

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 46/2001.....

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.5

ORIGINAL APPLICATION NO. 46/2001

.... Miss. Suvra Bhattacharjee Applicant.

VERSUS

Union of India & Ors. Respondents.

For the Applicant(s) B.K. Sharma, S. S. Anna
U.K. Goraiemi

For the Respondents. C.S.C.

NOTES OF THE REGISTRY

DATE

O R D E R

This application is in form
but for no time of application.
Petition is filed on 1.2.2001
M.R. No. 56421057
for Rs. 50/-
Dated..... 1.1.2001

D. Register.

7.2.01

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

Issue notice on the respondents as
to why application shall not be
admitted. Returnable by 4 weeks.
List on 7.3.01 for Admission. Endeav-
our shall be made to dispose of the
application at the admission stage.
It is made clear that pendency of this
application shall not stand on the way
of the respondents to consider the
case of the applicant.

Vice-Chairman

1m

15-2-2001

Service of Notice issued 15/2/01
on 9.2.2001 and prepared
and issued to the respondent
file d. no. 833-835A. 7.3.01

2.03.01.

List on 4.4.01 to enable the
respondents to file written statement.

Vice-Chairman

1m

4.4.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 9.5.01.

[Signature]
Vice-Chairman

① Service report are still awaited.

nkm

② No. written statement has been filed.

9.5.2001

List on 15.6.2001 to enable the respondents to file written statement.

[Signature]
Vice-Chairman

[Signature]
14.6.01

bb
15.6.01

On the request made by Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents, the case is adjourned to 13-7-2001 for filing of written statement by the respondents.

[Signature]
Member (A)

No. W/S has been filed.

[Signature]
12.7

bb
13.7.01

On the request of Mr.A.Deb Roy Sr.C.G.S.C. four weeks time is allowed for filing of written statement. List on 17.8.01 for orders.

[Signature]
Member

17.8.01

At the request of Mr.A.Deb Roy, Sr.C.G.S.C. 4 weeks time is allowed for filing of written statement. List on 14.9.01 for orders. Meanwhile, the interim order dated 7.2.01 fax shall continue.

[Signature]
Member

12.9.2001
W/S submitted
by the Respondents.

lm

14.9.01
at 8.30

Pleadings are complete. The case now be listed for hearing. The applicant may file rejoinder, if any, two weeks from today.

List on 16/11/01 for hearing.

[Signature]
Vice-Chairman

No. rejoinder has been filed.

[Signature]
15.11.01

(3)

3

O.A. No. 46 of 2001

Notes of the Registry	Date	Order of the Tribunal
	16.11.01	<p>Mr. S.Sarma, learned counsel for the applicant prays for a direction to the respondents for production of relevant records. Prayer allowed. Accordingly respondents are directed to produce the relevant records on the next date of hearing.</p> <p>List on 5.12.2001 for hearing.</p> <p><i>CC Usha</i></p>
	trd	<p>Member</p>
WLS has been filed.	14.12.01	<p>Prayer has been made on behalf of Mr. S.Sarma for adjournment of the case for personal reason. Prayer is allowed.</p> <p>List on 23.1.02 for hearing.</p> <p><i>CC Usha</i></p>
<i>By</i> <u>22.1.02</u>		<p>Member</p>
	23.1.02	<p>At the request of Mr.S.Sarma learned counsel for the applicant case is adjourned to 27.2.02 for hearing.</p> <p><i>CC Usha</i></p>
	1m	<p>Member</p>
<u>20.3.2002</u>	27.2.2002	<p>Held counsels for the parties. Judgment delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No order as to costs.</p> <p><i>CC Usha</i></p>
<i>Copy of the Judgment has been sent to the opposite party for securing the same to the applicant as well as to the Ad. Counsel for the Respondent by hand.</i> <i>CC Usha</i>	bb	<p>Member</p>

Notes of the Registry Date Order of the Tribunal

8115.2.72

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 46 of 2001

Date of Decision. 27.2.2002.

Miss Suvra Bhattacharjee

Petitioner(s)

By Mr. B. K. Sharma, Mr. S. Sarma &
Mr. U. K. Goswami.
Versus-

Advocate for the
Petitioner(s)

Union of India & Others.

Respondent(s)

By Mr. A. Deb Roy, Sr. C. G. S. C.

Advocate for the
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : Administrative Member.

11/1/02

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.46 of 2001.

Date of Order : This the 27th Day of February, 2002.

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

Miss Suvra Bhattacharjee
D/O Lt. Jogendra Kr.Bhattacharjee
Resident of Dispur, Guwahati-6. . . . Applicant.

By Sr.Advocate Mr.B.K.Sharma, Mr.S.Sarma &
Mr.U.K.Goswami.

- Versus -

1. Union of India

Represented by the Secretary to the
Ministry of Communication
New Delhi.

2. The Chief General Manager

Assam Telecomm Circle
Guwahati-1.

