. PRESENT STATUS : MAZDOOR : Not present not working in
9. SPECIMEN SIGNATURE OF THE MAZDOOR : Sree Pradip Patar. Dependent
10. EMPLOYABLE PERIOD (DATE OF INITIAL EMPLOYMENT TO DATE OF TERMINATION) : 23/12/1991 to 23/12/1991
11. RECOMMENDATION WHETHER CASUAL EMPLOYEE SHOULD BE GRANTED TEMPORARY KEEPING IN VIEW OF : THE COMMITTEE OPINION SHOULD BE STATUS OR FOR LINE
Not recommended
12. RECOMMENDATION OF THE NSA HEADQUARTERS : SE Head

Headman District Manager,
Digboi Telecom Dist.
Nagbong, Assam.

Signature of the committee members:

A DT (HIS)

A.O (C&H)

DB (P&A)

12

Mr. Pandip Patar
H/2001

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(EXHIBIT-12) (Page-2)

STATEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT.

	MONTH	NO. OF DAYS	MONTH OF PAYMENT	AMOUNT	ENGAGED BY WHOM	ISSUING AUTHORITY	NAME OF A.O. WHO HAS PAID
1991	Dec/91	9 days	Dec-17 (A-10 H4)	Rs 3110/-	Mr. Das	SDOT Hg	A.O. (Cash)
	Jan/92	6 days	Jan-18 (A-10 H4)	Rs 2110/-	Do	Do	Do
	Feb/92	7 "	Feb-18 (A-10 H4)	Rs 360/-	Do	Do	Do
1992	March/92	6 "	Mar-17 (A-10 H8)	Rs 240/-	-Do	-Do	Do
	April/92	30 "	Apr-17 (A-10 H4)	Rs 1223/-	Mr. Das	SDOT Hg	Do
	May/92	17 "	May-17 (A-10 H4)	Rs 727/-	-Do	-Do	Do
	Total	68 "					
1996	Jan/96	15 days	Jan-17	Rs 780/-	J. N. Saha	SDOT Hg	A.O. (Cash)
	Feb/96	17 days	Feb-17	Rs 960/-	-Do	-Do	-Do
	March/96	17 "	Mar-17	Rs 950/-	-Do	-Do	-Do
	Total	49 days					
1997	Jan/97	9 days	Jan-17	Rs 450/-	-Do	-Do	-Do
	May/97	11 "	May-17	Rs 561/-	Do	-Do	-Do
	July/97	8 "	Jul-17	Rs 400/-	Do	-Do	-Do
	August/97	10 "	Aug-17	Rs 500/-	Do	-Do	-Do
	Dec/97	7 "	Dec-17	Rs 320/-	Do	-Do	-Do
	Total	45 days					
1998	Jan/98	5 day	Jan-17	Rs 500/-	Do	Do	Do
	Feb/98	12 days	Feb-17	Rs 600/-	G. Chakraborty	Do	Do
	March/98	20 days	Mar-17	Rs 1000/-	-Do	-Do	-Do
	Total	48 days					
	The balance has not completed 2100 days in any above working up to						

Signature of the Committee Member

ADAMS

Mr. Pandip
A.O. (Cash)27/1
Patar

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ANNEXURE "A" (Part I)

PHOTOGRAPH
TO BE SUBMITTED
BY THE CASUAL
MAZDOR PRESENTING
THE COMMITTEE.



Verification of records of Casual Labourers in Assam Telecom Circle

Ref: Hon'ble CAT Guwahati bench decision dtd 31.08.99.

