

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

3

(DESTRUCTION OF RECORD RULES, 1990)

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dropped date-3/9/2002

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 42/2001

Ritken. Ch. Boroo. Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s)

A.C. Buragohain
N. Borah
D. Borah

For the Respondents.

C.G.S.E.

NOTES OF THE REGISTRAR

DATE

ORDER

7.2.01

Present: Hon'ble Mr.D.N.Choudhury
Vice-Chairman.

This application is in form
but not in the correct form
Particulars of the application
No. 56 421995
Date 31.1.2001

Heard learned counsel for the
parties. Issue notice to show cause
as to why application shall not be
admitted. Returnable by four weeks.
List on 7.3.01 for Admission.
Endeavour shall be made to dispose
of the application at the Admission
stage.

Dy. Registrar.

Vice-Chairman

lm

7.3.01

This matter is squarely covered
by a number of cases which were passed
by this Tribunal more particularly
302 of 96 and 299 of 96. The applicant
is also casual labourer in the Tele-
com Department and is similarly situa-
ted those persons which cases were
disposed in this Tribunal. Considering
the facts and circumstances of the
case and upon hearing of Learned
Sr.C.G.S.C. Mr.A. Deb Roy I am of the
view that since the present applicant
is also situated those casual labourers
involved in the 302 of 96 and OA. 299
of 96. The benefit of the scheme of
Casual labourer (Grant of Temporary
Status and Regularisation) prepared
by Department of Telecom. Therefore,
I direct the respondents to the similar

contd/-

9-2-2001

Service of notice
ready to issue to the
respondents vide
No.

Boroo

2

N

under

7.3.01 benefits as well as the casual labourers /the Department of Telecom. The respondents are accordingly ordered to take up the matter with utmost care ^{despatch} and caution in the light of the judgment within 3 months from the date of receipt of this order. Application is allowed. No order as to costs.

26.3.2001

Copy of the order has been sent to the office for issuing the same to the L/Advocate for the receipt and to the applicant by post.


Vice-Chairman

lm

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केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

153 31 JAN 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

DISTRICT : KAMRUP.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH.

O.A. NO. 42 OF 2001.

BETWEEN :

Shri Kiran Ch. Boro, ... Applicant.

AND

Union of India & Ors., ... Respondents.

- I N D E X -

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Filed By : Niram Barah.

Registration No. :

File: Advocate.

Date :

DISTRICT : KAMRUP.

Filed by the petitioner
Sri Kiran Ch. Boro
through Nizam Borah
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BRANCH :
GUWAHATI.

CASE NO. _____/2001.

IN THE MATTER OF :

Sri Kiran Chandra Boro,
S/O Late Bhaktaram Boro,
Village- Nawagaon,
P.O. Garshuk Chariali, Guwahati-35,
Dist. Kamrup, Assam.

LAST EMPLOYED :

As a Night Guard in the office of the
Divisional Engineer, Telegraph Office
at Guwahati Circle, Guwahati, Assam.

... Applicant.

- Vs -

1. The Union of India. (Represented by
Secretary, Department of Telecommuni-
cation.
2. The Chairman-Cum-Managing Director,
Bharat Sanchar Limited,
Sanchar Bhawan, New Delhi.
3. The Chief General Manager,
Assam Circle, Telecommunication,
Guwahati-7.
4. The General Manager, Telecommunication,
Kamrup, Telecom District,
Guwahati-7.

Sri Kiran Chandra Boro -

5. The Divisional Engineer,
Central Telegraph Office,
Guwahati- 1.

.... Respondents.

Sri Kiran chandra Boro

DETAILS OF APPLICATION:

1. Particulars of the Order : 1. Retrenchment order dated against which the application 30.9.1997 bearing No.STA-51/ is made. CL/96-97/18 issued by the Divisional Engineer CIC, Guwahati-781001 without serving any copy, thereof to the petitioner nor giving any show cause or opportunity of being heard or payment of 1 months salary in lieu of notice.
(A copy of the Retrenchment Order dt.30.9.97 is annexed as Annexure - 'A').
2. Jurisdiction of the Tribunal. : The applicant declares that the subject matter of the order against which she wants redressal is within the Jurisdiction of the Hon'ble Tribunal.
3. Limitation. : The applicant further declares that the application is within the Limitations period prescribed in Sec. 21 of the Administrative Tribunal Act. 1985.

