

30/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 68/01

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5/12/07

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATI

Original ORDER SHEET APPLICATION NO 68 OF 2001

Applicant (s) Swkeswar Paswan

Respondent(s) Union of India for

Advocate for Applicant(s) A. C. Bomagoharin

Advocate for Respondent(s) N. Borah, D. Borah
Case.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

14.2.01

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

Heard learned counsel for the parties. Application is admitted. Call for records. Issue notice on the respondents. Returnable by 4 weeks.

Issue notice on the respondents as to why interim order as prayed for shall not be granted. In the meantime the applicant is allowed to continue in his post of Casual Mazdoor in the Telephone Department till the disposal of this Original Application.

List on 14.3.01 for Admission.

Vice-Chairman

14.3.01

List on 21.3.01 for Admission.

In the meanwhile interim order shall continue.

Member

lm

This application is in form
but no. 14.2.01
Petitioner's name is
A. C. Bomagoharin
for
IPO/14.2.01
Date: 6-2-2001

Dy. Registrar, 13/02/01

4 copies registered
along with
receipt.

13/02/01

19-2-2001

Service of notice only 4 copies received
ready for issuance
Notice vide D. No. 632-31
dt. 22.2.01

13-3-01

10 WTS filed.

21.3.01

List after four weeks to enable the respondents to file written statement. In the meantime the interim order dated 14.2.01 shall continue.

List on 25.4.2001 for further orders.

Vice-Chairman

trd

22/3/01

25.4.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 1.6.01.

Vice-Chairman

nk m

1.6.01

Further four weeks time allowed to the respondents for filing of written statement.

List on 26-6-2001 for orders.

Vice-Chairman

bb

29.6.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 8.8.01.

By Order

8.8.2001

Four weeks time allowed to file written statement and to obtain necessary instructions by Mr B.C. Pathak, learned Addl. C.G.S.C. List for orders on 12.9.01.

Vice-Chairman

nk m

NO. 4/5 has been filed.

MS
24/4/2001

No written statement has been filed.

24
28.6.01

No written statement has been filed.

24
7.8.01

(B)

3

Notes of the Registry	Date	Order of the Tribunal
No. wks has been biled. By 11.9.01	24.8.01 mb	List on 12/9/01 alongwith A.P. C.P. 21 of 2001 for order. Vice-Chairman
No written statement has been biled. By 11.10.01	12.10.2001 bb	Mr.B.C.Pathak, learned Addl.C.G.S.C for respondents has stated that the records shows that the applicant was engaged for five days only The applicant have filed two certificates. The genuine of subject is under verification. He requests for four weeks time to file written statement. Prayer is allowed. List on 12.10.2001 for order. Member
No written statement has been biled. By 27.11.01	12.10.01 bb	Heard Mr.B.C.Pathak, learned Addl.C.G.S.C for the respondents. He praye for further time to file written statement. Prayer is allowed. List the matter on 28.11.2001 for order. Member
	28.11.01 mb	Reply has been filed, List on 20.12.01 for hearing before Division Bench. Member
	20/12	on the request on Mr. B.C. Pathak, Addl. C.G.S.C the case is adjourned to 25/12/2002. By A.K. Jy 20/12

Notes of the Registry

Date

Order of the Tribunal

25.1.02

Respondents are directed to file written statement within three weeks from today. The applicant may also file rejoinder, if any, within a weeks from today. List the matter for hearing on 27.2.2002.

IC (Ushay
Member

Vice-Chairman

mb

27.2.

Heard in part.
WAT on 28/2/02.

MS
A. H. Z. 29/2

28.2.02

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

IC (Ushay
Member

Vice-Chairman

pg

15.3.2002

Copy of the Judgment has been sent to the Office for issuing the writ to the applicant as well as to the Addl. CHSC for the Respondents.

MS
21/3/2002

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 68 of 2001.

Date of Decision.....28-2-2002.

Sri Sukeswar Paswan

-----Petitioner(S)

Sri A.C.Buragohain

-----Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

-----Respondent(s)

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

-----Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : Vice-Chairman.

NO

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 68 of 2001.

Date of Order : This the 28th Day of February, 2002.

