

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

5

O.A/T.A No. 469/01

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-469/01 Pg. 1 to 4
2. Judgment/Order dtd. 09/07/02 Pg. Judgment copy not bound
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. .... 469/01 Pg. 1 to 25
5. E.P/M.P. .... NIL Pg. .... to .....
6. R.A/C.P. .... NIL Pg. .... to .....
7. W.S. Respondents No-2, 3 and 4 Pg. 1 to 6
8. Rejoinder. .... Pg. .... to .....
9. Reply. .... Pg. .... to .....
10. Any other Papers. .... Pg. .... to .....
11. Memo of Appearance. ....
12. Additional Affidavit. ....
13. Written Arguments. ....
14. Amendment Reply by Respondents. ....
15. Amendment Reply filed by the Applicant. ....
16. Counter Reply. ....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Application No. 469 /2001

Applicant(s) :- Jugal Thakuria

Respondant(s) :- H-O.D. Gawn

Advocate for the Applicant :- S.Sarma, V.K. Nair, Miss U. Das

Advocate for the Respondant :- case

Notes of the Registry

Date

Order of the Tribunal

This is application in form  
C. F. for Rs. 50/- deposited

vide IP No. 64.790.259  
Dated 29.11.2001

By Registrar  
[Signature]  
11/12/01

21.12.01

Heard Mr.S.Sarma, learned counsel  
for the applicant.

Issue notice as to why application  
shall not be admitted.

List on 22.1.2002 for admission.

[Signature]  
Member

[Signature]  
Vice-Chairman

22.1.02

Await service report. List on 5.2.2002  
for order.

[Signature]  
Member

[Signature]  
Vice-Chairman

5.2.02

Await service report. List on  
19.2.2002 for admission.

[Signature]  
Member

[Signature]  
Vice-Chairman

mb

[Signature]  
21.1.02

① Service report are  
still awaited.

[Signature]  
4.5.02

② No reply has been  
filed.

③ No reply has been  
filed.

④ Service report are  
still awaited.

⑤ No reply has been  
filed.

[Signature]  
21.1.02

⑥ Service report are  
still awaited.

2

2

19.2.2002

The application is admitted.  
Call for the records.

The respondents may file written statement, if any, within three weeks from today. Mr. A. Deb Roy, learned Sr. C.G.S.C. appeared for the respondents. No further notice will be issued.

List on 21.3.2002 for order.

No written statement  
has been filed.

20.3.02

IC Usha  
Member

Vice-Chairman

mb

21.3.02

List on 29.4.2002 to enable the Respondents to file written statement.

No written statement  
has been filed.

26.4.02

IC Usha  
Member

Vice-Chairman

mb

29.4.02

List on 23/5/2002 to enable the Respondents to file written statement.

IC Usha  
Member

Vice-Chairman

mb

23.5.02

List on 4.6.2002 alongwith all connected temporary status cases.

2.5.02  
Lofs submitted  
by the respondent Nos.  
1, 2, 3 & 4.

26.5.02

Vice-Chairman

mb

4.6.02

Pleadings are completed. The case may now be listed for hearing on 8.7.02.

IC Usha  
Member

Vice-Chairman

1m

8.7. Heard Mr. S. Sarma, learned Counsel for the applicant & Mr. B. C. Patra, learned Counsel for the respondent.  
Hearing concluded.  
Judgment reserved.

4  
8A 469/2001

Notes of the Registry

Date

Order of the Tribunal

9.7.02

Judgment delivered in open Court.

Kept in separate sheets. Application is allowed. No costs.

Judgment order dtd.  
9/7/02 Communicated  
to the parties counsel  
and the applicant.  
de

lm

K. L. Shan  
Member

  
Vice-Chairman

4

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos.464 & 469 of 2001.

Date of Order : This the 9th Day of July, 2002.