3. The Asstt. Director, Telecom (S & E)

C/o Area Director, Telecom
Guwahati -7. . . . Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R

K.K.SHARMA (ADMN.MEMBER) :

The applicant had approached this Tribunal in a series of applications disposed alongwith O.A.107 of 1998 on 31.8.1999. By order and judgment in this O.A. a direction was issued to the applicants to file a representation before the respondents and the respondents were directed to scrutinise each and every case in consultation with the records and thereafter to pass a reasoned order within a period of six months. Accordingly the applicant filed a representation before the respondents (Page 26, Annexure - C series to O.A.) Mr.S.Sarma, learned counsel for the applicant submitted that the respondents

Contd.. 2

W.W.Sharma

have not disposed of the representation so far.

2. The applicant has filed this application on 1.2.2001. The relief sought by the applicant is that she should be given the benefit of the Scheme for regularisation of her service as she has worked more than 240 days in a year as Casual Mazdoor. It is stated that the applicant was appointed to the post of Casual Typist cum Clerk and had worked as a Casual Worker from the year 1990-1992 and from 1993 to 1996 she was working as a Clerk cum Typist in the office of the Area Director Telecom, Guwahati. It is stated that the applicant was wrongly debarred from granting of Temporary Status.

3. The respondents have filed written statement. It is stated therein that the applicant was engaged on contract basis for typing of fault control statement in the office of the Area Manager Telecom, Guwahati. This cell required lot of typing works. Regular staff was posted to this cell. But there was no Typist to carry out the typing works and to tide over the situation the applicant was appointed on contract basis. The respondents stated that as the applicant was not Casual Mazdoor she cannot claim the benefit of the Scheme of Casual Mazdoors. It is also stated in the written statement that the Verification Committee was set up by the respondents pursuant to the order of the Tribunal dated 31.8.99 in O.A.107/98 and others, but the ~~ILU~~ ^Ushashay Committee did not recommend the case of the applicant as she was not in engagement as on 1.8.98 and her break

period was more than a year which could not be condoned as per rules of the Department. Mr.A.Deb Roy, learnt Sr.C.G.S.C. for the respondents in this regard made a reference to the Department of Telecommunications letter No.269-3/92-STN dated 21.10.92 under which the Chief General Managers were empowered only to condone the break in service upto a period of one year and they had no power to condone the break for a period beyond one year. Mr.S.Sarma, on the other hand, referred to letters dated 15.1.2001, 15.2.2001 and 22.3.2001 from the office of the Chief General Manager, Guwahati, wherein request ^{condonation of U} has been made for ^U break in service for more than a year.

4. After hearing the learned counsels for the parties, it appears that the basic fact ^{of U} is the post to which the applicant was appointed, is disputed. While the learned counsel for the applicant Mr.S.Sarma referring to letter No.AMT/GH/STB/l-25/90-91/50 dated 20.7.91 submitted that the applicant was transferred and posted in the Despatch and CR/Section while she was working as a Daily Rated Mazdoors. Mr.A.Deb Roy, learned Sr.C.G.S.C. has strongly argued that the Scheme to Temporary Status is applicable to Casual Mazdoor not to Typist. Since the fact regarding the employment of the applicant as a Mazdoor is disputed and no material in this regard is produced before me, it would be appropriate to direct the respondents to deal with the

matter departmentally. The applicant has already made a representation pursuant to judgment of this Tribunal dated 31.8.99. The respondents are directed to dispose of the representation filed by the applicant and to communicate the decision on the same to that effect within a period of three months from the date of receipt of the order.

The application is disposed of as indicated above.

There shall, however, be no order as to costs.

KK Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

bb

केन्द्रीय प्राप्तिक अधिकारण
Central Administrative Tribunal
155 - 1 FEB 2001
गुवाहाटी न्यायपोट
Guwahati Bench

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. 16 of 2001.

BETWEEN

Miss Suvra Bhattacharjee

VERSUS

Union of India & Ors.

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Filed by : U.K.Goswami

File No.: C:\WS7\SVRA

File by ¹²
the Applicant
through
Nijjal Kr. Gogoi
Advocate
24/11/2009

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1995)

DATE 24/11/2009 A6

BETWEEN

1. Miss Suvra Bhattacharjee
D/o Lt. Jogendra Kr.Bhattacharjee
resident of Dispur, Guwahati-6.

..... Applicant.

AND

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-1.
3. The Asstt. Director, Telecom(S&E)
C/O Area Director, Telecom
Guwahati-7.

..... 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 applicant for
regularisation of her services pursuant to the scheme/guidelines
and directions of the Apex Court of which under the similar

facts situation employees like that of the applicant above named has been benefited and against the illegal termination of the services of the applicant. Further the common judgement and order dated 31.8.99 passed in the OA No.192/98 where the present applicant was also a party . In that case this Hon'ble Tribunal directed the respondent to consider her case for regularisation, since nothing has been done so far in the matter the applicant having no other alternative have approached the Hon'ble Tribunal seeking appropriate direction for grant of temporary status as subsequent regularisation.

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE

4.1. That the applicant is citizen of India and as such she is 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 was holding the post of casual typist cum clerk under the respondents. The history as well as the service background of the applicant is given below;

The applicant joined her service in the year 1990 as Casual Worker and continued till 1992 without any blemish and thereafter since 1993 to 1996 she had been working as a clerk cum typist in office of the Area Director Telecom, Rajgarh Road, Guwahati on temporary/casual basis. The applicant through this application has challenged the action of the respondents in not considering her case for grant of temporary status and regularisation in the light of the various schemes and its subsequent clarification issued from time to time by the respondents.

