

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUAHATI BENCH :::: GUAHATI

ORDER SHEET
APPLICATION NO 98 OF 2001

Applicant (S) *Dr. Goutam Kalita*

Respondent(s) *Union of India*

Advocate for Applicant(s) *M. S. Sharma*

Advocate for Respondent(s) *M. U. S. C. S. C.*

Notes of the Registry Date Order of the Tribunal

8.3.01

List on 9.4.01 to enable the respondents to file written statement.

Member

Vice-Chairman

in

8.3.01

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

Heard learned counsel for the parties. Application is admitted. Call for records. Issue notice on the respondents as to why the interim order shall not be granted Returnable by 4 weeks. List on 9.4.01 for orders.

In the meantime the respondents are directed not to disengage the applicant from his service as per order dated 9.2.2001. The respondents shall take steps for allow him to work till then.

Member

Vice-Chairman

in

5-3-2001
22.2.2001

13/3/01

Regd. No. 11(1)

13.3.2001

In view of notice

D.No. 938-29

Dt 14.3.2001

9.4.2001

Four weeks time allowed to the respondents to file written statement. List it for orders on 8.5.01. The interim order dated 8.3.2001 shall continue to operate.

Vice-Chairman

nkm

8.5.01

List on 7.6.01 to enable the respondents to file written statement.

No. written statement has been filed.

Member

Vice-Chairman

By
5.6.01

pg

7.6.01

List on 18-7-2001 to enable the respondents to file written statement.

Member

Vice-Chairman

mb

17-7-2001

18.7.01

List on 17.8.2001 enabling the respondents to file written statement.

No. Wfs has been

submitted.

Member

Vice-Chairman

bb

No. Wfs has been

submitted.

17.8.01

List again on 14/9/01 to enable the respondents to file written statement.

Member

Vice-Chairman

By
16.8.01

mb

No. Wfs has been

filed.

14.9.2001

List again on 16.10.2001 to enable the respondents to file written statement.

Member

Vice-Chairman

By
13.9.01

bb

No. written statement

has been filed.

On the request made by Mr. B. C. Rathak learned Addl. C.G.S.C. the case is listed on 26.11.2001 for filing of written statement.

By
12.10.01

No. written statement has been filed.

bb

Member

D.A. 98/2001

Notes of the Registry	Date	Order of the Tribunal
	26.11.01	List on 1.1.2002 to enable the respondents to file written statement. ICUShaw Member Vice-Chairman
No. wls has been filed. 28.1.02	1.1.02	List on 29.1.2002 to enable the respondents to file written statement. ICUShaw Member Vice-Chairman
	29.1.02	List the matter for hearing on 5.3.2002. In the meantime, the respondents may file written statement, if any, within 2 weeks from today. ICUShaw Member Vice-Chairman
No. wls has been filed. 19.4.02	5.3.02	List on 22.4.2002 to enable the parties to obtain necessary instructions. ICUShaw Member Vice-Chairman
	22.4.2002	Prayer has been made by Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents for a little accommodation for obtaining necessary instruction on the matter. Prayer is allowed. List the case on 7.6.2002 for hearing. Vice-Chairman

mb

4.6.02

~~Written statement has been filed.~~
~~The case may now be listed for hearing~~
~~on 10.7.02.~~

Notes of the Registry

Date

Order of the Tribunal

4-6-02

Written statement has been
filed. The case may now be listed for
hearing on 10.7.02.

Member

Vice-Chairman

lm

17.9.02

Heard counsel for the parties. Hearing
concluded. Judgment delivered in open Court,
kept in separate sheets.

The application is allowed in terms of the
order. No order as to costs.

Vice-Chairman

pg

17.9.02

Heard counsel for the parties. Hearing
concluded. Judgment delivered in open Court,
kept in separate sheets.

The application is allowed in terms
of the order. No order as to costs.

Vice-Chairman

pg

31.7.02

W/S Submitted

by Respondent No.
1, 2 and 3.

Judgment dtd 17/9/02
Communicated to the
applicant & the Family
Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No.....98.....of 2001.

17.9.2002.
DATE OF DECISION.....

Sri Gautam Kalita

APPLICANT(S)

Sri S.Sarma

ADVOCATE FOR THE APPLICANT(S)

VERSUS

UNION OF INDIA AND OTHERS

RESPONDENT(S)

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

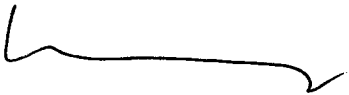
ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

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



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 98 of 2001.