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

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

O.A.464/2002:

1. Sri Milan Chandra Rabha  
S/o Haisha Rabha  
Village:- Roy Para  
P.O. & P.S:- Boko  
District:- Kamrup.

2. Sri Suwa Ram Das  
S/o Late Jiban Das  
Vill:- Dakuapara  
P.O. & P.S:- Boko  
Distirict :- Kamrup.

. . . Applicants.

By Advocates Mr.M.Chanda, Mr.G.N.Chakraborty,  
Mr.H.Dutta & Mrs.N.D.Goswami.

- Versus -

1. The Union of India  
Through the Secretary to the  
Government of India  
Ministry of Communication  
Department of Telecommunication  
New Delhi.

2. The General Manager  
Telecom Department  
Kamrup Telecom District  
Guwahati-7.

3. The Sub Divisional Engineer (O)  
Borjhar Telephone Engineer  
Borjhar  
Guwahati - 15.

. . . Respondents.

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

O.A.469/2001 :

Shri Jugal Thakuria  
S/o Banchi Thakuria  
Vill:- Garal Bhaktabari  
P.O:- Bhattapara, P.S:- Azara  
Dist:- Kamrup, Assam.

. . . Applicant.

By Advocates Mr.S.Sarma, Mr.U.K.Nair & Ms.U.Das.

- Versus -

1. Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Communication  
Sanchar Bhawan, New Delhi.

2. The Chief General Manager  
Telecom Assam Circle  
Ulubari, Guwahati - 7.
3. The Telecom District Manager  
Guwahati, Kamrup.
4. The SDO (phones)  
Adabari, Guwahati - 12. . . . . Respondents.

O R D E R

CHOWDHURY J.(V.C.) :

Conferment of temporary status is the key issue, in both the applications. In view of the similarity of the issues on facts as well as on point of law the two Original Applications were taken up together for hearing.

O.A.464/2001 :-

1. The two applicants in the O.A. pleaded that both of them were appointed as Casual Worker in 1980 under the Sub Divisional Engineer (O), Borjhar. It was averred that since the date of engagement, the applicants worked under the respondents and they were engaged in works under the respondents as cable construction, cable laying, internal wiring, fault repairing, cable maintenance, line work, overhead line maintenance, new connection, maintenance of power plant, line testing, battery charge, A.C. maintenance, Generator work, cleaning etc. These two applicants pleaded that as per the scheme known as Casual Labourer (Grant of Temporary Status and regularisation Scheme of the department of Telecommunication, 1989), which was extended from time to time, the applicants were entitled for conferment of temporary status. On their failure to get the appropriate remedy, the applicants moved the Tribunal along with others in O.A. 120/1998 and by judgment and order dated 31.8.1999 this Bench directed the respondents authority to scrutinize and examine their case in consultation with the records and thereafter to pass a reasoned order on merit of each case within the

Contd./3

time prescribed. The applicants accordingly submitted representations before the authority, but despite the direction of the Tribunal the concerned authority failed to take any initiative which impelled the applicants to move the Tribunal again seeking for a direction for conferment of temporary status.

2. The respondents submitted its written statement and denied that as per records of S.D.E. (O), Borjhar, they were never engaged as Casual Mazdoor. In Para 4 of the written statement the respondents also averred that the applicants were not covered by the regularisation scheme of the department as they were never engaged. In their written statement, the respondents also pleaded that the Assam Telecom Circle prepared a list of Mazdoors pertaining to various Court cases and pursuant to the direction to this Tribunal the case of the applicants were taken up along with all the cases of other Mazdoors. A committee for verification of engagement particulars of all the Mazdoors was appointed who worked under the Kamrup Telephone District. The verification committee issued notice to all Field Officers to direct the Mazdoors to appear before the verification committee on 12.4.2000. It was also stated that the verification committee after processing most of the cases observed that 67 applicants of various cases did not appear before the committee and as such issued second notice to all Field Officers to direct the left out applicants to appear before the committee on 15.6.2000. The respondents asserted that the two applicants did not appear before the committee. On scrutiny and verification of records, the applicants were found not eligible for conferring temporary status as per the scheme.