4.3. That the applicant begs to state that she has been working in the office of Area Director Telecom, Rajgarh Road, Guwahati as Casual Worker since 1990 and as Clerk cum Typist on Casual basis since January 1992. To this effect a certificate was issued by the Asstt. Director Telecom on 31.5.96. Moreover, during the period of 1990 and 1991 she had complete total 243 days of working days and 256 working days respectively.

It is pertinent to mention here that on 20.7.91 vide memo No.AMT/GH/STB/1-25/90-91/50 the respondent No.4 issued a transfer order transferring the applicant to the despatch section.

A copy of the certificate dated 21.5.96, a document showing the working days during 1990 & 1991 and transfer order dated 20.7.91 are annexed herewith as ANNEXURE-A series.

4.4. That the applicant begs to state that thereafter from 1993 to 1996, she has been working under the respondent No.4 as a temporary basis Clerk cum Typist .

Copies of the pay slips issued by the respondent authority towards payment of wages of the applicant are annexed herewith and marked as ANNEXURE-B series.

4.5. That the applicant begs to state that she made several representation from time to time for considering her case for grant of temporary status and regularisation in the light of the schemes, but it could reached to the deaf ears of the respondent authority, failing which the applicant now has come before this Hon'ble Tribunal praying for a just, proper and efficacious remedy.

Copies of the representations are annexed herewith and marked as ANNEXURE-C series.

4.6. That some of the similarly situated employees belonging to the Postal Deptt 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 on their writ petition had issued certain directions in regards 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 benefits under the respondents i.e. casual workers 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 several other 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 of the casual labourers as far as possible, who have been working

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more than one year in their respective posts. Pursuant to judgement 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 to the casual labourers such as conferment of temporary status, wages and daily rates etc. reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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

4.7. That as per the Annexure- 2 scheme as well as the direction issued by the Hon'ble Supreme Court (Annexure-1) in the cases mentioned above, the applicant is entitled to the benefits described in the scheme. The applicant is 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 the said fact reveals from the Annexure-A & B for better appreciation of the factual position.

4.8. 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 date 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 OA 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.

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

The applicant has not been able to get hold of an authentic copy of the said letter and accordingly she prays for a direction to produce an authenticated copy of the same at the time of hearing of the instant application.

4.9. That the benefits of the aforesaid judgment and circular of Govt. of India is required to be extended to the applicant in the instant application more so when she is similarly circumstanced 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 applicant shall not be extended with the same benefits as have been granted to the casual labourers working in the Deptt. of Posts.

4.10. That the applicant states 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.

4.11. That the applicant begs 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, of which the respondents have already filled up at least 400 posts ignoring the claim of the present applicant.

4.12. That the applicant begs 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.

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

4.13. That the applicant states 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

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similarly situated cases without requiring them to approach the Hon'ble Court again and again. But in a nutshell in the present 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.

4.14. That the applicant begs to state that the action of the respondents towards the non implementation of the case of the applicant smacks ulterior motive only to deprive her from her legitimate claim of regularisation. The main crux of her prayer is for regularisation and grant of temporary status and for consideration of her case 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 her to approach the doors of the Hon'ble Tribunal again and again, more so when all the applicant fulfills the required qualification as per the said scheme.

4.15. That the applicant states that in a nutshell her whole grievances is 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 off 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 recruits up to 1998.

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

4.16 That the applicant begs to state that highlighting her grievance, she had approached the Hon'ble Tribunal by way of filing OA No. 192/98 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 her case after due scrutinise of the documents.

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

4.17. That the applicant begs 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. Accordingly the applicant furnished her documents, but till now the respondents authorities did not take attention, where as employees working along with her has been granted with temporary status.

4.18. That the applicant begs 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 applicant. 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 applicant begs to state that she is now without any job and on the other hand the respondents authorities granted temporary status to the juniors of the applicant, even some of the outsiders have also been granted with the benefits of the temporary status. In fact the respondents have violated the direction issued by the Hon'ble Tribunal in its judgement and order dated 31.8.99.

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of benefit of the scheme to the applicant 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 applicant.

5.3. For that the discrimination meted out to the applicant 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 the applicant of the benefits of the aforesaid scheme which has been

made applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

5.5. For that since the cut off date for extending the benefit of the scheme dated 7.11.89 has been extended, the respondents are duty bound to carry out the process for granting of temporary status as per the said scheme and its subsequent clarifications issued from time to time and non consideration of her case has resulted in hostile discrimination and hence the entire action are liable to be set aside and quashed with a further direction to the respondents to extend the benefit of the said scheme to the present applicant with all consequential service benefits.

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

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.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that she has exhausted all the remedies available to her and there is no alternative remedies available to her.

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

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of 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 applicant from the date when she has completed 240 days of service and to regularised her service 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 applicant.

8.3. Cost of the application.

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

192198

representation

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9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays 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 applicant. The applicant further prays for an interim order direction the respondents not to disturb her service and to allow her to continue in her respective posts during the pendency of the case.