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

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

Sri Sukeswar Paswan,
son of Sri Rajendra Paswan,
Village, Manipuri Basti,
Dist. Kamrup, Guwahati-7. . . . Applicant.

By Advocate Sri A.C.Buragohain.

- Versus -

1. Union of India
represented by the Secretary,
Government of India,
Department of Telecommunication,
New Delhi.
2. The Chairman cum Managing Director,
Bharat Sanchar Limited,
Sanchar Bhawan, New Delhi.
3. The Chief General Manager,
Assam Circle, Telecommunication,
Guwahati-7.
4. The Divisional Engineer (Admn.)
O/O the G.M., Telecom, Kamrup Telecom District,
Guwahati-7.
5. S.D.O., Telephones, Guwahati-7. . . . Respondents.

By Sri B.C.pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

This application has arisen and is directed against the communication dated 27.12.2000. As per the said communication the applicant was informed that pursuant to the judgment and order of this Bench on a number of like O.As including O.A.114/98 the respondents authority constituted a verification committee for different SSAs/Units under the circle for conducting detailed verification/scrutiny about the number of days of engagement yearwise in different

units/offices and also to collect proof/evidence for such casual labourers including the applicant. The committee verified all the documentary as well as other proof from various units and also personally interviewed such casual labourers including the applicant on 26.4.2000. The communication mentioned about the names of the three Member committee. The committee as per the said exercise submitted its report to the department detailing all about against each casual labourer including the applicant. The applicant was informed that he could not satisfy the eligibility criteria and therefore his case could not be considered favourably. He was also informed that he was not under engagement since 31.10.1997 and he was disengaged as casual labourer with effect from 31.1.2001.

2. Mr A.C.Buragohain, learned counsel appearing for the applicant strenuously contended that applicant in fact rendered more than 240 days service in the year 1995 and 1997 and for that purpose he referred and relied upon Annexure-A and B to the application. The learned counsel submitted that even otherwise the applicant rendered service under the respondents as casual labourer till he was disengaged. Therefore it was a fit case which ought to have been considered by the respondents. Mr B.C. Pathak, learned Addl.C.G.S.C appearing for the respondents opposing the application referring to the reply filed in the contempt petition submitted that as per the findings of the verification committee the applicant in total rendered about 52 days service in the year 1997. Mr pathak learned Addl.C.G.S.C questioning the legitimacy of the Annexures A and B to the O.A. submitted that the said two

documents did not correctly reflect the services rendered by the applicant. We have ourselves also perused the Annexures A and B, both were countersigned by the Sub-Divisional Officer on 23.11.98 and 23.4.98 respectively. In the Annexure-A the applicant was shown to complete 240 days in the year 1995 and 243 days in 1996. Similarly 260 days in 1997 and some days in 1998. In the absence of any other materials on record it is difficult for us to accept the said two Annexures as a proof that the applicant rendered 240 days service for conferring him temporary status. The respondents authority in pursuance of the direction of the Tribunal seemingly completed the exercise and verified the service particulars and as a matter of fact number of persons were conferred temporary status by the respondents on verification of records. In the circumstances it is difficult to interfere with the decision of the respondents in not conferring the temporary status to the applicant. The application is dismissed.

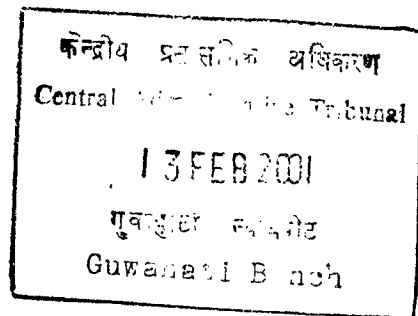
The dismissal of the application shall not preclude the respondents to consider the case of the applicant for engaging him as casual labour against any future vacancy and to consider his case for conferring the temporary status *in due time*.

The application accordingly stands dismissed.

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

K.K. Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

[Signature]
(D.N.CHOWDHURY)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH.

O.A. NO. 68 OF 2001.

BETWEEN

Sri Sukeswar Paswan, Applicant.

AND

Union of India & Ors., Respondents.