Kiran chandra Bora

4. FACTS OF THE CASE :

a) The applicant is a citizen of India and he is permanent resident of Vill- Nawagaon, P.O. Garshuk Chariali in the District of Kamrup, Assam. He belongs to the Schedule Tribe (Boro) Community.

b) That, the petitioner was appointed since 1.4.1994 as a Casual Mazdoor/Labour (Night Guard) in the office of the Telecommunication, Kahilipara under the Divisional Engineer, Telegraph Office, Gauhati Circle for the last several years and received regular salaries from the aforesaid office under the Telecom. Department.

(Some copies of the Engagement of the Casual Labours vide memo No. STA-51/CL/96-97/04 dt. 30.10.1996 are annexed as Annexure- 'B' & 'C' respectively).

c) That, similarly situated Casual Labours of the Deptt. of Telecommunication has moved this Hon'ble Tribunal for regularisation of their services by filing O.A.184/1999 (Shri Probin Dolly and Others - Vs - Union of India. The Hon'ble Tribunal by Judgment and Order dt. 18/8/1999, has disassed the relevant Notifications issued by the Deptt. of Telecommunication proposing to confer status of Temporary Employees and confirm them phase wise, and also relied on the Judgment of the Apex Court, Daily Rated Casual Labourers employed in postal Deptt. - Vs - Union of India and others, reported in 1988(i) Sec. 122 and held as follows :-

" I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the schme of casual labourers (grant of temporary Status and Regularisation) ~~xxx~~ prepared by the Department of Telecom. Therefore, I direct the

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 of copy of this Order".

(A copy of the Judgment dt. 18/8/1997 passed in O.A. 299/96 is annexed as Annexure - 'D').

d) That, the petitioner/applicant beg to state that after the pronouncement of the above Judgement dt. 18/8/97 in B.A. 184/99, the Deputy General Manager, Administration has issued a office Memorandum dt. 16/10/98 bearing No.STES-21/160/26 for implementation of the Hon'ble CAT/Guwahati order passed in similar cases namely O.A. 107/98, 100/97, 142/98, 120/98, 145/98, 131/98, 112/98, 141/98 and 118/98. The said office Memorandum has specified that the casual labourers like the petitioner who has worked for more than 240 days in a year, ^{are} ~~there~~ entitled to one month notice or payment of salary of one month in lieu of notice as provided U/S 25(F) of the Industrial Dispute Act. 1947 before termination/retracement order. It is further indicated in the said office Memorandum that if any Casual labourers who worked more than 240 days in a year, is terminated without notice or payment of salary in lieu of notice, the termination could be illegal ab-initu and the casual labour is liable to be re-instated with immediate effect. It may be mentioned that the petitioner has duly worked for more than 240 days as casual labour and therefore his termination without notice or without payment of salary, as has been done by the Respondents, is illegal and the applicant is liable to be reinstated with immediate effect.

Dr. Himan Chandra Boro

(A copy of the Office Memorandum dt. 16/10/98
is annexed as Annexure - 'E').

e) That, it may be mentioned that the Judgement dated 11.6.99 passed in O.A. 184/99 (~~where the applicant is~~ ^{Appellant No. 22}) is similar to that of the Judgment dated 18/8/1997 passed in O.A. 299/96 and 302/98.

(The Judgement dt. 11.6.99 passed in O.A.184/99
will be produce as and when necessary).

f) That, it may be mentioned that some of the similarly situated casual labour^s who are engaged later than the petitioner in the Deptt. are being re-instated on the instruction of the legal Advisor by the Divisional Engineer, CIO, Guwahati, by his order dtd. 18/11/98 being Memo No. STA-51/CL/98-99/Loose/05 and as many as 12 numbers of casual labour^s who were terminated along with the petitioner and some of who has joined the Deptt. later than the petitioner are re-instructed/re-engagement passed by the Hon'ble CAT Guwahati. But for some unknown reason the petitioner was left over and he was not re-instated till date.