10.

11. PARTICULARS OF I.P.O.:

1. I.P.O. No. : 5G 42/057
2. Date : 4/1/2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the INDEX.

VERIFICATION

I, 1. Miss Suvra Bhattacharjee, aged about 30 years D/o Lt. Jogendra Kr.Bhattacharjee , resident of Dispur, Guwahati-6., do hereby verify and state that the statements made in paragraphs 4'1,4'2,4'7,4'9-4'11,4'13,4'14,4'17-4'19&5'1-5'7 are true to my knowledge and those made in paragraphs 4'3, 4'6,4'8,4'12 4'15 & 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 23rd day of Jan ,2001.

✓ Suvra Bhattacharjee

TO WHOM IT MAY CONCERN

This is to certify that Miss Suvra Bhattacharjee, D/O Late Deendra K. Bhattacharjee, at present residing at Binsun, Guwahati has been working in the C/O Area Director Telecom, Rajpath Road, Guwahati as a Clerk cum Typist on Casual basis from January '90 to April '92.

Now she is working as a Clerk cum Typist on Monthly Contract basis in the Fault Control Section of this office from August '93 to May '96. Her performance in the office works is satisfactory.

She bears a good moral character.
I wish her all success in life.

S/15/96

Asst. Director Telecom (S&L)
D/O Area Director Telecom Guwahati
3111, DDO, Telecom (S&L)
Guwahati
D/O Area Director Telecom
Guwahati-7

Subhadra
Subhadra
31/8/96
Account Officer/IEA
Area Director Telecom, Guwahati

No. 06

Department of Telecommunications
IDENTITY CARD
No. AMT-Gu/101

	<p>1. Name of Holder: Miss Suvra Bhattacharjee</p> <p>2. Appoint held: Casual Typist</p> <p>3. Identification mark: One cut mark on the left eye brow</p> <p>4. Height: 5 ft.</p> <p>5. Signature or Thumb impression of Holder: <i>Subhadra Bhattacharjee</i></p> <p>6. Signature of Designation (D.E.) Address: AMT-Subhadra Bhattacharjee P.O. Sriniketan Guwahati-781003</p>
<p>Stamp of Issuing authority Guwahati-781003 (Place) (Date) Guwahati 11-10-90</p>	

*Subhadra
Debbarma
Advocate*

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE AREA DIRECTOR TELECOMM. RAJGARH ROAD, GUWAHATI,
GUWAHATI-781007.

NO. AMT/GII/STB/1-25/90-91/50 Dated at Guwahati the 20/7/91.

The following transfer orders are issued with immediate effect in the interest of service.

- 1) Shri J. Ali, DRM, working in the Despatch and CR/Section is transferred and attached with Area Director Telecom, as Peon.
- 2) Miss S. Bhattacharjee, DRM, working as a typist is transferred and posted in the Despatch and CR/Section. She will also perform the duty of typing in addition to her normal duty.
- 3) Shri K. Das, SG/ Peon, is attached with Despatch and CR/Section.

(R.K. Saha),
Asstt. Director Telecom. (S&E),
For Area Director Telecom. Guwahati.

Copy to :- 1. A.D.T(W&P), O/O the Area Director Telecom. Guwahati.
2. A.E. (MEAX), O/O the Area Director Telecom. Guwahati.
3. Accounts Officer & IFA, O/O Area Director Telecom/GII.
4. S.S., O/O the Area Director Telecom. Guwahati.
5. P.A. to Area Director Telecom. Guwahati.

(R.K. Saha),
Asstt. Director Telecom. (S&E),
For Area Director Telecom. Guwahati.

*Attested
A. K. Bhattacharjee*

ANNEXURE - A Series

Number of working days Year-wise in respect of Casual Labours, O/o. the Area Director Telecom, Gangtok - 7.

	Dec'89	Jan'90	Feb'90	Mar'90	Apr'90	May'90	June'90	July'90	Aug'90	Sept'90	Oct'90	Nov'90	Dec'90	Total
1. Ms. S.Bhattacharjee Casual Typist.	x	7	23	25	23	26	23	23	24	21	23	23	x	243
2. Sri Shekhar Basfore, Casual Sweeper.	24	28	24	25	24	27	27	29	28	28	31	30	30	355
3. Sri Jahur Ali, Casual Peon.	11	28	24	25	23	27	27	28	29	26	31	14	29	322
4. Sri Ashok Das, Casual Mazdeer.	12	29	26	29	27	30	29	29	29	14	4	x	29	287
5. Sri Biren Sarma, Casual Mazdeer.	11	28	25	28	28	30	28	2	xx	x	x	x	x	180
6. Sri Kablu Gurung, Casual Motor Driver.	x	30	28	29	18	x	x	x	x	x	x	x	x	105
7. Sri Babul Kalita, Casual Motor Driver.	x	x	x	x	x	x	x	x	x	x	x	28	31	59