Date of Order : This the 17th Day of September, 2002.

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

Sri Gautam Kalita,
Casual Worker,
Office of the General Manager,
Telecom, Kamrup, Guwahati.

...Applicant

By Advocate Sri S.Sarma.

- 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.

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

... Respondents

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

O R D E R

CHOWDHURY J.(V.C)

The issue relates to conferment of temporary status sequel to the judgment and order passed by this Tribunal in O.A.107 of 1998 disposed of on 31.8.1999. By that judgment and order the respondents were directed to examine the case of each of the applicant individually. By order dated 9.2.2001 the respondents authority disposed of the representations of the applicants with the observation that the applicant did not satisfy the eligibility criteria as laid down in the Scheme for

conferment of temporary status and accordingly by the said order he was ordered to be disengaged with effect from 11.3.2001. It may be mentioned here that during the aforesaid period the applicant was working under the respondents continuously. It has also been mentioned at the Bar that the applicant is still continuing by the strength of the interim order dated 8.3.2001. The respondents also turned down the claim of the applicant for appointment on compassionate ground on account of delay. It may be stated herein that the father of the applicant S.C.Kalita was working in the Telecom department and he died in harness as far back as 1977 when the applicant was a child.


2. The respondents contested the claim of the applicant by filing written statement. The respondents also raised a plea of maintainability on the ground that in pursuance to new Telecom policy the Government of India has transferred all the business, assets and liabilities of department of Telecom services and telecom operations to the new company BSNL and in the absence of a Notification under Section 14(2) of the Administrative Tribunals Act. The Tribunal has already considered those plea in O.A.289/2001, 364/2001, 366/2001, 372/2001, 403/2001, 109/2002 and 160/2002 and passed appropriate orders therein. In the light of the aforesaid decisions

this application is also taken into consideration on merit.

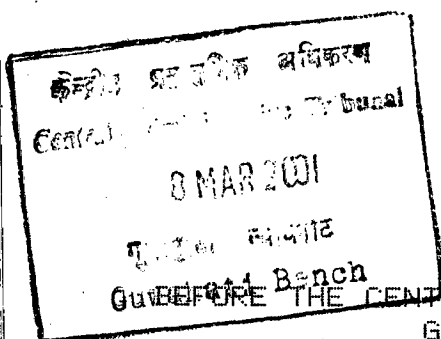
Admittedly on the own showing of the respondents the applicant was engaged in January 1996 and reason for not sending the case was shown due to mistake as indicated in the communication No.ESTT-9/12/CM/1/9 dated 1.2.2002 sent by the Deputy General Manager (Admn.) to the Assistant Director General, Corporate Office, New Delhi. From the said document it is seen that the applicant was working in departmental IB and records for the period before 1.8.98 were not traceable as he was working in different offices for small duration. Mr B.C.Pathak, learned Addl.C.G.S.C however referred to Annexure-R6 dated 12.3.2002 and stated that the applicant did not complete 240 days in a calendar year prior to August 1998. On the face of the communication dated 1.2.2002 it appears that the conclusion reached by the Verification Committee mentioned in memo dated 12.3.2002 is seemingly unsustainable, more so, in view of the order passed by the Tribunal dated 3.6.98 in O.A.114/98 allowing status quo as on 3.6.98 and which continued till today. In the circumstances it is difficult to accept that the applicant did not work upto ^{August} 1998. The aforesaid conclusion runs counter to the communication sent by the department vide communication dated 1.2.2002 which is based on official record. For the reasons stated above the action of the respondents in not granting temporary status to the applicant is not sustainable. The

respondents are accordingly directed to reconsider the matter in terms of communication dated 1.2.2002 read with communication dated 29.9.2000.

Subject to observation made above the application is allowed. There shall, however, be no order as to costs.



(D.N.CHOWDHURY)
VICE CHAIRMAN



Title of the case :

O.A. No. 98 of 2001

Between

Shri Gautam Kalita. Applicant.

AND

Union of India & ors Respondents.