O.A.469/2001 :-

3. The applicant in the O.A. pleaded that he has first engaged as Casual Worker under the S.D.O. (Phones )



Adabari in January, 1994 and since the date of engagement he worked under the respondents till the filing of this application. The applicant also pleaded that since the date of appointment till the month of October, 1997 the applicant was paid his wages under ACG-17 pay bills. It was also stated that the mode of employment was changed after October, 1997 and the applicant was getting his pay under another pay bill meant for casual workers. On enquiry the applicant came to know that his service was converted to contractual one. In the application the applicant contended that he continued to perform his duties as before without any change in its nature and most of the Casual Workers working under the respondents were given temporary status ignoring the case of the applicant. In this application the applicant also pleaded for conferment of temporary status in the light of 1989 policy of conferment of temporary status which was extended upto 10.9.1993 pursuant to the judgment delivered by the Ernakulam Bench of the Tribunal on 13.3.1995 in O.A.750/94. The applicant also referred to the communication No.66-52/92-SPD-I dated 1.11.1995 issued by the Govt. of India, Ministry of Communication, whereby the benefits of conferring temporary status to the casual labourers was extended upto the recruits up to 10.3.1993. The applicant pleaded that <sup>as per</sup> this Tribunal's order dated 13.8.1997 passed in O.A.Nos.299/96 & 302/96 the persons similarly situated were conferred temporary status and the applicant's case was unlawfully ignored. Hence this application.

4. The respondents in its written statement also contended that the applicant was never appointed as Casual Worker under SDOP, Adabari. On the otherhand the respondents asserted that the applicant was engaged casually for a particular occassional work and was paid as daily rated Mazdoor and he was never engaged 240 days in any calender year.

5. We have heard Mr.H.Dutta and Mr.S.Sarma, learned counsel appearing for the applicants in O.A.464/2201 & O.A.469/2001 respectively. We have also heard Mr.A.Deb Roy, learned Sr.C.G.S.C. appearing for the respondents in O.A.464/2001 as well as Mr.B.C.Pathak, learned Addl. C.G.S.C. appearing for the respondents in O.A.469/2001. The learned counsel for the respondents place before us the report of the verification committee dated 12.3.2002. Referring to the aforesaid report and the connected records, the learned counsel for the respondents sought to impress upon us that the case of these applicants were duly considered and on evaluation of facts the committee did not recommend their case for conferment of temporary status since none of the applicants completed 240 days in any calender year prior to 1998. The learned counsel for the applicants, on the other hand, pointed that there was no verification worth its name and the respondents only acted in a lackadaisical manner without considering the factual aspects of the cases. The learned counsel for the applicants also submitted that the applicants were never aware of any scrutiny in which they were asked to appear.

6. We have given our anxious consideration on the matter. Admittedly, the applicants were entitled for a fair consideration in the matter of conferment of temporary status. Apart from the guidelines for conferment of temporary status issued by the concerned authority from time to time, there were specific directions from the Tribunal for consideration of their case. In the written statement on the one hand the respondents even denied that the applicants were engaged as Casual Workers, on the other hand, placed before us some records showing that they were engaged for a limited period. The records are not complete. The

Annexure-2 of the written statement filed in O.A.464/2001 pertains to a communication dated 5.4.2000 with a signature of the Divisional Engineer (Admn.), General Manager Telecom, Kamrup/District to the persons whose addresses were not shown. The said Annexure did not indicate to whom the letter was issued. It directed the addressee (unnamed) to advise the Casual Labourers under the Field Officers to appear before the verification committee on 12.4.2000. The Casual Labourers were asked to bring two copies of passport size photograph out of which one copy was to be got attested along with the signature of the Casual Labourer on the reverse side of the photograph. In the enclosed documents the name of none of the applicants appeared. In Annexure-3 dated 12.6.2000 these persons were ordered to appear on 15.6.2000 positively. That letter was issued to all DES of the district. In the Annexure-3 the name of only one of the applicants, namely, Mr. Milan Chandra Rabha appeared, but the names of the other applicants were found missing. It did not indicate as whether the applicant Mr. Rabha was at all informed.