(A copy of the re-instructed order dt. 18/11/98 is
annexed as Annexure - 'F').

g) That, thereafter, the applicant has filed several representations before the Chief General Manager, Assam Telecom Circle for regularisation of the service of the applicant as regular casual employee in the Deptt. On the basis of his engagement as casual labour for more than 240 days in one year, including one which he has filed on 3.11.99. But there is no positive response from the respondents and the petitioner has not been re-instated or regularise as a regular Casual Employee.

(A copy of the representation dt. 3.11.99 is
annexed as Annexure - 'G').

9
Sri Kishan Chandra Baroo

Er. Kiran Chandra Boro -

h) That, it may further mentioned that some of the Casual Labourers who are appointed alongwith the petitioner and later than the petitioner are reinstated after allowing them to appear before the Scrutining Committee on 12.4.2000 vide Order dt. 7.4.2000 issued by the Divisional Engineer, C.O.P. Guwahati and subsequently re-instated as regular Casual Employee. But inspite of his repretations the petitioner was not call to appear before the Committee and left out of considerations for some unknown reasons. The applicant has been harassed and discriminated by the Respondents without any reasons.

(A copy of the letter dt. 7.4.2000 is annexed as Annexure- 'H').

i) That, it may further mentioned that there are still 172 posts of Casual Labour~~ers~~^{er} ~~still there~~ unfilled after accomodating about 672 casual labourers, who are situated similarly to ~~that~~^{that} of the applicant/petitioner.

(A copy of the letter dt. 9.2.2000 issued by the Asstt. Divisional General (STN) is annexed as Annexure - 'I').

j) That, it may further be mentioned that the Divisional Engineer (Admn) issued a letter on 7th Nov, 2000 indicating there in that almost majority of the casual labourers are regularised given temporary status but still there are some casual labourers who are not given temporary status or regularise and instructed the Field Officers for completion of a list so that all the elligible casual labours are regularise^{or} given temporay status but however, the petitioner/applicant apprehence his case may not be considered by the Authority Concern, there is no one to forward^{ed} his case as he belongs to a poor and down tradden family. Having no other service

holder in the family and he lost his father recently. There is no bread winner in the family of the applicant now.

Sri Kiran chandra Boro.

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

5.1. For that, prima-facie the action/inaction on the part of the respondent is illegal so far as termination of the service of the applicant is concerned that too without assigning any reason and hence the same is liable to be set aside and quashed.

5.2. For that, the denial of benefit of the scheme to the casual workers whom the applicant union represent in the instant case is prima-facie illegal and arbitrary and same is liable to be set aside and quashed.

5.3. For that, it is the settled law that ^{for} who some principles ₂ have been laid down in a Judgment extending certain set of employees, the said benefits are required to be extended to the similarly situated employees 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.

5.4. For that, the discriminated ₂ meted out to the member of the applicant is not extending the benefit of the scheme and in not treating ₂ his at par with Posted employee is violative of ~~Art.~~ ₂₀ 14 & 16 of the Constitution of India.

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

5.6. For that, the issuance of the order dt.30.9.97 by the respondents so far it relates to ~~xxxxx~~ retencement of the services of the applicant is illegal, arbitrary and violative of the principles of natural justice.

Sri Kiran chandra Bora.

5.7. 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.

6. DETAILS OF REMEDIES EXHAUSTED :

That, the applicant declare that he have exhausted all the remedies available to him and there is no alternative remedy available to him .

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY

OTHER COURT :

That, the applicant ^{further} declare that ~~xxxxxxx~~ some similarly situated casual labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of this services by filing O.A. 184/99 (Sri Prabin Doley & others- vs- Union of India). The Hon'ble Tribunal by Judgement and order dt. 18.8.1997, has discussed the relevant notification issued by the Deptt. of Telecommunication proposing to confer status of Temporary employees and confirm them phase wise and also relied on the Judgement of the Apex Court. Thereafter, the some of the employees were regularised by terminating services of the applicant in a most illegal and arbitrary manner. The applicant due to the sudden death of his father could not file any case earlier alongwith some of his colleagues. But still the petitioner is not late in preferring the appeal as he is pursuing the matter with the deptt.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instent application be submitted, 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 applicant.