I N D E X

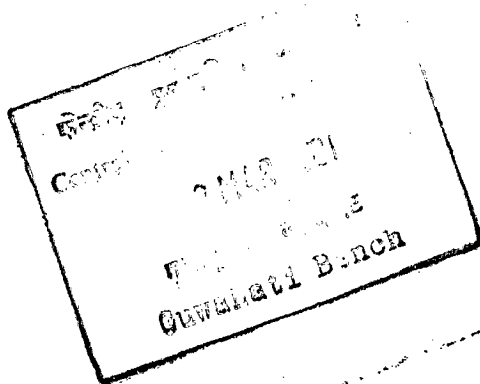
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Filed by :

Regd.No.:

File : GAUTOM

Date :



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Filed by
Nidhaanta Sorena
Advocate
8-3-2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

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

D.A.No. of 2001

BETWEEN

Sri Gautom Kalita, Casual Worker
son of late Suren Kalita,
at present working under General Manager Telecom
Kamrup, Guwahati.

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

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the orders dated 9.2.2001 by which it has been intimated that the case of the applicant have been scrutinised by a committee for conferment of temporary status, however the said committee did not recommend his case for grant of temporary status with a further intimation that the service of the applicant would be terminated w,e,f, 11.3.2001. This application is also directed against the action of the respondents in rejecting the claim of the applicant for compassionate appointment. The present applicant prays for a direction from this Hon'ble Tribunal for granting temporary

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status and regularisation in the light of the Judgment and order dated 31.8.99 passed by the Hon'ble Tribunal in O.A No 114 of 1998 and/or to appoint him against any Gr-D posts on compassionate ground commensurating to his educational qualification.

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.

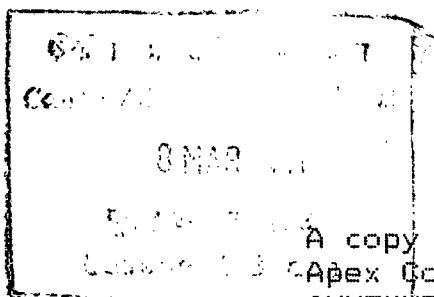
4. FACTS OF THE CASE:

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

4.2. That the applicant is presently working as casual labour under the Department of Telecommunication since 1990 till date he is continuing in the said post without any break. The applicant entered the service of the respondents in the year 1990 as casual workers. The applicant through this application has prayed for granting of temporary status and regularisation as directed by the Hon'ble Tribunal and in the light of the scheme prepared in the year 1989 and the subsequent clarifications issued from time to time.

4.3. That the casual labourers of the Deptt. of Posts preferred a writ petition before the Hon'ble Supreme Court claiming the similar benefit of regularisation like that of the present applicant. The Hon'ble Supreme Court after hearing the parties was pleased to allow the said writ petition directing the respondents thereto to prepare a scheme on rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Deptt. Claiming the similar benefit some of the casual labourers working under the Telecom Department filed a writ petition vide No. Writ petition (C) No. 1280 of 1989 (Ram Gopal & Ors vs. U.O.I & Ors). The Hon'ble Supreme Court on 17.4.90 was pleased to dispose of the said writ petition along with other connected matters directing the respondents thereto to prepare a scheme on rational basis for absorption of casual labourers who have continuously worked for more than one year in the Telecom Department. For better appreciation of the factual position the operative part of the said judgment and order dated 17.4.90 is quoted below :

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



A copy of the judgment passed by the Hon'ble Apex Court is annexed herewith and marked as ANNEXURE-1.

4.4. That pursuant to the judgment passed by the Hon'ble Apex Court, the respondents have prepared a scheme in the name and style " Casual Labour grant of temporary status and regularisation " Scheme 1989. The aforesaid scheme has been circulated by an order dated 7.11.89 issued by the Dept. of Telecommunication. In the said scheme it has been categorically mentioned that the same will be effective from 1.10.89 onwards and the same will be applicable to the casual workers employed by the Dept. of Telecommunication.

A copy of the said scheme is annexed herewith and marked as ANNEXURE-2.

4.5. That the applicant begs to state that he has been engaged by the respondents as casual worker in the year 1990 . It is pertinent to mention here that the applicant prior to his such appointment, the respondents have placed indent before the District Employment Exchange, and the name of the applicant has been sponsored by the said Employment Exchange.

4.6 That the applicant begs to state that after issuance of the appointment interview was held for the said post of Mazdoor and he was selected for the said post by the said duly constituted interview board. It is pertinent to mention here that till date he is continuing in his posts without any break and each year he has completed more than 240 days of work in a calendar year. In view of the criteria laid down in the said scheme the applicant is entitled to the benefit of Temporary Status and subsequent Regularisation just after the date on which he has completed 240 days of continuous service. The respondents however, ignoring his claim have been denied the said benefit and till date he has not

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been conferred with temporary status and subsequent regularisation whereas his colleagues are enjoying the said benefits.