	Jan'91	Feb'91	Mar'91	Apr'91	May'91	June'91	July'91	Aug'91	Sept'91	Oct'91	Nov'91	Dec'91	Total
1. Ms. S.Bhattacharjee Casual Typist.	4	21	22	19	24	24	24	24	24	23	23	24	256
2. Sri Shekhar Basfore, Casual Sweeper.	30	25	29	30	28	20	30	30	26	28			
3. Sri Jahur Ali, Casual Peon.	31	27	30	30	30	30	31	30	27	29			
4. Sri Babul Kalita, Casual Motor Driver.	30	28	31	30	31	30	31	31	30	4			
5. Sri Rabindra Karmakar, Casual Motor Driver.	x	x	x	x	x	x	x	x	x	x	26		
6. Sri Srikanta Sarma Casual Mazdeer.	x	x	x	x	x	x	x	x	x	x	26		
7. Ms. Munni Basfore Casual Sweeper.	x	x	x	x	x	8	xx	x	x	x			

Attested
M. Jayaram
Advocate

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE AREA DIRECTOR TELECOM, RAJGARH ROAD, GUWAHATI-
GUWAHATI-781007.

NO. DIR-GU/CH/5-1/93-94/77

Dated at GU the 3/9/93.

2d

The sanction of the Area Director Telecom, Guwahati is hereby conveyed for Rs.3025.00(Rupees Three thousand twenty five) only towards the payment of wages to the Contract basis workers as detailed below for the month of August '93.

The expenditure is debitable to 3220(A)(2) (1) (2) wages.

Sl. No.	Name of workers	Amount Payable
1.	Sri. S. Dey	Rs. 1520.00
2.	Smt. S. Bhattacharjee	Rs. 1505.00
		Total= Rs. 3025.00

(Rupees Three thousand twenty five) only.

Asstt. Director Telecom (S&S),
O/C Area Director Telecom, Guwahati.

S/C

Copy to :-

1. The A.O., O/C the Area Director Telecom, Guwahati.
- 2) The A.O., O/C the C.G.M.T., Guwahati.
- 3) One copy to File No. DIR-GU/PC/EST/93-94.

For Area Director Telecom, Guwahati.

S/C

Attn: Mr. *[Signature]*
Advocate

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE AREA DIRECTOR TELECOM, RAJGARH ROAD, GUWAHATI-781 007.

NO. DIR-CIV/CM/3-1/90-91/118

dated at Guwahati the 3-12-94.

Sanction of the Area Director Telecom, Guwahati is hereby accounted for payment of a sum of Rs 4,510.00 (Rupees four thousand five hundred ten) only towards the payment of wages to the contract workers as detailed below for the month of Nov. '94.

1. Smt. Suweta Bhattacharjee	Rs. 1,140.00
2. Smt. Ajay Kr. Deka	Rs. 1,500.00
3. Md. Jafur Ali	Rs. 1,225.00
4. Smt. Bijoy Basfore	Rs. 645.00
Total Rs. 4,510.00	

(Rupees four thousand five hundred ten) only.

The amount is debitable to the head 3225(A-1)(2)(1)(2) wages.

W.W.N. Chakraborty
(R. Chakraborty)
Asstt. Director Telecom. (S&E)
O/O. the Area Director Telecom/Guwahati.

Copy to:-

- 1) The A.C. O/O. the Area Director Telecom., Guwahati-7.
- 2) The A.C. (AGP), O/O. the CGMT/Aneam Circle, Guwahati-7.
- 3) The A.E. (OP), O/O. the Area Director Telecom., Guwahati-7.

W.W.N. Chakraborty
For Area Director Telecom., Guwahati-7.

O/C

Govt. of India
Department of Telecommunications
Office of the Area Director Telecom, Guwahati
Rajgath Road, Guwahati-781007.

NO. DIR-GH/CM/5-1/90-91/119 Dated at G.H. the 3-1-95.

Sanction of the Area Director Telecom, Guwahati is hereby accorded for payment of a sum of Rs. 5095/- (Rupees five thousand and ninety five) only towards the payment of wages to the Contract busi workers as detailed below for the months of Dec '94.

1.	Smti. Savita Bhattacharjee	Rs. 1500.00
2.	Shri Ajay Kumar Deb	Rs. 1500.00
3.	Sd. Jahan Ali	Rs. 1225.00
4.	Shri Brijoy Basuone	Rs. 870.00
		Rs. 5095.00

(Rupees Five thousand and ninety five) only.

The amount is debitable to the head of
3225(A-1)(2)(1)(2) wages.

(R.Chakrabarty)

(R.Chakrabarty)
Asstt. Director Telecom(S&E),
For Area Director Telecom, Guwahati.

Copy to :-

1. The A.O., O/O the Area Director Telecom, Guwahati.
2. The A.O.(ASR), O/O C.G.A.T. Guwahati.
3. The A.E.(Operation), O/O Area Director Telecom,
Guwahati.

(R.Chakrabarty)

(R.Chakrabarty)
Asstt. Director Telecom(S&E),
For Area Director Telecom, Guwahati.

Affected
M. G. S. S.
Advocate

ANNEXURE-B-series

Govt. of India
Department of Telecommunications
Office of the Area Director Telecom, Guwahati
Rajpath Road, Guwahati-781007.