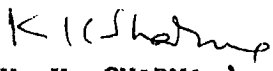
7. The respondents authority did not produce all the relevant records. The records so far produced before us are incomplete. The Scheme of conferment of Temporary Status had emanated from a direction of the Hon'ble Apex Court for rendering justice to the Casual Workers. Those who fulfils the requirement are entitled to be considered for being conferred with the temporary status. The consideration must be fair and reasonable and not fanciful, casual or insouciant. The Scheme and the judicial pronouncement conferred right on the Casual Workers for examination and scrutiny of their case with concerned consideredness. A consideration means fair equitable and genuine consideration. In our considered

Contd./7

view the applicants deserve a fair consideration at the hand of the respondents and accordingly the respondents are directed to take necessary steps for considering the case of these applicants individually on verification of the records in their presence by giving reasonable opportunity to the applicants also to produce the materials in their support. The respondents are directed to complete the exercise within a period of six months from the date of receipt of the order.

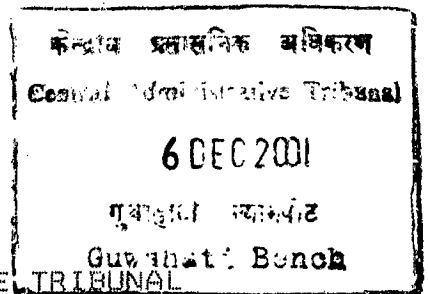
Subject to the observations made above, the applications are allowed.

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

  
( K. K. SHARMA )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

bb



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Title of the case : D.A. No. 469 of 2001

BETWEEN

Shri Jugal Thakuria ..... Applicant.

AND

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

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 14
2.	Verification	15
2A	<del>ANNEXURE-3</del>	
3.	Annexure-A	15A
4.	Annexure-B	15B
5.	Annexure-1	16, 17
6.	Annexure-2	18 to 20
7.	Annexure-3	21
8.	Annexure-4	22 to 24
9.	Annexure-5	25

\*\*\*\*\*

Filed by :

*Alsha Das*

Regn.No.:

File : JUGAL

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A.No. 469 of 2001

Filed by  
the applicant through  
Alsha Das, Advocate  
3/12/2001

BETWEEN

Shri Jugal Thakuria  
S/o Banchi Thakuria  
Vill.: Garal Bhaktabari  
P.O.: Bhattapara, P.S.: Azara,  
Dist.: Kamrup, Assam.  
..... Applicant.

VERSUS

1. Union of India,  
Represented by the Secretary to the Govt. of India,  
Ministry of Communication,  
Sanchar Bhawan, New Delhi.
  2. The Chief General Manager,  
Telecom Assam Circle,  
Ulubari, Guwahati-7.
  3. The Telecom District Manager,  
Guwahati, Kamrup.
  4. The SDO (Phones)  
Adabari, Guwahati-12.
- ..... 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 grant of temporary status under the scheme preferred in  
the light of the judgement of the Hon'ble Apex Court.

J Thakuria

2. LIMITATION:

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

3. JURISDICTION:

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

4. FACTS OF THE CASE:

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

4.2. That the applicant initially got his appointment as casual worker under the SDO (phones) Adabari, in January 1994. The applicant after his initial appointment continued to work and he is still continuing in the said post. It is noteworthy to mention here that since the date of appointment till the month of Oct.1997 the respondents paid the applicant his wages under ACG-17 pay bills. However, the respondents have changed the mode of employment after Oct.1997 and the applicant is getting his pay under another pay bill meant for casual workers. On enquiry the applicant could come to know the service of the applicant has been converted to contractual one. In fact the applicant continued to perform his duties as before without any change

Shakunika

in its nature. presently most of the casual workers working under the respondents have been granted with temporary status under the scheme of 1989. In their cases the respondents have constituted verification committee and thereafter their cases were considered. However, no such enquiry has been made in case of the present applicant who has completed 240 days of continuous service each year. The applicant fulfills all the required conditions laid down in the scheme and as such he is entitled to get each and every single benefits described in the said scheme. However, the respondents have not yet granted the benefit of the said scheme to the present applicant, inspite of his repeated requests. Having no other alternative the applicant has come before this Hon'ble Tribunal seeking an appropriate relief.