4.7 That after the issuance of the aforesaid scheme of 1989 the respondents have been issuing various clarifications in regard to the cut-off date mentioned in the said scheme. To that effect mention may be made of letter dated 17.12.1993 by which the said benefit was extended to the recruitees of 30.3.1985 to 22.6.88. Thereafter some of the later recruitees approached the Hon'ble Central Administrative Tribunal, Ernakulam Bench, by way of filing O.A. No.750/94 and pursuant to an order dated 13.3.95 passed by the said Hon'ble Tribunal the respondents have issued an order dated 1.11.1995, extending the said cut-off date up to recruitees of 10.9.1993.

Copy of the order dated 1.11.95 is annexed
herewith and marked as ANNEXURE-3 .

4.8 That the applicant begs to state that in view of the aforesaid clarifications, as well as the order of the Hon'ble Central Administrative Tribunal, Ernakulam Bench referred above, he is entitled to get the benefit of the said scheme of 1989. It is further stated that the respondents thereafter issued various orders by which it has been clarified that the benefit of the scheme shall be extended to the recruiters of 31.3.1997. To that effect Department of Telecommunication issued a letter in the month of February, 1999, by which the said benefit has been extended to the recruiters of 31.3.1997.

4.9 That the applicant begs to state that claiming similar benefit the Union namely, All India Telecom Employees Union, had approached the Hon'ble Tribunal by way of filing O.A. Nos. 299 and 302 of 1996. The Hon'ble Tribunal on 13.8.97 after hearing

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the parties to the proceeding was pleased to allow the said Original Application in favour of the applicant directing the respondents to extend the benefit of the said scheme of 1989. It is pertinent to mention here that the applicants in the aforesaid OAs have also prayed for a direction to treat them at par with the casual workers of Postal Deptt. as the scheme prepared in their respect was more beneficiary than that of the Telecom Deptt. The Hon'ble Tribunal while disposing of the said OAs was also pleased to grant the aforesaid relief by directing the respondents therein to treat them at par with the casual workers of Postal Deptt.

A copy of the said order of the Hon'ble
Tribunal dated 13.8.97 is annexed herewith
and marked as Annexure-4

4.10. That the applicant states that the said order dated 13.8.97 has been passed in respect of the applicant No.1 of the said Original Application i.e. All India Telecom Employees Union and hence the benefit of the said judgment and order dated 13.8.97 is also applicable to the members of the said Union including the present applicant. Needless to say here that when a judgment is pronounced by a competent court of law in respect of a particular set of employees, the principle laid down in the said judgment is required to be extended to the other similarly situated employees of the department. On the other hand the respondents being a model employer should not have denied the said benefit to the employees who could not approach the door of the court for want of money etc. It is the duty of the respondents to treat all the employees of a particular group or grade at par with the other group or grade who got the benefit of certain judgment in their favour.

4.11. That the applicant begs to state that even after the judgment and order dated 13.8.97 the respondents have not done anything in regard to the granting of Temporary Status pursuant to the scheme mentioned above as well as the clarifications issued by the respondents to that effect. It is stated that being aggrieved, the present applicant as well as some similarly situated employees like that of applicant have approached the Hon'ble Tribunal by way of filing various Original Applications before the Hon'ble Tribunal including O.A No 114 of 1998 and the Hon'ble Tribunal after hearing was pleased to dispose of the said O.As. vide its judgment and order dated 31.8.99 directing the respondents to consider their cases for grant of temporary status and regularisation.

A copy of the order dated 31.8.99 is annexed herewith and marked as ANNEXURE-5.

4.12. That the respondents after the pronouncement of the Annexure-6 judgement and order dated 31.8.99 issued an order dated 1.9.99 extending the benefits to the recruitees up to 1.8.98.

A cop of the order dated 1.9.99 is annexed herewith and marked as ANNEXURE-6.

4.13. That The respondents thereafter issued various orders by which direction has been issued to the local Head Offices for furnishing particulars of the casual labourers working under them. The applicant further state that from a reliable source he could come to know that as many as 900 posts of regular mazdoor has been sanctioned by the Ministry of Communication, Department of Telecommunication to Assam Circle, Telecom. It is also learnt from the said source that some of the posts have already been

allotted to the casual labourers like that of the applicant under the respondents ignoring the claim of the present applicant.