- I N D E X -

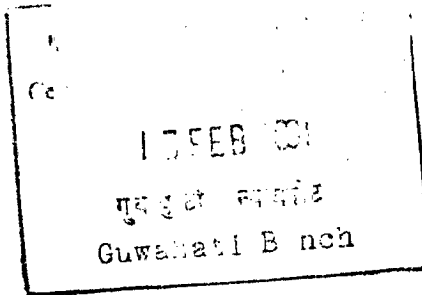
<u>Sl.No.</u>	<u>Particulars.</u>	<u>Page No.</u>
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Filed by : *Niran Barah.*

Registration No.:

File :

Date:



Filed by the petitioner
Sri Sukeswar Paswan
through Nizar Bera
Delhi
Sukeswar Paswan

DISTRICT : NAMRUP.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

GUWAHATI.

CASE NO. O.A. 68 /2001.

IN THE MATTER OF :

Sri Sukeswar Paswan,

S/O Sri Rajendra Paswan,

Village- Manipuri Basti,

Dist. Mamrup, Guwahati-7, Assam.

LAST EMPLOYED:

As a Casual Mazdoor in the office of the
Sub-Divisional Officer, Telephones East-II,
Guwahati-7, Assam.

..... Applicant.

- Vs -

1. The Union of India (Represented by the
Secretary, Department of Telecommunication)
2. The Chairman-Cum-Managing Director,
Bharat Sanchar Limited,
Sanchar Bhawan, New Delhi.
3. The Chief General Manager,
Assam Circle, Telecommunication,
Guwahati-7.
4. The Divisional Engineer (Admn.)
O/O/G.M. Telecom, Kamrup Telecom District,
Guwahati-1.

केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

- 2 -

12/11/2000
गुवाहाटी न्याय भेद
Guwahati Bench

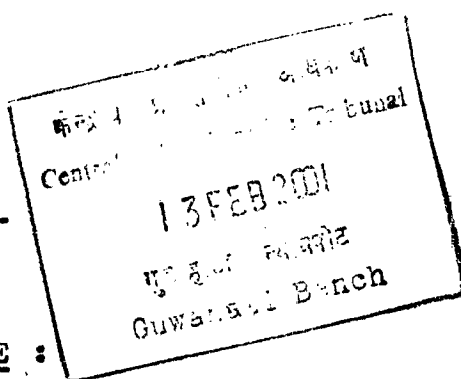
5. The Sub-Divisional Officer,
Telephones East-II, Guwahati-7.

.... Respondents.

DETAILS OF APPLICATION :

1. Particulars of the order against which the application is made. : Retrenchment order dt.27.12.2000, bearing No.GMT/EST-179/TSM/00-01/110, issued by the Divisional Engineer(Admn.), O/O, GM Telecom, Kamrup Telecom District, Guwahati-7 without enquiring and without proper investigation.
(Acopy of the Retrenchment order dt.27.12.2000 is annexed as Annexure- 'E').
2. Jurisdiction of the Tribunal. : The application declares that the subject matter of the order against which he wants redressal is within the Jurisdiction of the Hon'ble Tribunal.
3. Limitation. : The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Adminstrative Tribunal Act, 1985.

12
Sukeshwar Sarma



13

Sukeshwar Singh

A. FACTS OF THE CASE :

a) The applicant is a citizen of India and he is permanent resident of Village- Manipuri Basti, in the District of Kamrup, Assam.

b) That, the petitioner was appointed since 1st January 1995, as a Casual Mazdoor in the office of the Sub-Divisional Officer, Telephones East-II, Guwahati-7, Guwahati Circle for the last several years and received regular salaries from the aforesaid office under the Telecom Department.

(The Copies of the Engagement Certificate of the Casual Labour are annexed as Annexure-'A' & 'B' respectively).

c) That, the petitioner alongwith other similarly situated Casual Labours of the Department of the Telecommunication has moved this Hon'ble Tribunal for regularisation of their services by filing O.A.No.107/98. (All India Telecom Employees Union, Line Staff and Group 'D' and Ors. -Vs- The Union of India & Ors.). The Hon'ble Tribunal by Judgement and order dt. 01-08-99 held as follows :-

"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 representation individually within a period of one month from the date of receipt of the order and if such representations are file individually, the Respondents shall scrutinize and

13.12.2001
Guwahati Bench

14

Sukeshwar Sarma

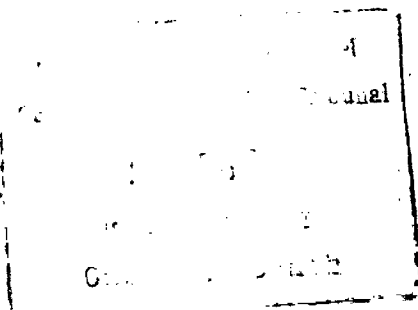
examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations".