30. DIR-GH/CW/5-1/90-91/132 Dated at G.H. the 3-11-95

Sanction of the Area Director Telecom, Guwahati is hereby conveyed for payment of Rs. 4970/- (Rupees Four thousand nine hundred and seventy/-) only towards the payment of wages to the Contract basis workers as detailed below for the month of Oct '95.

Sl. No.	Name of the Contract workers	Amount Payable	Remarks
1.	Shri Suvena Bhattacharjee	Rs. 1500.00	
2.	Shri Ajay K. Dab.	Rs. 1220.00	
3.	Wd. Jahan Ali	Rs. 1225.00	
4.	Shri Biju Bhowmik	Rs. 925.00	
		Rs. 4970.00	

(Rupees Four thousand nine hundred and seventy/- only.)

(R.B.Dutta)
Area Director Telecom (SD),
For Area Director Telecom, Guwahati

Copy to : -
1. The Ao(OA&P), Circle Office, Guwahati.
2. The Ao(TEA), O/O Area Director Telecom, Guwahati.
3. The SDI(Operation), O/O Area Director Telecom, G.

(R.B.Dutta)
Area Director Telecom (SD),
For Area Director Telecom, Guwahati

5/C

ANNEXURE - B Series

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE AREA DIRECTOR TELECOM, RAJGARH ROAD, GUWAHATI - 781007.

SD. DIR. GH/CP/5-1/90-91/140

Dated at Guwahati on 7.3.96.

Sanction of the Area Director Telecom, Guwahati is hereby conveyed for payment of Rs. 3,530/- (Rupees Three thousand five hundred thirty/- only) towards the payment of wages to the contract basis workers as detailed for the month of February '96.

Sl. No.	Name of Contract workers	Amount payable	Remarks
1.	Mr. Suran Bhattacharjee	Rs. 720.00	
2.	Smt. Ajay Kumar Deb	Rs. 720.00	
3.	Mr. Ishan Ali	Rs. 1225.00	
4.	Sai Sujay Basu	Rs. 865.00	
		Rs. 3,530.00	

(Rupees three thousand five hundred thirty only)

The amount debitable to Head of a/c B.1(2)(1) Wages.

S. B. Dutta
(S. B. Dutta)
Area Director Telecom (S&F)
Area Director Telecom, Guwahati

Copy to:-

1. The A.O (AMP)/CLC office, Guwahati
2. The A.O (TA), O/O Area Director Telecom, Guwahati
3. The S.D.T (Operation), O/O Area Director Telecom, Guwahati.

S. B. Dutta
(S. B. Dutta)
Area Director Telecom (S&F)
Area Director Telecom, Guwahati.

TO

The Area Director Telecom.,
 Lower Assam, Rajgarh Road,
 Amtron Building, Guwahati- 7.

SUB :- Prayer for further Casual Employment.

Sir,

With due respect, I beg humbly to submit that, I had been working as a casual worker in your Establishment since 25th January, 1990 to 10.4.92., with the only usual breaks for casual workers. Thus I have rendered approximately 2 (two) years 80(eighty) days of service to this Department of Telecom with entire satisfaction of all the superior officers, which will be evident from your office records.

Thus I had every hope of getting a firm footing and regular job under you. But Sir, I have not been allowed to work from 11.4.92., though I have been keeping regular contact with your office/ authorities for further order of employment. I am facing extreme hardship inspite of my capacity to work, I am not getting any work.

I therefore, most humbly pray to your kindself to permit me to work in your establishment in any capacity and thus get rid of my financial and mental agony as well and for which act of your kindness I shall ever remain grateful and oblige.

Yours respectfully,

Suvera Bhattacharjee
 (MISS SUVRA BHATTACHARJEE)

Dated :: Guwahati,

the 11th May, 1992.

Copy in advance to :-

Shri Manjit Singh,

Area Director Telecom.,

Lower Assam :: Guwahati-7.

Attested
 Meagan
 Advocate

10
Sri A. Shyam Choudhury
Divisional Engineer(P& A)
Office of the C.M.T, KTD,
Guwahati- 781007.

Dated, 15.9.98.

Sub: Prayer for sending the name to C.G.M.T. Office,
Guwahati- 7. in respect of case No. : CA No. 112/92, dated 10.6.20

Respected Sir,

Understanding from a reliable source, that our departmental/ Circle authority is going to send a list of Casual Mazdoors to the DOT, New Delhi, as desired by the later, I Miss Savra Bhattacharjee D/O Late Jogendra Kumar Bhattacharjee, of Dispur, Guwahati- 6, beg most respectfully to lay before you the following facts for favour of your kind & sympathetic consideration.

That Sir, I have been working in this department as a causal typist since 25-01-90 in the Office of the Area Manager Telecom, Rajgarh Road, Guwahati. Moreover, I have also been working subsequently where & when so called for by the authority as per requirement till date.

Hence, in view of the above fact, I beg to request your kind-self to make your good offices in sending my name to the C.G.M.T. for doing the needful at his end and thus extend your help to save me from my distressed/financial conditions.

In anticipating your favourable act, I shall ever pray.