4.14. That as stated above the applicant being aggrieved by the action of the respondents for non consideration of his case for grant of temporary status, was constrained to move the Hon,ble Tribunal by way of filing O.A. No 114 of 1998 and the Hon'ble Tribunal was pleased to direct the respondents to consider his case vide its Judgment and order referred to above. The applicant as per the direction of the Hon'ble Tribunal filed a detailed representation to the authority concerned for consideration of his case for temporary status as well as regularisation in the light of the scheme.

4.15. That the respondents thereafter issued various orders directing the local/divisional heads to furnish the particulars of the applicant before the Committee for scrutinising the eligibility for grant of temporary status as per the scheme. The concerned Officer furnished all the relevant document of the applicant to the concerned authority/Committee along with certificates showing his entry in the department as well as the number of working days.

4.16. That the thereafter the respondents have issued an order dated 9.2.2001 to the applicant intimating that his case for grant of temporary status can not be acceded to. In the said order the only ground stated by the respondents is that his case does not fall under the said scheme of 1989, and an intimation has been given to him that his service would be terminated w,e,f, 11.3.2001.

A copy of the order dated 9.2.2001 is annexed herewith and marked as ANNEXURE-7.

4.17. That the applicant begs to state that the applicant ever since his entry in the service in the year 1990, has completed 240 in each year. The aforesaid fact can very well be verified from the certificates issued by the respondents. Even in the year 1998 and 1999 he has completed 240 days of service without any break. Till the date of his entry in to service, he has been working continuously without any break not to speak of any artificial break. It is noteworthy to mention here that the respondents at various points of time have recommended the case of the applicant for grant of temporary status and subsequent regularisation of the services of the applicant, but now their stand taken in the impugned order is hence baseless and contrary and liable to be set aside and quashed. In fact the applicant could come to know that the respondents have taken time to implement the said judgment and order dated 31.8.99 till March 2001 and hence the respondents are now debarred to issued the aforesaid order dated 9.2.2001 and the same is contemptuous in nature.

4.18. That the applicant begs to state that his case is required to be considered as per the scheme which was prepared pursuant to the Judgement and Order passed by the Hon'ble Apex Court. The direction of the Hon'ble Supreme Court was for preparation of a scheme for those casual who have worked for at least one year completed at least one year of continuous service. The present applicant has completed almost 11 years of sincere and continuous service and as a reward for his such service, the respondents have issued the order dated 9.2.2001.

4.19. That in fact the impugned order is in a form of a format for rejecting the claims. From the above fact it can be revealed that the said order has been issued by the respondents

without applying their mind. The direction of the Hon'ble Tribunal contained in the aforesaid judgment and order was quite clear regarding the method as well the mode of consideration of the cases of the applicants but the respondents have dealt the cases of the applicant as well as other and perhaps they have made mass of it and thereby the case of the present applicant fall within the purview of unqualified candidates. Whatever, be the reason of such non-consideration apparently the action of the respondents speak of total non application of mind and liable to be set aside and quashed.

4.20. That the applicant begs to state that his father late Suren Kalita was working as a Sub Inspector under the respondents. In the year 1977 while in service he passed away. At that relevant time the present applicant who is the eldest son was minor. Immediately after attaining the age of 18 years, he made a representation to the concerned authority but nothing was done. However, in the year he was appointed as casual worker. The applicant made several representations to the concerned authority for regularisation of his services on compassionate ground as well as in the light of the scheme but nothing has been done so far in the matter.

Copies of the representations filed by the applicant is annexed herewith and marked as ANNEXURE-8 COLLY.

4.21. That the respondents thereafter forwarded the case of the applicant to the committee after a lapses of several years for consideration under the compassionate ground. The said committee met on 23.8.2000 for such consideration and rejected the case of the present applicant as time barred.

A copy of the minutes of the said committee is annexed as ANNEXURE-9.

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4.22. That the applicant begs to state that the respondents taking into consideration the said minutes regarding his appointment under compassionate ground, has rejected his case for grant of temporary status. The applicant as stated above has completed almost 11 years of continuous service as casual worker and as such his case is required to be considered under the said scheme as well as the subsequent clarification issued from time to time. The case of the applicant is also required to be considered on compassionate ground against any vacant post.

4.23. That the applicant begs to state that as stated above at least 900 posts of Regular Mazdoor has been allotted to Assam Circle, Telecom, and some them have already been filled up by the respondents ignoring the bona fide claim of applicant. It is stated that the respondents by issuing the impugned order has sought to nullify the claim of the applicant only to fill up the said posts by their nearer and dearer. Presently move is going on to fill up the said posts of Regular Mazdoors by some outsiders and hence the applicant having no other alternative approaching the Hon'ble Tribunal praying for setting aside of orders dated 9.2.2001 as well as the minutes dated 23.8.2000 and for grant of Temporary Status and Regularisation in the light of the Scheme as well as the clarification issued by the respondents from time to time.