(A copy of the Judgment dt. 1.8.2000 passed in O.A. 107/98 is annexed as Annexure - 'C').

d) That, the applicant/petitioner beg to state that after the pronouncements of the above Judgment dt.1.8.1999 in O.A. 107/1998 the Divisional Engineer(Admn.) and office of the General Manager Telecom, Kamrup District, issued a officcal letter vide Memo No.GMT/ENG/Cl.1/2000/2 dated 5.4.2000 to Sri S.B.Jadav, DEP(Ext.-IV) Guwahati ~~District~~ directed him to verify the records/authencity of the Casual Labourers in connection with their claims for temporary status on or before 12, April, 2000.

(A copy of the said letter dt.5.4.2000 is annexed as Annexure - 'D').

e) That, the petitioner appeared before the said committee comprising of Divisional Engineer(Admn.), office of the GMTD/GH, GAO(TA), GMTD/GH and ADT(L), Circle office, Guwahati, for verification of records/authenticity of the casual labourers inconnection with their claims for Temporary Status. But nothing has been done till date, instate a letter dt. 27.12.2000, under Memo No.GMT/EST/179/TSM/oo-01/110 issued by the Divisional Engineer(Admn.), office of the General Manager, Telecom, Kamrup Telecom District in where the committee submitted its reports to the Department



stating that the petitioner has not completed the required No of days of engagement year wise and so he is not qualified for regularisation of the Casual Mazdoor.

(A copy of the letter dt. 27.12.2000 is annexed as Annexure - 'E').

f) That, the petitioner/applicant beg to state that the committee in the said letter dt. 27.12.2000 (Annexure-E) also stated that the petitioner has not been engaged in the department~~at~~ since 31-10-97 and have been dis-engaged as Casual Labour with effect from 31.1.2001. But as per the certificate (Annexures-A & B) which is attested by the Sub-Divisional Officer, Telecom East-II Guwahati Clearly Shows that the petitioner has been working as a casual labour/Mazdoor since January, 1995.

In the year of 1995 he has been engaged for 240 days.

In the year of 1996 he has been engaged for 243 days.

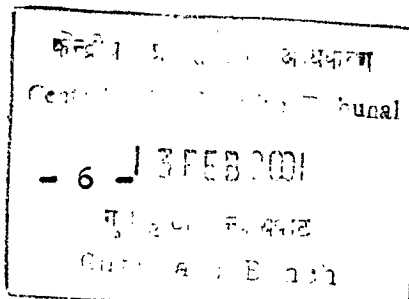
In the year of 1997 he has been engaged for 260 days.

and in the year of 1998 he has been working for about 118 days.

In addition to the above annexes A & B it is stated that the petitioner has been working sincerely, in the Deptt. as aforesaid, as a Casual Mazdoor for more than 240 days per engagement year, in different Units/Offices of the Deptt.

g) That, it may further mentioned that there are still 172 posts of casual labour is still there unfilled after accomodating about 672 casual labours who are situated similarly to that of the Applicant/Petitioner.

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



5. GROUND FOR RELIEF WITH LEGAL PROVISION :

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

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

3. For that, it is the settled law that for who some principles have been laid down in a Judgment extending certain set ~~and~~ of employees, the said benefits are required to be extended to the similarly situated employees without requiring them to approach the Court again and again. The Central Govt. should set an example of model employees by extending the said benefits.

4. For that, the discrimination meted out to the member of the applicant is not extending the benefits of the scheme and is not treating him as per with posted employee is violative of Article 14 & 16 of the Constitution of India.

5. 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 & 16 of the Constitution of India.