4.3. That the applicant begs to state that because of his satisfactory service the SDO, Sri A.C.Das that is the respondent No.4 issued a certificate to the applicant certifying his sincere and devoted service.

Copies of the certificates are annexed herewith and marked as Annexure-A & B.

4.4. That some of the similarly situated employees belonging to the postal Department had approached the Hon'ble Supreme Court for direction for regularisation, as has been prayed in the instant application and the Hon'ble Supreme Court acting on their Writ Petition had issued certain directions in regard to regularisation as well as grant of temporary status to those casual labourers of the



17

Department of Posts. It is pertinent to mention here that claiming similar benefit a group of similarly situated employees under the respondents i.e. of department of Telecommunication had also approached the Hon'ble Supreme Court for a similar direction by way of filing Writ Petition (C) No.1280/89 (Ram Gopal & Ors.Vs. Union of India & Ors) along with several writ petition i.e. 1246/86, 1248/86 etc. In the aforesaid writ petitions the Hon'ble Supreme Court was pleased to pass a similar direction to the respondents authority to prepare a scheme on a rational basis for absorption the casual labourers as far as possible, who have been working more than one year in their respective posts. Pursuant to judgment the Govt.of India, Ministry of Communication, prepared a scheme in the name and style "Casual Labourers (Grant of Temporary Status and Regularisation)Scheme 1989" and the same was communicated vide letter No.269-10/89-STN dated 7.11.89. In the scheme Certain benefits granted to the casual labourers such as conferment of temporary status, wages and daily Rates with reference to minimum pay scale of regular Group-D officials including DA/HRA etc.

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

4.5. That as per the said scheme as well as the directions issued by the Hon'ble Supreme Court 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 in the dates described in the Annexure-A may be referred to for the better appreciation of the factual position.

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

The applicant craves leave of the Hon'ble Tribunal to produce the said order at the time of hearing of the case.

4.7. That on the other hand casual workers of the Deptt. of Posts who were employed on 29.11.89 were eligible to be conferred the temporary status on satisfying other eligible conditions. The stipulated 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 recruits up to the 10.9.93. Since the Dept. of Telecommunication and Posts is under the same Ministry hence the same benefits will also be applicable to the Casual workers of Telecom.

J. Thakur

E

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

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

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

4.9. That the applicant state that the casual labourers working in the Deptt of Telecommunication is 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

20

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 is granted much more benefited than the casual workers of the Deptt. of Telecommunication. Similar benefits is required to be extended to the casual workers of the Deptt. of Telecommunication having regard to the facts both the Deptts is under the same ministry and the basic foundation of the scheme for both the Deptts is Supreme Court's judgment referred to above. If the casual workers of the Deptt of Posts can be granted with the benefits as enumerated above based on Supreme Court's verdict, there is no earthly reason as to why the casual workers of the Deptt. of Telecommunication should not be extended with the similar Benefits.

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

4.11. 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 was 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.

21

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

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

4.14. That the applicant states that in a nutshell their whole grievances is that to extend the benefit of the aforesaid scheme as well as similar treatment as have been granted to the casual workers working under Deptt.of Posts

in regard to treating the cut of date of engagement as has been modified from time to time by issuing various orders, of which mention may be made of order dated 1.9.99 by which the benefit of the scheme has been extended to the recruits up to 1.8.1998.