4.24. That the applicant begs to state that the respondents issued the Annexure-2 scheme pursuant to a verdict of the Hon'ble Supreme Court, wherein the direction was for absorption as far as practicable taking into consideration of at least one year of service. The applicant was appointed as casual worker in the year 1990 following the due processes of recruitment and his case is liable to be considered with a retrospective effect, i.e, from

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the date when he has completed 240 days after his initial appointment. On the other hand the case of the applicant is required to be considered under compassionate ground. It is pertinent to mention here that the similarly situated employees like that of the applicant have been granted with temporary status much earlier and by now they have been regularised in their respective services/posts.

4.25. That the applicant begs to state that after issuance of the said order dated 9.2.2001 now he has no other alternative than to approach the Hon'ble Tribunal. The applicant, because of issuance of the aforesaid impugned order dated 9.2.2001, coupled with the fact that the administrative control have subsequently been changed to the "Nigam", now apprehends that his service may be terminated w,e,f,11.3.2001. He is still in employment and because of the aforesaid developments his services may be dispensed with at any moment and hence he prays before the Hon'ble Tribunal for an interim order directing the respondents not to disengage them from his present employment till the disposal of the O.A. It is further stated that the respondents have filled up all most 600 posts and till date about 300 posts are being filled up and in fact there are as many as 18 vacancies under the respondents and hence there would be difficulties for the respondents in implementing the interim order as has been prayed for. In case the interim order as has been prayed for is not granted the applicant will suffer irreparable loss and injury.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the denial of the benefit of the scheme to the applicant in the instant case by the respondents is prima facie illegal, arbitrary, and violative of Articles 14 and 16 of the

Constitution and hence the action of the respondents are liable to be set aside.

5.2. For that it is a settled principles of law that some principles have been laid down in any judgment extending certain benefit to a set of employees, same is require to be extended to other similarly situated employees without requiring them to approach the doors of the court again and again.

5.3. For that For that the discrimination meted out to the applicants not based on any intelligible differential and the same is violative of Articles 14 and 16 of the Constitution of India.

5.4. For that the benefit which the casual labourers working in the Department of Posts are deriving having been based on Supreme Court judgment and the similar judgment relying on the said judgment having been delivered in the cases of Casual Labourers of the Department of Telecommunication and more so, both the Departments are under the same Ministry, there is no earthly reason as to why the said benefit should not be extended to the present applicant.

5.5 For that the issuance of the order dated 9.2.2001 is illegal, arbitrary and the same depicts total non application of mind of the respondents and the respondents have shown their inconsistence so far the grounds of rejections of the cases of the applicant which is illegal and arbitrary.

5.6 For that the contention raised by the respondents in the order dated 9.2.2001 by which the representation claiming grant of Temporary Status has been rejected is not at all tenable in view of existence of the records and the same is liable to be set aside and quashed.

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5.7 For that the contentions raised by the respondents in the order dated 9.2.00 regarding non-fulfillment of minimum requisite qualification as prescribed in the Scheme for grant of Temporary Status and Regularisation is not sustainable in view of existence of order dated 1.9.99 issued by the Department of Telecommunication and hence the same is not sustainable in the eye of law.

5.8 For that the contention of the respondents in regard to ban on recruitment as mentioned in the impugned order dated 9.2.2001 is not sustainable as the respondents themselves have placed the indent for filling up the said post of casual mazdoors to the local Employment Exchange and now by issuing the said impugned order and raising the claim of ban on recruitment, the respondents cannot shift their responsibility, and therefore the entire action of the respondents are liable to be set aside and quashed.

5.9. For that the respondents ought to have considered the case of the applicant under the scheme for compassionate appointment and ought not to reject the case of the applicant only on the sole ground of same being time barred and hence the entire action on the part of the respondents are liable to be set aside and quashed.

5.10. 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 set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both factual and legal at the time of hearing of this application.

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6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicant further declare that they have 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 pray 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 set aside and quash the order dated 9.2.2001 and any other such orders, with a further direction to the respondents to extend the benefit of the said scheme of 1989 as well as the subsequent clarifications issued from time to time for grant of Temporary Status and Regularisation with retrospective effect i.e, from the date on which he has completed 240 days of service, with all consequential service benefits including arrear salary, seniority etc.