1. NAME OF THE APPLICANT OFF CASUAL MAZDOR. **SRI BABUL SAHA.**
2. O/A NO. IF THE LABOURER HAS GONE TO COURT. **EA NO 41/2001.**
3. FATHER'S NAME AND ADDRESS. **LATE NMA RAM SAHA**
4. DATE OF BIRTH. **16/12/42** **Dakhin Barapugia P.O. Barapugia Nagaon.**
5. AGE AS ON 01.08.1998. **25 yrs 9 months 07 days**
6. DATE OF INITIAL EMPLOYMENT THROUGH EMPLOYMENT EXCHANGE OR OTHER METHOD. **15/06/87 (as per payment record)**
7. NATURE OF DUTY PERFORMED. **Casual nature of work**
8. PRESENT STATUS OF EMPLOYMENT. **→ Not working in one Dept. now**
9. SPECIMEN SIGNATURE OF THE MAZDOR. **→ see Back u Section 21/6**
10. ENGAGEMENT PART DATED FROM THE DATE OF INITIAL EMPLOYMENT (as per attached sheet) TILL 01.08.98. **Sheet attached (two sheets)**
11. RECOMMENDATION WHETHER CASUAL LABOURER SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW CLAUSE. **Not recommended**
12. RECOMMENDATION OF THE P.A. HEADQUARTERS.

SP 8/9/98
Telecom District Manager
Nagaon Telecom Dist
Nagaon, Assam

Signature of the committee members

A-87 (MIC)

Secretary
AO (Casing)

DR. (P.H.A.)

Receps 9 67

UNCLASSIFIED (Page 2)

P.T.C Page 2.

DEF&A)

STATEMENT PARTIAL
FROM THE DATE OF INITIAL AGREEMENT

Page 2

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MONTH	NO. OF DAYS	PAID TO RENTAL AGENCY FOR TRANSPORTATION AND FUEL	AMOUNT	PAID BY WHOM	PAID TO RENTAL AGENCY FOR TRANSPORTATION AND FUEL	NAME OF A.O. WHO HAS PAID.
1995	Jan/95 5 days	AG-17	\$ 255/-	J. N. Sankar	STG	NO. (CASH)
	Feb/95 14 days	Do	\$ 722/-	Do	Do	Do
	March/95 16 days	Do	\$ 818/-	Do	Do	Do
	Dec/95 14 "	Do	\$ 722/-	Do	Do	Do
	Total: 49 days					
1996	Jan/96 23 days	AG-17	\$ 1344/-	Do	Do	Do
	Feb/96 7 "	Do	\$ 372/-	Do	Do	Do
	March/96 6, 10 "	Do	\$ 560/-	Do	Do	Do
	Total: 40 days					
1997	March/97 8 days	AG-17	\$ 1100/-	G. Chandra	STG	STG
	April/97 14 "	Do	\$ 663/-	Do	Do	Do
	May/97 15 "	Do	\$ 735/-	Do	Do	Do
	June/97 19 "	Do	\$ 1020/-	Do	Do	Do
	July/97 26 "	Do	\$ 1326/-	Do	Do	Do
	Aug/97 13 "	Do	\$ 663/-	Do	Do	Do
	Sept/97 5 "	Do	\$ 210/-	Do	Do	Do
	Oct/97 7 "	Do	\$ 350/-	Do	Do	Do
	Nov/97 8 "	Do	\$ 1100/-	Do	Do	Do
	Dec/97 14 "	Do	\$ 700/-	Do	Do	Do
	Total: 129 days					
1998	Jan/98 14 days	Do	\$ 700/-	Do	Do	Do
	Feb/98 16 "	Do	\$ 800/-	Do	Do	Do
	March/98 31 "	Do	\$ 1581/-	Do	Do	Do
	April/98 18 "	Do	\$ 918/-	Do	Do	Do
	May/98 12 "	Do	\$ 561/-	Do	Do	Do
	Total: 91 days					

Signature of the Committee Member

Signature

This above statement has been completed
on 17/8/98
by the committee member

BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/2001-02/

Dated at Nagaon the 13-08-2001.

To,
Sri Babul Saikia.
Vill-Dakhin Barapujia. P.O.Barapujia
Dist-Nagaon (Asam.)

Dear Sir,

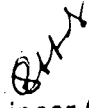
As you are aware that as per direction given by Hon'ble CAT Guwahati Bench, Guwahati in OA No.s 112/98 & 41/2001, the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/Scrutiny about the No.of days of engagement yearwise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from thye various units/offices and also personally/interviewed such casual labourer including you on 21-06-2001 in our office, the committee comprised of three members namely. 1.Sri K.K.Das, DE(P&A) O/O the TDM Nagaon, 2.Sri D.N.Baishya, ADT(MIS) O/O the CGMT/Guwahati, 3.Sri M.R.Choudhury, Sr. A.O.(Cash) O/O the TDM Nagaon.