6. For that, the issuance of the order dt. 27.12.2000 by the Respondents so far it relates to retencement of the service of the applicant is illegal (and without proper

inquiry) arbitrary and violative of the principles of Natural Justice.

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

6. DETAILS OF REMEDIES EXHAUSTED :

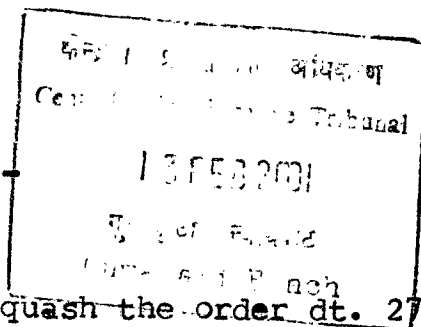
That, the applicant declare that he have exhausted all the remedies available to him and there is no alternative remedy available to him.

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

That, the applicant further declare that the similarly situated casual labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of this services by filing O.A. 107/98. The Hon'ble Tribunal by Judgment & Order dt. 1.8.99 has discussed the relevant Notification issued by the Department of Telecommunication proposing to confer status of Temporary Employees and confirm them Phase-wise and also relied on the Judgment of the Apex Court. Thereafter, regularised by terminating service of the applicant.

8. RELIEF SOUGHT FOR :

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



8.1. To set-aside and quash the order dt. 27.12.2000 in case the Respondents terminate his service in the light of the said order.

8.2. To direct the respondents to extend the benefits of the applicant and to regularise his service.

8.3. To direct the Respondents to allow the applicant to continue in his respective service.

8.4. To direct the Respondents to extend the benefits of the scheme to the applicant particularly who have joined in the year 1995 taking into consideration the Hon'ble Ernakulam Bench Judgment and to regularise his service.

8.5. Cost of the application.

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

9. INTERIM ORDER FOR :

Pending disposal of this application the applicant pray for an interim order directing the respondents to allow the applicant to continue in his post of Casual Mazdoor in the Telephone Department still the disposal of this Original application or keep one post vacant to accommodate the petitioner as the applicants' post is not filled up till date.

10.

11. PARTICULARS OF I.P.O.

1. I.P.O. No. : 564220/8
2. DATE : 6.2.2001
3. PAYABLE AT : GUWAHATI.

12. LIST OF ENCLOSURES :

As stated in the 'INDEX'.

- VERIFICATION -

I, Sri Sukeswar Paswan, S/O Sri Rajendra Paswan, aged about years, working as Regular Mazdoor, in the office of the Sub-Divisional Officer, Telephones East-II, Guwahati-7, Dist. Kamrup, Assam, do hereby verify and state that ~~the~~ statements made in paragraphs 4(a, b) *are true to my knowledge* and those made in paragraphs 4(c, d, e, f, g, h), are matters of records which I believe to be true and rests are my ~~humble~~ humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this day of
February, 2001.

Sukeswar Paswan
APPLICANT.

ANNEXURE - 'A'.

Certified that Sri Sukeswar Paswan S/O Rajendra Paswan working under my section as Casual Mazdoor as detailed below :-

Year	Month	Days	Year	Month	Days
1995	January	19	1996	Jan.	18
	February	16		Feb.	17
	March	21		March	23
	April	22		April	20
	May	20		May	19
	June	20		June	21
	July	22		July	24
	Aug.	19		Aug.	20
	Sep.	21		Sep.	22
	Oct.	21		Oct.	20
	Nov.	19		Nov.	19
	Dec.	20		Dec.	20
		240			243

Rambilash Roy, L/M.

C/S

Sd/- Illegible

23/11/98

Sub-Divisional Officer,

Telephones East-II,

Guwahati-781007.

Certified to be
True copy.
AB
Dewan

21

- 11 -

'B'

ANNEXURE -

Certified that Sri Sukeswar Paswan, S/O Sri Rajendra Paswan, working under my section as Casual Mazdoor as detailed below.

Year	Month	Dasys	Year	Month	Days
1997	January	21	1998	January	25
	Feb.	16		Feb.	21
	March.	23		March	26
	April	18		April	24
	May	20		May	22
	June	23			
	July	25			
	Aug.	22			
	Sep.	21			
	Oct.	25			
	Nov.	24			
	Dec.	22			

260

Rajendra Paswan S/I.