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

4.15. That the applicant begs to state that in view of the above facts and circumstances the respondents are duty bound to consider the case of the applicant taking into consideration the scheme mentioned above. The applicant highlighted his grievances made representation to the concerned authority. In fact, the respondents have not yet initiated the applicant for any such scrutiny as has been done in other cases. On enquiry the applicant could come to know the fact that in view of change of character of his employment the respondents have not yet considered his case which is per-se-illegal, arbitrary and violative of Article 14 and 16 of Constitution of India. Since his date of entry the applicant has been performing the same nature of duties and hence the respondents of employment of the applicant that too without his knowledge. Till date he is working as a casual worker and hence his case is required to be considered under the scheme mentioned above and to grant him temporary status as has been done in case of similarly situated employees.

4.16. That the applicant begs to state that the respondents have not apply their mind properly in acting in

J. Thakuria

25

the arbitrary manner as has been done in the present case. In fact the applicant fulfills the required criteria laid down in the scheme of 1989 itself and hence their case is required to be considered for grant of temporary status with retrospective effect and to regularise their service with full back wages etc.

4.17. That the applicant begs to state that he is still continuing in their respective posts without any termination. On the other hand the respondents are now granting the temporary status to the juniors of the applicant, even some of the outsiders have also been granted with the benefits of the temporary status.

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

4.18. That the applicant begs to state that the respondents are now granting the said benefits of the 1989 scheme and filling up all most 900 posts of DRM within a very short time without considering their cases. The applicant is now in employments as casual workers but in view of the aforesaid development narrated above the respondents may terminate their service. In that view of the facts and circumstances stated above the applicant pray for an interim order directing the respondents not to disengage them from their present employments and not to fill up the posts of DRM till the disposal of the case. In case the interim order as prayed for is not granted the applicant will suffer irreparable loss and injury.

5. GROUND'S 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 is 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 of the benefits of the aforesaid scheme which has been applicable to their fellow employees which is also violative of Article 14 and 16 of the Constitution of India.

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



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

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

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

The 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 he has 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:

✓  
26

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

8. RELIEF SOUGHT FOR:

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

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

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

8.3. Cost of the applicant.

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.

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 their services and to allow them to continue in their respective posts during the pendency of the case.

10. ....

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

- 1. I.P.O. No. : 66 790239
- 2. Date : 29/11/2001
- 3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

JThakuria

28

VERIFICATION

I, Shri Jugal Thakuria, son of Banshi Thakuria, aged about .26 years, resident of Village Garal Bhaktabari, P.O. Bhattapara, P.S.-Azara, Dist-Kamrup, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 1-42, 45, 48-49, 51, 52, 53, 54, 55, 56, 57, 58 and 59 to 62 are true to my knowledge and those made in paragraphs 43, 44, 46, 47, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 2nd day of .Nov.:. of 2001.

Signature.

Sri Jugal Thakuria.

13A

ANNEXURE - A



कोर-7 / Corr-7

भारतीय दूरसंचार / DEPARTMENT OF TELECOMMUNICATIONS

कार्यालय / Office of the

To

S.D.O. Phone

Adabari

Gauhati 19

No.....

Dated 31st Oct '97

To Whom it may concern

Certified that Shri Jugal Thakuria  
S/o Sjt Banchi Thakuria, vill:- Gardi Bhaktabari  
P.O.- Bhaktapara, P.S:- AZARA, Dist:- Kamrup Assam  
has been working as a casual staff at Adabari-  
Telecomm. Store under the control of SDO (Phones)  
Adabari since January 1995. He knows the storerooms.  
He is able to maintain the Issue & stock Register and  
performs day to day satisfactory duty at store.

He is an amiable, energetic and  
hardworking boy.

His character & conduct is very good.

I wish him every success in life.

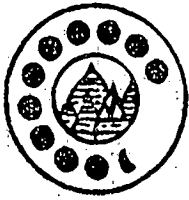
SDO Telecomm.  
Gauhati Telephones  
Adabari-Guy-12.

Attested  
[Signature]  
Advocate.