The aforesaid committee submitted its report to the Department detailing all about their finding/proof against each casual labourer including you. The detail report is enclosed and furnished herewith on in annexure for your information.

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the scheme for conferment of TSM/regularisation, your case could not be considered favourably. Please take notice that, you have not been in engagement under the department since June.1998 and the department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunals order/and also to stay/statusquo that was directed to be maintained.

Encls As above

Copy to:- The ADT(legal)
Do the CAT Guwahati.


Divisional Engineer (P&A)
O/O the TDM Nagaon.

ANNEXURE

13 61 ANNEXURE.

Details of findings by the verification committee of NAGAON SSA in case of
Prabent Saikia In the unit/office Nagarn

No. of engagem	Authority of engagem ent.	No. of days engaged. (A) (B) Upto year/ 1.8.98 days for for normal the case cases because stay/ status quo/not to dis- engage- ment order by Hon'ble Tribunal	Proof of payment document ary.	Name & design members of committee verification	Reasons in brief of ineligibility.	Remark
1	2	3	4	5	6	7

2.6.89 SI 1989 = 16 days - ACG:17. 1) Sri K.K. Dora Not completed
 1990 = Nil " DE(P&A)/Nagarn. 240 days in
 1991 = 14 days " any working
 1992 = 7 days " 2) " D.N. Baishya years from
 1993 = 32 days " AOT(MIS)/C.O./H. 1989 to May/98.
 1994 = 124 days " 3) " M.R. Choudhury
 1995 = 49 days " Sr AO(S)/Nagarn.
 1996 = 40 days "
 1997 = 129 days "
 1998 = 91 days "
 (upto May/98)

BT
 Divisional Engineer (P&A)
 O/O the T.D.M., Nagarn
 Nagarn-782001

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BHARAT SANCHAR NIGAM LIMITED
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM

No.E-182/CAT/2001-02/

Dated at Nagaon the 13-08-2001.

To,

Sri Pradip Patar.
VIII- Laophulabari P.O.Dighaliati.
Dist-Nagaon (Asam.)

Dear Sir,

As you are aware that as per direction given by Hon'ble CAT Guwahati Bench, Guwahati in OA No.s192/98 & 41./2001, the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/Scrutiny about the No.of days of engagement yearwise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from the various units/offices and also personally/interviewed such casual labourer including you on 21-06-2001 in our office, the committee comprised of three members namely. 1.Sri K.K.Das, DE(P&A) O/O the TDM Nagaon, 2.Sri D.N.Baishya, ADT(MIS) O/O the CGMT/Guwahati, 3.Sri M.R.Choudhury, Sr. A.O.(Cash) O/O the TDM Nagaon.

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Encl: As above.

*copy to the ADT (Legal)
to the CGMT Guwahati.*

[Signature]
Divisional Engineer (P&A)
O/O the TDM Nagaon.

ANNEXURE.

Details of findings by the verification committee of NAGAON SSA in case of
 SN. Prashant P. Patra In the unit/office.....

Date of engagement.	Authority of engagement.	No. of days engaged. (A) Upto 1.8.98 for normal case (B) year/ days for the cases because stay/ status quo/ not to dis-engage-ment order by Hon'ble Tribunal	Proof of payment document any.	Name & designation of members of verification committee	Reasons in brief of Ineligibility.	Remark
1	2	3	4	5	6	7

23-12-91 M.K. Dm 1991 = 9 days ACS-13. 1) S/S K.K. Dm. Not complete
 SDO/Ngg. 1992 = 68 days " DE(P&A)/Ngg. 240 days
 1993 = Nil 2) D.N. Brishya. any work
 1994 = Nil ADT(MIS)/SH. years.
 1995 = Nil 3) M.R. Choudhury.
 1996 = 49 days. Sr AO(N)/Ngg.
 1997 = 45 days.
 1998 = 48 "

But
 District Engineer (P&A)
 O/O the T.D.M, Nagaon
 Nagaon-782001