10
Thanking you,

Yours faithfully,

Savra Bhattacharjee

(Savra Bhattacharjee)

Casual Typist,
Office of the Area Manager
Telecom

Rajgarh Road, Guwahati.

Attested
With your
Advocate

76
 Sri A. Shyam Choudhury
 Divisional Engineer(R & A)
 Office of the C.G.M.T, XTD,
 Guwahati- 781007.

Dated, 15.9.98.

Sub: Prayer for sending the name to C.G.M.T. Office,
 Guwahati- 7, in respect to case No. OA NO-192/98 serial No-20

Respected Sir,

Understanding from a reliable source, that our departmental/ Circle authority is going to send a list of Casual Mazdoors to the DOT, New Delhi, as desired by the later, I Miss Suvera Bhattacharjee D/O Late Jagendra Kumar Bhattacharjee, of Dispur, Guwahati- 6, beg most respectfully to lay before you the following facts for favour of your kind & sympathetic consideration.

That Sir, I have been working in this department as a causal typist since 25-01-90 in the Office of the Area Manager Telecom, Rajgarh Road, Guwahati. Moreover, I have also been working subsequently where & when so called for by the authority as per requirement till date.

Hence, in view of the above fact, I beg to request your kind-self to make your good offices in sending my name to the C.G.M.T. for doing the needful at his end and thus extend your help to save me from my distressed/financial conditions.

In anticipating your favourable act, I shall ever pray.

Thanking you.

Yours faithfully,

Suvera Bhattacharjee.

(Suvera Bhattacharjee)

Casual Typist,
 Office of the Area Manager
 Telecom

Rajgarh Road, Guwahati.

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

ANNEXURE - C Series

(Through Proper Channel)

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

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

Sir,

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

1. That sir, I ~~am~~ ^{am} ~~now~~ ^{now} ~~serve~~ ^{serve} ~~in~~ ⁱⁿ ~~your~~ ^{your} Department as a Casual Mazdoor since ~~1970+20/70~~ and by this time I have completed more than ~~6(64)~~ ⁶⁽⁶⁴⁾ years of service, and my name listed in CAT OA. No. 172/98 ~~(12-2)~~ serial No. 20. 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,

Enclosed AT (convention) Sides
(with relevant documents)

sd/- Miss Surja Bhattacharjee

3/0 LATE DINESH KUMAR BHATTACHARJEE
Village- Diphupur

P.O. Guwahati-781006

P.S. Diphupur

District- Dibrugarh

Working under S.D.O/I/S.D.O/II

Attested
Mukherjee
Advocate

To

The C.G.M.T.

Assam Telecom. Circle
Guwahati - 781007.

(Through proper channel)

Sub:- Prayer for absorption as casual mojdoor.

Ref:- Court Case OA No- 192/98, serial no-20.

Respected Sir,

With reference to above, I beg to lay before you the following few lines, for your kind consideration.

That, Sir, I had been working in this department under the Area Manager Telecom, Rajbari Road, Guwahati, since January 1990, as a Casual Employee for more than 6 (Six) years, but as and when the same office was abolished, the related staff were absorbed in/amalgamated with the office of the C.G.M.T., GH-7, except one (1) (i.e., my self) till date inspite of being in constant persuasion, from this table to that.

Under this circumstances, I beg to request your kind honour to use your good offices to absorb me in your office and thus save a girl like me without parents to run my lively-hood, for which, not of yours, I shall ever pray.

Intd. at GH
the 18th Jan. 2000.

yours faithfully,
Miss Surja Bhattacharjee.

D/C Late Jagendra Kr.
Bhattacharjee

DISPUR,
Guwahati-781006.

Enclosed:-

18 (Eighteen)
sheets.

1/1/2000
Despul...
1/1/2000
1/1/2000
1/1/2000
1/1/2000
1/1/2000

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 than 10 minutes for appearance of counsel for the Union of India.

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the posts and Telegraphs Department".

*Alfected
At Your
Advocate*

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

ANNEXURE-2.

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. SMF/78/98 dated 27.9.89.

*Attested
W. M. S. S. A. M.
Advocate*

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,
MOG/SEA/TE -II/IPS/Admin, 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.

5. 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.

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Attested
M. J. George
Advocate

ANNEXURE-3.
EXTRACT.

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

NO. 66-52/92-SPB/I

dated 1.11.95.

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

The question of extending the benefit of the scheme to those full time casual labourers who were engaged/recruited after 29.11.89 has been considered in the office in the light of the judgement of the CAT 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
Webeswami
Advocate

ANNEXURE-4.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

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

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

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

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

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

*Aftered
W.M. Barua
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 labourars 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 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 applicant the said representation has not been disposed of. Hence the present application.

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

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

*Ritish
Wadhera
Advocate*

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)

ANNEXURE.-6.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. O.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.

By Advocate Mr. J.L. Sarkar and Mr. M.Chanda

- versus -

The Union of India and others. Respondents.

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

.....

2. O.A. No.112/1998

All India Telecom Employees Union,

Line Staff and Group- D and another..... Applicants.

By Advocates Mr.B.K. Sharma and Mr.S.Sarma

- versus -

Union of India and others. Respondents.

By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.

.....