C/S

Sd/- Illegible

23/4/98

Sub-Divisional Officer,

Telephones East-II

Guwahati-781007.

*Certified to be
True copy
[Signature]
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 107 of 1998

Date of decision on the 1st day of August, 1999.

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

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

1. O.A. No. 107/1998.

Shri Subal Nath and 27 others ... Applicants

By Advocates 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 Gropp 'D' and another ... Applicants

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

-Versus-

The Union of India and others ... Respondents

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

.....

3. O.A. No. 114/1998

All India Telecom Employees Union,
Line Staff and Gropp 'D' and another ... Applicants

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

-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

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

.....

certified to be
true copy
Advocate

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.Pathak, Addl.C.G.S.C.

....

7. O.A.No.135/1998

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.

....

8. O.A.No. 136/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and 6 others .. Applicants
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- Versus-

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

....

9. O.A.No. 141/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another .. Applicants
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- Versus-

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

....

10. O.A.No.142/1998

All India Telecom Employees Union,
Civil Wing Branch. .. Applicants
By Advocate Mr.B.Malakkar

- Versus-

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

....

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By
Advocate

11. O.A.No.145/1998.

Shri Dhani Ram Deka and 10 others ... Applicants
By Advocate Mr. I. Hussain.

- Versus -

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

.....

12. O.A.No.192/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another ... Applicants
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- Versus -

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

.....

13. O.A.No.223/1998

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

- Versus -

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

.....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group 'D' and another ... Applicants
By Advocates Mr.B.K.Sharma, 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.C.G.S.C.

.....

15. O.A.No. 293/1998.

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

- Versus -

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

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O R D E R

BARUAH.J. (V.C.)

All the above applications involve common questions 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 applications were submitted by the said union, namely, the Line Staff and Group 'D' Employees and some other applications were filed by the casual employees individually. Those applications were filed by the casual employees engaged in the Telecommunication Department came to know that the 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 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid 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 service 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 in their service in different offices of the Department of Telecommunication under Assam Circle and N.E.Circle. The Government 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 dt. 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit 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 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 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts

as on 10.9.1993 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 benefit 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 dt.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. That 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 servants are not eligible to become members or office bearers of 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 into their engagement as casual employees are in progress. The respondents justify the action to discontinue 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.A.s 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 cannot get the benefit of the scheme of 1989 as this

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Scheme was retrospective and not respective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into 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.Nos.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 applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

6. We have heard Mr. B.K.Sharma, Mr.J.L.Sarkar, Mr.I.Hussain and Mr. B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C.Pathak, learned Addl.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 upto 1989 and then extended upto 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 counsel for the applicants also submit that the respondents cannot put any cut off date of 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 into consideration of the submissions of the learned counsel for the applicants.

Order to be
made by
the court
by
Respondent

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 scrutinize 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.

No order as to costs.

Sd/- VICE CHARIMAN

Sd/- MEMBER (A)

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Advocate*

ANNEXURE - 'D'

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM.
KAMRUP TELECOM DISTRICT
GUWAHATI-781007.

NO.GMT/END/CL-1/2000/2.

Dated at Guwahati, the 05-04-2000.

To,

Shri S.B. Yadav,
D.E.P. (Extt-IV)
Guwahati.

Kindly find herewith the list of Casual Mazdoors in
Annexure A & B.

You are requested to direct the casual labourers working under you to appear before the committee comprising of D.E. (Admn.), o/o GMTD/GH, CAO(TA), GMTD/GH and ADT(L), Circle Office, Guwahati, for verification of records/ authenticity of the casual labourers in connection with their claims for Temporary Status on or before 12th April, 2000. The casual labourers should bring two copies of passport size photo-graph, out of which one copy is to be got attested by you/controlling officer alongwith the signature of the casual labourer on the reverse side of the photo-graph.

This matter be treated as most urgent.

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6/4

Divisional Engineer (Admn.)
O/o the General Manager Telecom.,
Kamrup Telecom. District,
Guwahati-781007.

Copy to SDOP(U)/SDOP KCP/SDM(for information and compliance
of the above instruction.