Sri Kishor chandra Boro

- 8.1. To set aside and quash the retrenchment order dated 30.9.98 in case the respondents terminate his service in the light of the said order.
- 8.2. To direct the respondents to extend the benefits of the applicant and to regularise his service.
- 8.3. To direct the respondents to allow the applicant to continue in his respective service.
- 8.4. To direct the respondents to extend the benefits of the scheme to the applicant particularly who have joined in the year 1994 taking in to consideration the Hon'ble Ernakulam Bench Judgment and to regularise his service.
- 8.5. Cost of the application.
- 8.6. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deem fit and proper.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of this application the applicant pray for an interim order directing the respondents to allow the applicant to continue in his post of casual labour in the Telecommunication Department as Night Guard till the disposal of this Original application or keep one post vacant to accommodate the petitioner as the applicant's post is not filled up till date.

10.

11. PARTICULARS OF I.P.O.

- 1. I.P.O. No. 56242/945
- 2. DATE 31.1.2001:
- 3. PAYABLE AT : GUWAHATI.

12. LIST OF ENCLOSURES :

As stated in the " I N D E X ".

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

I, Shri Kiran Ch. Boro, S/O Late Bhaktaram Boro, aged about 28 years, working as Casual Mazdoor in the Office of the Telecommunication Department, Kahilipara under the Divisional Engineer, Telegraph Office, Guwahati, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 4(a) to d, f, g, h, e, g..... and those made in paragraphs 4(e)..... are matters of records which I ~~am~~ believe to be true and rests are my Humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the day of31~~st~~ January, 2001.

Su Kiran Chandra Boro.

APPLICANT

ANNEXURE - 'A'.

Govt. of India.

Department of Telecommunications.

Office of the Divisional Engineer: C.T.O. Guwahati.

No. STA-51/CL/96-97/18 Dated at Guwahati, the 30-09-97.

In pursuance of the Vigilance Officer, O/O the CGMT Assam Circle, Guwahati letter No. Vis/Assam/30(D)/10 dtd. 10.09.97 and the G.M. Telecom. Kamrup Telecom District Guwahati letter No. GM/Kamrup/GM/96-97 dtd. Telegraph Activity Area under MT/Guwahati are hereby retrenched with effect from the after noon of 30.09.97.

- 1) Sri Dhaniram Deka.
- 2) " Champak Telaukdar.
- 3) " Sachin Das.
- 4) " Kulen Das.
- .
- .
- 10) " Birbal Basfer.
- 11) " Kiran Ch. Boro.
- 12) " Bijoy Boro.
- .
- .
- 20) " Kusal Medhi.
- 21) " Khargeswar Kala.
- 22) " Madan Ch. Boro.

Sd/- (S. TAID)

Divisional Engineer,

C.T.O. Guwahati -781001.

Copy for information & necessary action to :-

- 1) The G.M. Telecom, KTD, Ulubari, Guwahati-781007 for information w.r.f. his letter dtd above.
- 2)
- 3) All I/Cs of T.O.s & T/Cs.
- 4) All SDEs, CTO, Guwahati.
- 5) The A.O., CTO, Guwahati.
- 6) The Chief Engineer, Dept. CTO, Guwahati.

*Certified to be
true copy
2/10
Advocate*

ANNEXURE - 'B'.

Office of the Chief Superintendent, CTO, Guwahati.

NO. STA-51/CL/96-97/04 Dated at Guwahati, the 30-10-96.

To,

The Telecom District Manager,

(P & A Section), Kamrup Telecom District,

Ulubari, Guwahati-781007.

(For attn. of Sri M.C.Baruah, D.E. (P&A) pl.)

Sub:- Engagement of Casual Labours.