8.2. To direct the respondents allow the applicant to work continuously and after granting the Temporary Status to regularise their service with all consequential service benefits considering

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his case on compassionate ground.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents not to disengage him from his service and to allow him to work in his respective post by suspending the operation of the order dated 9.2.2001.

10. This application is filed through Advocate.

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

1. I.P.O. No. :
2. Date :
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Gautam Kalita, son of Lt S. Kalita, aged about 30 years, at present working as Casual Mazdoor, under the General Manager Telecom Kamrup., do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 8, 10, 13, 15, 17, 19, 22, 25.. are true to my knowledge and those made in paragraphs 4, 20 & 21, 3, 4, 7, 9, 11, 12, 16 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.

I am the applicant in the instant application and well acquainted with the facts and circumstances of the case and am competent to sign this verification .

And I sign on this the Verification on this the 8th day
of March of 2001 .

Signature.

GAUTAM KALITA

ANNEXURE-1..

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a rational basis for absorbing as far possible the casual labourers

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who have been continuously working for more than one year in the posts and Telegraphs Department".

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

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

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

SMF/78/98 dated 27.9.89.

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.

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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).

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

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

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

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

Temporary Status.

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

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

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

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

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

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

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

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

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

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

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

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

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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 Earnakulam 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.

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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 applicant: 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 applicant 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 applicant Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a

scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

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

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3 (in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

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

Sd/- Vice Chairman.

Attorney
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ANNEXURE.-5.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. D.A. No.107/1998
Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.
.....
2. O.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.
.....
3. O.A.No. 114/1998
All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.
.....
4. D.A.No.118/1998
Shri Bhuban Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....
5. O.A.No.120/1998
Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.
.....
6. O.A.No.131/1998
All India Telecom Employees Union and another...Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

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- versus -

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

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7. O.A.No.135/98

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

- versus -

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

.....

8. O.A.No.136/1998

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

- versus -

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

.....

9. O.A.No.141/1998

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

- versus -

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

.....

10. O.A. No.142/1998

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

- versus -

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

.....

11. O.A. No.145/1998

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

- versus -

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

.....

12. O.A.No. 192/1998

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

-versus-

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

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13. O.A.No.223/1998

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

- versus -

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

.....

14. O.A.No.269/1998

All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By advocates Mr. B.K.Sharma and Mr.S.Sarma,
Mr.U.K.nair and Mr.D.K.Sharma

- versus -

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

15. O.A.No.293/1998

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

- versus -

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

.....

O R D E R

BARUAH.J. (V.C.)

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

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other application were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors . but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grnt of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural

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justice and the rules holding the field.

3. The applicants state that the casual Mazdooors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. No.s 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

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

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

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O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counser for the applicants also submits that the respondents can not put any cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued directin for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that theb matter should be re-examined by the respondents themselves taking in to consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scritinise and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

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

ANNEXURE.6

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)

Adm
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Annexure - 7

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BHARAT SANCHAR NIGAM LIMITED
(a Govt. of India Enterprise)
OFFICE OF THE CHIEF GENERAL MANAGER
ASSAM TELECOMMUNICATIONS CIRCLE
GUWAHATI-781007.

OA 114/98

No.Genl-3015/Staff/2000-2001

Dated 09th February, 2001

To ✓ *Shri Gantam Kalita*
Vill - Ulabari, P.O. Ulabari, Dist - Nalbari

As you are aware that as per direction given by Hon'ble CAT, Guwahati Bench, Guwahati in OA Nos. 107/98, 112/98, 114/98, 118/98, 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 during May, 2000. In our office/SSA, the committee comprised of three members namely (1) Sri A.K.Chelleng, AGM (Admn), C.O., (2) Sri B.Deb, Sr. A.O.(TR), C.O. (3) Sri G.C.Das, ADTT, C.O., 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 favourably. Please take notice that you have been disengaged as casual labourer with effect from 11.3.2001 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 Tribunals order/and also the stay/statusquo that was directed to be maintained.

Head of SSA/Unit

O/o. CGMT Assam
Guwahati-7.

22/2/01
22/2/01

Copy to : ADT (Legal)

O/o. CGMT Assam Circle

Guwahati-7. - for favour of information w.r.t. his letter no.STES-21/160/74

Admn

sd/-
sd/-
O/o. CGMT Assam Circle
Guwahati-781007

To,

The Circle Secretary, Administrative Union, Circle Office,
Assam Circle, Guwahati.