Sd/- Illegible
07/4/2000.

<u>SL. No.</u>	<u>Name of applicants.</u>	<u>CAT No.</u>
B 46	Sukeshwer Paswan.	114/98.

<u>Sl.No.</u>	<u>Name</u>	<u>CAT CASE No.</u>
17.	Bishnu Ram Kalita	OA 112/98
18.	Gautam Kalita	112/98
19.	Satish Kalita	112/98
20.	Dipen Saikia	112/98
21.	Dipak Medhi	112/98
22.	Hitesh Das	112/98
23.	Kulen Das	112/98
24.	Sachin Das	112/98
25.	Dhaniram Deka	112/98, 145/98
26.	Champak Talukdar	112/98, 145/98
27.	Kamaswar Kardong	112/98
28.	Ramani Medhi	112/98, 145/98
29.	Bijoy Boro	112/98, 145/98
30.	Sanjoy Shew	112/98, 145/98
31.	Niranjana Malaker	112/98, 145/98
32.	Khargeswar Kalita	112/98
33.	Madan Boro	112/98.

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Advocate

<u>SL.NO.</u>	<u>Names</u>	<u>CAT Case No.</u>
34	Kushal Medhe.	OA 112/98.
35	Subash Barman	112/98, 145/98
36	Pankaj Boro	112/98
37	Santu Choudhury	112/98, 145/98
38	Rabin Ch. Boro	112/98, 145/98
39	Mantu Talukdar	293/98
40	Sanjib Pator	293/98
41	Khilish Debnath	293/98
42	Gopal Das	293/98
43	Basanta Baishya	293/98
44	Sanjoy Kr. Misra	293/98
45	Biju Bora	293/98
46	Sukeswar Paswan	114/98
47	Ramesh Roy	114/98
48	Arun Kumar	114/98
49	Dinesh Thakuria	114/98
50	Umesh Mahato	114/98.

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ANNEXURE - 'E'.

BHARAT SANCHAR NIGAM LIMITED
 (A Govt. of India Enterprise)
 OFFICE OF THE GENERAL MANAGER TELECOM
 KAMRUP TELECOM DISTRICT
 GUWAHATI-781007.

NO. GMT/EST-179/TSM/00-'01/110 Dated at Guwahati, the 27-12-2000.
 To,

Shri Sukeswar Paswan, C/O Shri Rajendra Paswan,
 Vill:- Manipur Basti, Guwahati-7,
 Dist- Kamrup (Assam).

As you are aware that as per direction given by Hon'ble CAT, Guwahati Bench, Guwahati in DA Nos. 107/98, 112/98, 114/98, 120/98, 131/98, 135/98, 136/98, 141/98, 142/98, 145/98, 192/98, 223/98, 269/98 and 293/98, the department constituted verification committees for different SSAs/Units under the circle for conducting detailed verification/scrutiny about the no. of days of engagement year-wise in different units/offices and also to collect proof/evidence for such casual labourer including yourself. The committee verified all the documentary as well other proof from the various units/offices and also personally interviewed, such casual labourer including you on 26-04-2000. In our office/SSA, the committee comprised of three members namely (1) Shri A.S. Choudhury, /Shri S.C. Tapadar, DE (Admn.) O/O the GMT/KTD/Guwahati (2) Shri N.K. Das, C.A.O (Cash), O/O the GMT/KTD/Guwahati (3) Shri G.C. Sharma, ADT (Legal), O/O CGMT/Guwahati.

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

Under the above circumstances as you could not satisfy the eligibility criteria as laid down in the Scheme for conferment of TSM/Regularisation, your case could not be considered favourable. Please take notice that you have not been in engagement under the Department since 31-10-1997/ you have been Disengaged as Casual labourer with effect from 31-01-2001 as the department is bound to consider only the cases of such eligible casual labourers for conferment of TSM against such vacancies/works. This is done in accordance with the Hon'ble Tribunal's order/and also the stay/status quo that was directed to be maintained.

Head of SSA/Unit

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Divisional Engineer (Admn),
 O/O/G.M. Telecom, Kamrup Telecom
 District.

Copy to :
 The C.G.M.T., Assam Circle, Guwahati for favour of
 information w.r.to his office letter No. STES-21/1
 Sd/- Illegible.