Ref:- Your letter No. TDM/EST-179/98-97/45 dtd. 25.9.96.

A list of Casual Labours engaged in the Telegraph Activity Area under Kamrup SSA is furnished below under enclosed Annexure-I.

In view of the acute shortage of Group-D staff as furnished below, only 22 Casual Labours have been engaged to run the smooth functioning of works of different units of Telegraph activity area under Kamrup SSA (CTO/4 T.Os & 7 T/Cs).

i) T/Man(O/D) & (I/D), Gateman & RM(Engg.) ..	19
shortage as per sanctioned strength.	
ii) T/Man(O/D) & (I/D) in T.O. Ulubari as per..	5
justification but not yet sanctioned.	
iii) RM(TFC) as per CGMT/Guwahati letter No. TTI-..	19
1/3/95-96 dtd. 18.4.95 (Copy enclosed) for	
7 Telecom Centres viz. Dispur, GH Rly. Station,	
Borjhar Arrival Terminal & Departure Terminal	
Kahilipara, Panbazar & Guwahati High Court &	
8 T.Os viz, Maligaon, Noonmati & Ulubari.	
Total	43
iv) Anticipated vacancy after training & posting	
of Group-D staff as Phone Mechanics. ..	64

All the 43 posts of Group-D staff are lying vacants in this Telegraph activity area under Kamrup SSA.

In this connection, it may be stated that the Casual Mazdoors under Srl.No. 1 to 6 of Annexure-I have been engaged to meet up the acute shortage of GP-D staff in CTO/TOs & TCs prior to January/98. Now, their engagement have been confirmed w.e.f. 01-01-93 as per instructions contained vide CGMT/Guwahati letter No. RRFC-18/RE dtd. 23.12.99 and No. TTUI-1/3/95-96 dtd 18-4-95 (copies enclosed).

Casual Mazdoors under Srl.No. 7 to 21 of Annexure -I have been engaged as per instructions of CGMT/Guwahati letter cited above to meet up the requirement of work load due to a paucity of GP-D staff.

Apart from the above vacancies, another 64 posts Gropu-D are likely to be vacant after appointment of qualified staff for Phone Mechanics.

"Certified that the minimum Casual Mazdoors engaged in CTO/TOs & TCs of this Telegraph activity area under Kamrup SSA are essential for smooth functioning of works of the saud units".

Sd/- Illegible
Chief Superintendent,
C.T.O. Guwahati, Kamrup.

Enclo:- 1) Annexure-I.

*Certified to be
true copy
22
Belwahak*

Govt. of India
 Department of Telecommunications,
 Office of the Chief Superintendent, CTO, Guwahati.

Sl. No.	Name of the Casual Labour	Communitiy.	Date of birth.	Date of engagement	Enggged by	Place of engagement	Engaged against	Remarks
1	2	3	4	5	6	7	8	9
1.	Sri Dhaniram Deka	OC	24.9.67	01.01.90	CS.CTO, GH	T/C, Panbazar	Farash-cum-W/Man	Engaged ase
2.	" Champak Talukdar	OC	01-3-91	01-05-90	-do-	T.O.Noonmati	-do-	per instruc-
3.	" Sachin Das.	SC	30-4-61	01-02-91	-do-	T.O.Maligaon	Night-Guard	tions of the
4.	" Kulen Das.	SC	01-3-72	01-07-91	-do-	T/C Dispur	-do-	CGMT/GH lett-
5.	" Subhash Bgrman.	OC	28-2-67	11-11-91	-do-	T/C Rly, Stn.	-do-	er No.RRFC-18
6.	" Niranjan Malaker	SC	01-11-71	26-02-92	-do-	T/C Rly.Stn.	Farash-cum-W/Man.	RE dtd.23-12-
7.	" Sarju Basfore.	SC	01-7-63	21-05-93	-do-	T.O.Noonmati	Safaiwala	92 & No.TTUI-
8.	" Santu Chakraborty	OC	01-5-73	01-11-93	-do-	T/C Kahilipara	W/Man-cum-Farash	3/95-96
9.	" Kameswar Kardong.	ST	01-10-69	05-11-93	SDE(E) I/D	CTO Guwahati	Electrical Lab.	dtd.18.4.95
10.	" Birbal Basfore.	SC	08-11-75	01-12-93	C.S., CTO, GH	T.O.Ulubari	Safaiwala.	-do-
11.	" Kiron Ch. Boro.	ST	29-9-73	01-04-94	-do-	T/C Kahilipara	Night Guard	-do-
12.	" Bijoy Boro.	ST	25-8-71	15-07-94	-do-	T.O.Assam, Sachi	Farash-Cum-W/Man	- do-
13.	" Rabin Ch. Boro	ST	31-10-72	03-05-95	-do-	T/C Dispur	-do-	-do-
14.	Smti Kiran Kalita.	OC	24.7.70	16-7-95	-do-	T.O.Maligaon	-do-	-do-
-								
21.	Sri Pradip Bhuyan.	OC	31-12-77	07-10-96	-do-	T.O.Ulubari.	-do-	-do-
22.	" Pankaj Bora	OC	01-01-77	05-08-96	-do-	T.O.Assam	Sachivalaya	-do-