Corr-22

दूर संचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS

प्रेषक  
FromS.O. Phene  
Adabariसेवा में  
Toक्रम संख्या  
No.दिनांक  
Dated atविषय :  
Subject :TO WHOM IT MAY CONCERN

This is to certify that  
Shri Jugal Thakuria s/o Sjt Bamshi  
Thakuria of vill:- Bhaktapara Garal.  
P.O:- Bhaktapara. P.S:- AZARA. Dist:-  
Kamrup Assam is known to me.  
He has been working in this Sub-  
divison (Adabari) as casual  
worker since January 1994. He  
is capable of restoring faulty-  
Telephones, repairing lines & wires  
and cable works.

He is very sincere  
punctual and an energetic young  
boy.

I know nothing against his  
character.

I wish him every success  
in his life.

Place:- Adabari, GHY-12

Date:- 5th May, 1997

5/5/97  
(A. C. DAS)

S.O. Phene  
Adabari

Attested

Advocate.

- 16 -

3

ANNEXURE-1

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

**Attested**

*[Signature]*  
Advocate.

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.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Attested  
*[Signature]*  
Advocate.



ANNEXURE.2

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

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication. 1989"

2. This scheme will come in force with effect from 1.10.89. onwards.

3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

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

Attested  
*[Signature]*  
Advocate.

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.

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

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

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

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

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

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

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

**Attested**  
  
**Advocate.**

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

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

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

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

@@@

**Attested**

*[Signature]*  
Advocate.

✓ ✓ - 21 - 30  
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**

*[Signature]*

Advocate.

ANNEXURE-4.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

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

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. .... Applicants.

- Versus -

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

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law and similar facts. In both the applications the

Attested

Advocate.

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

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

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

Attested

*W. S. M.*  
A. K. S.

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 discision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3(in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

Sd/- Vice Chairman.

Attested  
*[Signature]*  
A. Prasad.

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

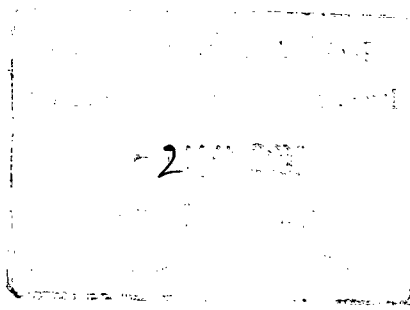
(HARDAS SINGH)  
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)  
ASSISTANT DIRECTOR GENERAL (STN)

Attested





Filed by  
Prof. S. D. 1/5/02  
(B. C. Pathak)  
Addl. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::::: GUWAHATI

O.A. NO. 469/2001

Shri Jugal Thakuria

- Vs- ..... Applicant.

Union of India & Ors.

..... Respondents.

( The Written Statements of the respondents  
No. 1, 2, 3 and 4 )

The Written Statements of the abovenoted respondents  
are as follows :

1. That a copy of the O.A. No. 469/2001 ( referred  
as the "application" ) has been served on the respondents.  
The respondents have gone through the same and understood  
the contents thereof. The interest of all the respondents  
being similar, common written statements are filed for all  
of them.
2. That the statements made in the application, which  
are not specifically admitted, are hereby denied.
3. That with regard to the statements made in para 1  
of the application, the answering respondents state that  
the respondents had considered the case of the applicants

for conferment of Temporary Status under the Scheme of 1989 in the line of Judgement and order passed in O.A. No. 107/98 (series). But the applicant could not fulfil the criteria for conferment of T/S under the Scheme and as a result his case was rejected. Hence, the application is liable to be dismissed as devoid of any merit.

4. That the answering respondents have no comments to offer to the statements made in para 2, 3 and 4.1 of the application.

5. That with regard to the statements made in para 4.2, the respondents state that the contention of the applicant is mis-leading. [He was never appointed as casual labour under SDOP/Adabari. So his contention that he was appointed as casual labour is vague and motivated. The applicant was engaged casually for a particular occasional work and was paid as daily rated mazdoor but he was never engaged 240 days in any calender year.]