3. O.A.No. 114/1998

All India Telecom Employees Union

Line Staff and Group-D and another. Applicants.

By Advocates Mr. B.K. Sharma and Mr. S.Sarma

- versus -

The Union of India and others Respondents.

By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.

.....

4. O.A.No.118/1998

Shri Bhuban Kalita and 4 others. Applicants.

By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.

- versus -

The Union of India and others. Respondents.

By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

.....

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others Applicant.

By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.

- versus -

The Union of India and Others Respondents.

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

.....

6. O.A.No.131/1998

All India Telecom Employees Union, and another...Applicants.

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

- versus -

The Union of India and others. Respondents.

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

*Attested
Uklyon
Advocate*

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.Malakar

- 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. D.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. D.A.No.293/1998

All India Telecom Employee's 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 applicantion 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 (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable

to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. Nos. 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.A.s.

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.A.s 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 1989 as this scheme was retrospective and not prospective. The scheme is applicable only to 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.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 counse 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 direction 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.

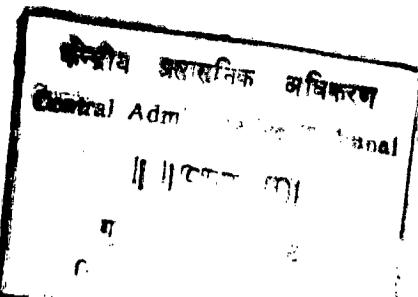
8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually,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

*Attested
Umeshwar
Advocate*

SD/- VICE CHAIRMAN

SD/- MEMBER (A)



File No. 23/01
Filed by
A. DEB ROY (A. D. DEB ROY)
Sr. C. C. C. (Sr. C. C. C.)
C. A. T. (C. A. T.)
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 46/2001

Miss Subhra Bhattacharjee

- Vs -

Union of India and others.

- Vs -

In the matter of :

Written Statements submitted by the
respondents

16
46 - *judg 1*
Rehr - 26 - no *comum*
39 Schay - as on 1-2-98
Break *revised* -
S.C. *Augt 89* -
Kohl *her*
Con *verdict* -
The respondents beg to submit back ground of the case, before submitting parawise written statements which may be treated as part of the written - statement.

(BACK GROUND OF THE CASE)

The applicant and another person were engaged on contact basis for typing of fault control Statement in the O/O the Area Manager Telecom , Guwahati. A fault control cell was set up on an experimental basis in the O/O the Area Manager Telecom Guwahati to monitor the fault occurring in the circuits/lines telecom systems for rectification on day to day basis. A number of proforma statements were required to be prepared and submitted to higher authorities apprising them of the number of faults, duration thereof and action taken to rectify the faults. Regular staff was

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was posted in the cell to attend to the work of the cell. However, there was no official with knowledge of typing for carrying out the typing of the daily reports/statements. To tide over the above situation, it was decided to utilise the service of outside agency for typing of daily report/statements on contract basis. The applicant and another person volunteered to lend their services on an mutually agreed amount for typing of the statements. It was agreed that the applicant would receive a fixed amount for each statement typed and the remuneration would be paid at the end of the month on the basis of the number of statements typed during the month. There is no approval cadre of typist or clerk-cum typist in the Department of Telecom (Now B.S.N.L.). The work performed by the applicant does not fall in the category of duty for which casual Mazdoor can be engaged. The applicant is not a casual mazdoor and he cannot claim for the benefit of the scheme designed for casual mazdoor. The office of the Area - Manager Telecom Guwahati was winded up in June 1996 with the abolition of the temporary establishment, the work came to a halt and the contract with the applicant terminated forthwith. The applicant has not been engaged or utilised for any work after May, 1996.

PARAWISE COMMENTS :

1. That with regard to para 2, 3 and 4.1, the respondents beg to offer no comments.

2. That with regard to paras 4.2, 4.3 and 4.4, the respondents beg to state that the applicant was engaged as Typist on contract basis in the Fault Control Section from August, 1993 to May 1996.

3. That with regard to paras 4.5 to 4.15, the respondents beg to state that the applicant was engaged as Typist on Contract basis and her contract engagement ^{comes} came to an end as soon as the Establishment of Area Manager Telecom, Guwahati was winded up in June, 1996. The grievance of the applicant arose in June 1996 but she never agitated against the Deptt. in time. When there was a flow of Court case by Casual Labourers of the Department in 1998, She also became an applicant in O.A. No. 192/98 which was disposed of by a common order dated 31.8.99.

4. As directed by the Hon'ble Tribunal in their order dated 31.8.99, her case was also verified by the three member Verification Committee but ~~did~~ not recommend her for grant of TSM as she was not on engagement as on 1.8.98 and her break period is more than a year which cannot be condoned as per rules of the Department.

which full?

It is respectfully submitted that the relief sought by the applicant cannot be granted, in view of the grounds stated above.

61
-4-

VERIFICATION

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

And I sign this verification on this 23rd th
day of August, 2001, at Guwahati.

Ganesh Ch. Sarma
Declarant.

Asst. Director Telecom (Lga)
O/O the C. G. M. Telecom
Grama Circle, Guwahati-781001