NO. STA-51/CL/96-97/04 Dt. 30/10/96.

Sd/- Illegible
 30/10/96

certified to be true copy
Advocate.

ANNEXURE - 'D'.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 299 of 1996.

and

302 of 1996

Date of Order: This the 18th 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 Circule, 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.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 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 casula labourer. The applicant No.1 in O.A.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 grievences 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.

.... 2.

*Certified to be true
copy of
Admission*

They are also similarly situated with their counter parts in the postal Department. They are working as casual labourers. However, the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the Judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & ors. reported in (1988) in Sec. 122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgement of Daily Rated Casual Labourers (Supra). The Apex Court after considering the entire matter directed the Department to give the ~~same~~ 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 benefits had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pays 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 judgement, 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 29.12.1993 before the Chairman Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

*Submitted to the
copy
Belmont*

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

4. Heard both sides, Mr.B.K.Sharma, learned counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr. A.K.Choudhury learned Addl.C.G.S.C. for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M. level at New Delhi, however, no decision had 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.

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Advocate

ANNEXURE - 'E'

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, ASSAM TELECOM CIRCULAR
ULUBARI, GUWAHATI-781007.

NO. STES-21/160/26

Dtd. at Guwahati the 16-10-1998.

To,

1. The Chief General Manager (T/F), N.E. Telecom Region, Guwahati.
2. The Chief Engineer (Civil) N.E. Telecom Circle, Guwahati.
3. The General Manager, Kamrup Telecom District, Guwahati.
- 4.9. The Telecom Dist. Manager,
Bongaigaon/Dibrugarh/Jorhat/Nagaon/Silchar/Tezpur.
10. The Supdt. Engineer (Electrical), Deptt. of Telecom, Guwahati.
11. The Director Mtee. Eastern Telecom Region, Guwahati.

Sub:- Implementation of Hon'ble CAT/Guwahati's Interim Orders in
OA Nos. 107/98, 100/97/ 142/98/120/98, 114/98, 145/98, 131/98,
112/98, 141/98 & 118/98.

With reference to the ~~XXXX~~ CAT/GIL OA Nos referred above, the
legal opinion obtained from Legal Advisor, DOT, New Delhi is enclosed
for favour of needful action at the earliest to avoid any contempt
proceedings from the Hon'ble Tribunal.

Compliance reports may kindly be sent by FAX on 22-10-98.

Sd/- (D.P. Singh)

16/10/98.

Dy. General Manager (Admn).

P. T. O.

cont.

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Advocate*

Continued of
~~Contract~~

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Placed below for the Stay Orders using different vocabulary passed by Hon'ble CAT (Gauhati Bench) and these have been handed over personally by Sh. J.M. Mishra, CGM, North Eastern Circle. The Interim Orders bear 4 type of language i.e. (1) Status quo be maintained, (2) Applicant shall not be removed ousted from engagement/service, (3) Not to discharge the applicants, and (4) Allow to continue in service.