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ANNEXURE

Details of findings by the Verification Committee of Kamrup Telecom. District/Guwahati (Name of SSA/Unit) in case of Shri Sukheswar Paswan in SDOP. E-II. GH.

Date of engagement	Author-ity of engage-ment.	No.of days engaged,year wise/month wise.	Proof of engage-ment (Documen-tary)	Name of Designa-tion of mem-bers of veri-fication committee	Reasons in brief as found.	Remarks
		(A)	(B)			
Oct'97	SDOP E-II.GH	10/97-05	1.Sri S.C. Tapadar, DE(Admn) 2.Sri N.K. Das, CAO. 3.Sri G.C. Sarma, ADT(Legal)	Not complet- ed 240 days in any Calendar year.	Not reco- mmended by the committee.	

Signature,
Designation Sd/- Illegible
Seal. Etc.

Divisional Engineer (Admn),
O/O/G.M. Telecom
Kamrup Telecom District,
Guwahati-7.

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ANNEXURE - 'F'.

Govt. of India
Ministry of Communications
Department of Telecom. Services
Sanchar Bhawan,
New Delhi-110001.

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

Dated : 9.2.2000

To,

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

Sub:- Sanction of posts of Regular Mazdoors for regulari-
sation of Temp. Status Casual Mazdoors as on 31.3.97
and grant of Temp. Status to Casual Labourers as on
1.8.98- case of Assam Circle.

Sir,

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

This issued with the concurrence of Internal Finance,
Deptt. of Telecom, vide ~~xxx~~ their U.O.No.438/2000-Pt-I dt.
10.2.2000.

Yours faithfully,

Sd/- Illegible

Asstt. Director General (STN).

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True copy.
AB
Advocate*

-28-
ANNEXURE - 'D'. 25
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE: ULUBARI: GUWAHATI-7.

NO. ESTT-9/12/Pt-I/6

Dated at Guwahati, the 04-11-99.

In accordance with the instructions contained in D.O.T. New Delhi letter No. 269-13/99-STI dated 16-09-99 the head of concerned district/S.S.A. is hereby authorised to convert the part-time casual labourers presently working for 04 hours or more a day who have worked for atleast 240 days in the preceding 12 months into full time casual labourers. This will be applicable only to the extent of the number shown below against respective S.S.A./District:-

Kamrup Telecom District	: 02 (Two).
Nawgaon S.S.A.	: 04 (Four)
Tezpur S.S.A.	: 09 (Nine)
Dibrugarh S.S.A.	: 03 (Three)
Bongaigaon S.S.A.	: 06 (Six)
Jorhat S.S.A.	: 12 (Twelve)
TOTAL	: 36 (Thirty-six)

The conversion of the part time casual labourers into full time casual labours as above will be further subject to the following:

- (a) As a one-time relaxation, part time casual labourers with 04 hours or more hours of duty per day who have worked for 240 days in the preceding 12 months may be converted into full time casual labourers. This will be applicable only to the extent of the numbers indicated against respective field units in the Annexure.
- (b) They should be engaged as casual labourers subject to suitability.
- (c) They should be engaged as casual labourers only where there is shortage of Group 'D' staff (i.e. existence of vacant Group '1' posts after accounting for all T.S.Ms and existing full time casual labourers) and no posts should be created for the purpose.
- (d) In the event, there is no shortage in Group 'D' at the station where the part time casual labourer is to be engaged to work as full time casual labourers, the part time casual labourers will not be converted into full time casual labourers.
- (e) Payment to the above casual labourers may be made as provided for under Rule 331 of P & T P.H.B. Vol. I Under no circumstances should they be paid through muster roll.
- (f) No part time casual labourers will be engaged hereafter and any violation will result in disciplinary action.

Sd/- (B.C. PAL)
Asstt. Director Telecom (E&R)

Copy to :-

1. The General Manager, Kamrup Telephones, Guwahati
2. The Telecom District Manager,
Jorhat/Nawgaon/Tezpur/Bongaigaon.

Sd/- (B.C. PAL)
Asstt. Director Telecom (E&R).

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true copy
[Signature]
[Signature]*