6. That with regard to the statements made in para 4.3, the respondents state the question of satisfactory service does not have any effect as the applicant has not completed 240 days in any year. The basic requirement is engagement for 240 days under the scheme of 1989.

7. That with regard to the statements made in para 4.4, the respondents state that the cases of Mazdoors who have completed 240 days in a year have been considered for T.S.M. The applicant did not come under perview of such conditons under the said Scheme of 1989.

8. That with regard to the statements made in para 4.5, the respondents state that the applicant is not entitle to get any benefit as he did not work 240 days in any calender year as per the scheme.

9. That with regard to the statements made in para 4.6, the respondents state that the condition mentioned in the circular is very clear and cases of mazdoors who had completed 240 days in a year were only coming under the perview of this circular.

10. That with regard to the statements made in para 4.7 and 4.8, the respondents the Judgement mentioned in the paragraph has no relevance as the mazdoor had not completed 240 days in a year. The Judgement and the instr-  
uctions of the Department do not extend any benefit as the applicant does not come under the conditions mentioned therein.

11. That with regard to the statements made in para 4.9 and 4.10, the respondents state that the condition of 240 days engagement in a year is obligatory as such the applicant is not entitle for any benefit under the provision.

The applicant is not eligible for any benefit  
12. as such his submissions are baseless and the application is liable to be dismissed.

12. That with regard to the statements made in para 4.11, the respondents state that the applicant is not similarly situated with the applicants in referred O.A.'s

and mazdoors mentioned by him as he has not completed 240 days in any calender year.

13. That with regard to the statements made in para 4.12 the respondents state that the benefit was extended to only such mazdoors who have completed 240 days in a year whereas the applicant has not fulfilled the eligibility criteria.

14. That with regard to the statements made in para 4.13 and 4.14, the respondents state that all the orders and instruction were fully complied with. The allegation of the applicant is baseless and misleading.

Applicant's case is not covered under the raised instruction/scheme.

15. That ~~wik~~ the contention of the applicant made in para 4.15 is denied. The department verified the engagement particulars of all the mazdoors including the applicant also. So his submissions that the department did not consider his case for verification is false and baseless. The respondents craves the ✓ leave of this Hon'ble Tribunal to allow them to produce and rely upon such records at the time of hearing.

16. That with regard to the statements made in para 4.16 and 4.17 the respondents state that the applicant is not eligible for grant of T.S.M.

The question of juniors/senior does not arise as the applicant has not completed 240 days in any calender year under the scheme.

17. That with regard to the statements made in para 4.18, the respondents all the eligible IRM's have been conferred TSM and the cases of IRM's who have not completed 240 days have been rejected and reasoned order in respect to all the rejected mazdoor already issued.

18. That with regard to the statements made in para 5.1 to 5.8, the respondents state that the grounds shown by the applicant can not sustain in law in view of the facts and circumstances of the case of the applicant and provisions of the scheme 1989. Hence, the application is liable to be dismissed with cost.

19. That the respondents have no comment to offer to the statements made in para 6 and 7 of the application.

20. That with regard to the statements made in para 8.1 to 8.4 and 9, the respondents state that under the facts and circumstances of the case and the provisions of law, scheme, the applicant is not entitled to any relief whatsoever, as prayed for and the application is liable to be dismissed with cost.

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

Verification.....

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

I, Shri Kamakhya Ranjan Das, presently working as Sub-Divisional Engineer (Legal) being competent and duly authorised to sign the verification, do hereby solemnly affirm and state that the statements made in para One (1) to twenty (20) are true to my knowledge and belief, these made in para \_\_\_\_\_ being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 2nd day of May, 2002 at Guwahati.

Kamakhya Ranjan Das.  
Depoñent.

उप मंडल अभियन्ता (विधि)  
Sub-Divisional Engineer (Legal)  
भारत संचार निगम लिमिटेड / BSNL  
कार्यालय महाप्रबंधक, कामरूप दूरसंचार जिला  
Office of the GM / KTD  
गुवाहाटी / Guwahati-781 007.