2. The question has been raised ~~with~~ whether these applicants can be allowed to work as casual labourers though they have been removed few week before from the date of the Interim Orders.

3. Technically speaking, Stay Order against disengagement of Staff & quo does not direct or re-engage the casual labours and in this view of the situation even when re-engagement is not done, such action can be defended. However, there is another side of the picture. The casual labours are dis-engaged without giving a notice of one month of pay in lieu thereof as provided under Section 25F Industrial Disputes Act, 1947. It is assumed that these casual labourers have worked more than 24 days in a year and therefore notice or payment in lieu thereof is a necessity.

4. In case notice or payment in lieu thereof is absent then the action is illegal and the casual labourers have a right to be reinstated with back wages. If such order is given by the CAT after hearing then DoI will be requested to re-engage the persons and to pay money for the interim period even though no act could be taken from the labourers, Hence, it appears appropriate and beneficial to DoI that these labourers may be re-engaged. In case DoI wishes to dispense with their services then proper procedure under Section 25F may be adopted after re-engaging the casual labourers.

Sd/- Illegible

LEGAL ADVISOR (DOI)

Dt. 9.10.98.

Sh. J.M. Mishra,
CGM, N.E. CIRCLE.

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Advised

Govt. of India
Department of Telecommunications,
Office of the Divisional Engineer, CTO, Guwahati.

No. STA.51/CL/98-99/Lapse/05 Dated at Guwahati, the 18-11-98.

Sub:- Re-engagement of Casual Labours.

In accordance with the Legal Advisor(DOT), New Delhi, letter No. 1130/LA/98 dtd. 09.10.98, CEMT, Assam Circle, Guwahati No. STES-21/160/26 dtd. 16-10-98 and GMT, KTD, Guwahati No. GMT/EST-179/98-99 dtd. 13.11.98, the following Casual Labours are Re-engaged for performing casual nature of job w.e.f. 18.11.98 in the unit mentioned against each

Sl. No.	Name	Unit of posting
01.	Sri Kameswar Kardong	CTO/Guwahati under SDE (Elec).
02.	" Dhaniram Deka	Deptl. Canteen, CTO, Guwahati.
03.	" Kusal Ch, Medhi	-do-
04.	" Bijoy Boro.	CTO/Guwahati under A.O. TRA
05.	" Niranjan Malaker.	CTO/Guwahati.
06.	" Sachin Ch. Deka	-do-
07.	" Champal Talukdar	-do-
08.	" Suthash Barman.	T/C Rly, Station, Guwahati.
09.	" Santu Chakraborty.	T.O. Assam Sachivalaya.
10.	" Kulen Ch. Das.	T.O. Gauhati High Court.
11.	" Khargeswar Kalita.	T.O. Ulubari.
12.	" Robin Ch Boro.	T.O. Assam Sachivalaya.

Sd/- (B.B. DEB)

Divisional Engineer,

C.T.O. Guwahati-781001.

Copy to :-

1. The D.E. (Admn.) CTO the GMT/KTD, Guwahati-781007, w.e.f. his letter No. GMT/Court-Case/His/Mazdoors/98-99/7 dtd. 28.10.98.
2. The Sr. A.O., CTO, Guwahati.
3. The SDE(I/R), CTO, Guwahati.
4. The SDE(Elec), CTO, Guwahati.
5. The SDE(G), CTO, Guwahati.
6. The JTO I/C, T.O. A.S.
7. The I/C, T.O. Ulubari.
8. The I/C, T/C GH Rly, Station.
9. The I/C, GH High Court.
10. O/C.

They are requested to maintain the register for C/L(s) working under them and attendance particulars of C/Ls may be furnished to the Sr. A.O. & Chief SS(Admn), CTO, Guwahati for every month.

Sd/- (B.B. DEB)

Divisional Engineer,

C.T.O. Guwahati-781001.

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by
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ANNEXURE - 'H' 'G'

To,

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

Dt. 3/11/99.

(Through Divisional Engineer C.T.O. Guwahati.

Sub:- Representation of the undersigned for grant of temporary status or regularisation into the service.

Ref:- C.A.T. Guwahati's order dated 31.08.99 on cases Casual Mazdoors.

Sir,

With due respect, and as desired by the C.A.T. Guwahati I do hereby submit my representaiton as follows :-

2. That Sir I Shri Kiron Chandra Boro beg to state that I am working the and the Divisional Engineer, Telegraph office at Guwahati Circle, Guwahati as casual Mazdoor since 1-4-1994 and by this time I have already completed more than years of service, and my name is listed in O.A. No.....

3. That Sir, I am fully qualified for the post against, which I am working and in cash financial years since ... I am working more than 240 days in every year without any break.

4. Hence I do hereby request you to kindly regularise me as regular Mazdoor since the department has got no such additional regular staff to look on the jobs which are being attended by me.

5. I therefore request to kindly take necessary action in favour of my regularisation or offering Temporary status for which I shall remain ever grateful to you. The documents required is enclosed here-with for your kind perusal.

With profound respect.

Yours faithfully,

Sd/- Sri Kiron Chandra Boro),
S/O Late Bhaktha Ram Boro
Village Nawagaon,
P.O. Gorchok Chariali, Kamrup,
State Assam, working as casual
Mazdoor C.T.O. Guwahati.

Encl:-

1. Educational Qualification.
2. Age proof certificate.
3. Employment Eschange Regd.No.

*Certified to be
true copy
AB
Ashwadek*

ANNEXURE - 'S', 'H'

Govt. of India.
Department of Telecommunications,
Office of the Divisional Engineer, CTO, Guwahati.

NO. STA-51/CK/Loose/14(ii) Dated at Guwahati, the 07-04-2000

The following Casual Mazdoors are directed to appear in this office with the ~~grix~~ copies of Passport size photograph on 10.04.2000 to take further instruction for appearing before the committee interest by 12th April/2000.

01. Sri Kulen Das,
02. " Sachin Das,
03. " Dhaniram Deka,
04. " Champak Talukdar,
05. " Kamaswar Kardong.
06. " Bijoy Boro,
07. " Niranjan Malakar.
08. " Khargeswar Kalita.
09. " Kushal Medhi.
10. " Subhash Barman.
11. " Santu Chakarvarty.
12. " Robin Ch. Boro.
13. " Mrs. Laxmi B (subsequently the title is changed as Das vide GMT/ Guwahati No. SM/1/99-2000/91 dt. 30.01.2000).

Sd/- D.K. NATH)

7/4/2K

Divisional Engineer,
C.T.O. Guwahati-781001.

Copy for information to :-
1-13 Casual Mazdoors concerned.

*certified to be
true copy
of
Advocate*

ANNEXURE - 'XX 3' 'I'

Govt. of India
Ministry of Communications
Department of Telecom. Services.

Sanchar Bhavan,
New Delhi- 110001.

No. 269-4/93-STN-II(Pt.)

Dated: 9.2.2000.

To,

The Chief General Manager Telecom,
Assam Telecom Circle,
GUWAHATI.

Sub:- Sanction of Posts of Regular Mazdoors for regularisation of Temp. Status Casual Mazdoors as on 31.3.97 and grant of Temp. Status to Casual Labourers as on 1.3.98- case of of Assam Circle.

Sir,

I am directed to invite your attention to this office letter No. 269-4/93-STN-II dt. 12.2.99 on the above subject and to say that the matter has been considered by the competent authority and decided to further delegate the powers to CGMT, Assam to create posts of Regular Mazdoors for regularising 13 Temp. status Mazdoors who have completed 10 years of service as on 31.3.97 and to grant Temp. status to 672 Casual Labourers. All other conditions stipulated in the letter dt. 12.2.99 remains uncharged.

This issued with the concurrence of Internal Finance, Deptt. of Telecom, vide ~~xxxx~~ their U.O. No. 438/2000 RAT dt.10.3.2000

Yours faithfully,

Sd/- Illegible
Asstt. Director General (STN).

*Authorized to be
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of
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