Sub :- Application for taking up the Appointment Case with CGMT, Guwahati.

Sir,

It is for your kind information that my father Late Sri S.C.Kalita was working in Telecom Department. He died while in Service in 1977. At that time we were very minor, my Mother is also unable to read and write. She had not applied for Service when I was at the age of 18 years. I have applied for a job on Compassionate ground. After applied, I became very ill and was under prolonged treatment. Meanwhile my application was objected. When I became fit I came and approached the authority. The then authority told me to submit a fresh application. So I have again applied in 1997. From 1997 I was working in ACG-17 in several places of the Department. Though I have worked in ACG-17, the working particulars for all days were not available in the hand of Verification Committee for which my selection as TSM has not been considered by the Committee.

Again for the gap, my application of Compassionate ground is also not been considered by the High Power Committee.

Now, you are requested kindly to take up the case with the authority for appointment in Compassionate ground or as TSM for which I shall remain grateful to you. It is for your information that still I am working as Casual worker in the office of the CGMT, Guwahati.

Yours faithfully,

Sri Gautam Kalita

Sri Gautam Kalita.

Date :- 31-8-2000.

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TO.

The General Manager
Assam Telecom Circle Guwahati
District Guwahati the 21/09/98

Sub:- 'Appoint ment on Compassionate ground'.

Sir,

Most respectfully it is intimated that my father Late Suren Ch. Kalita EX S9 was working in telecom Department. He died while in service. At the time of death of my father I was minor. on becoming adult I have applied for a job on comassionate ground on 26/08/98. on good faith I thought the I would get a job. After some days I was suffering several serious deases. As my mother was not educated and after death of my father our family becom very poor I could not take proper treatment . However after a long period of 6 years I recovered my illness I hav applicd in 1997 from this time (26/02/97) I am coming time to time to get imformation fore the office of GMT guwahati. But up till now my application is not considered.

Now my old mother including minor brother and sister are suffering from stavation .there is no meal for them. From 1997 I am working in district office for some period on A C G -17 and at pansent for last 8 months I am working at Panbazer I.B.

so, you are requested kindly to consider my appointme in any one Group-D post for which I shill remain grateful to you for ever.

Your Faithfully

(Gautam Kalita)
Son of Late Suren ch Kalita

Altam

22/9/98

DEPARTMENT OF TELECOM.SERVICES
ASSAM TELECOM.CIRCLE::GUWAHATI-7.

MINUTES OF HIGH POWER COMMITTEE OF ASSAM TELECOM.CIRCLE HELD ON 7TH
AUGUST'2000.

The Circle H.P.C. consisting of Sri J.K.Chhabra, CGMT, Assam Circle, Guwahati as chairman, Sri Anil Kumar, GMT/Guwahati and Sri Mahesh Shukla, DGM(A), as member met on 07.08.2000 in the chamber of CGMT/Guwahati to consider the applications received for the appointment on compassionate ground in Gr-"C" & "D" cadres.

25 (Twenty five) applications (Group-"C" = 11 & Group-"D" = 14) of dependents of deceased telecom employees of Assam Telecom Circle had been placed in the H.P.C.

After thorough check up of all the applications, and taking into account, all the provisions of the rules on the subject the following cases are recommended for consideration of appointment on compassionate ground subject to the availability of vacancies.

GROUP - "C" CADRE

- 1.Sri Binod Singh, S/O Late Krishna Singh, Ex-L/M, under TDM/BGN.
- 2.Mrs. Shibani Gupta, W/O Late Animesh Gupta, Ex-Ph.Mech. under GMT/SC.
- 3.Sri Tilok Deka, S/O Late Deben Ch.Deka, Ex-S.I. under GMT/Dibrugarh.
- 4.Md. Ibrahim Ali Hazarika, S/O Late Faridur Rahman Hazarika, Ex-STS under GMT/Dibrugarh.
- 5.Miss Madhumita Dutta, D/O Late Sajal Kanti Dutta, Ex-TOA(G)-III under GMT/Dibrugarh.
- 6.Mrs. Shymali Bepari, W/O Late Umesh Ch. Bepari, Ex-T/Mech, under TDM/Bongaigaon.

GROUP 'D'

- 1.Sri Bhupen Das, S/O Late Aghanu Ram Das, Ex-Laskar, under GMT/GH.
- 2.Mrs. Abani Boro, W/O Late Madhab Ch. Boro, Ex-T/M. (O), under GMT/GH.
- 3.Mrs. Urmila Das, W/O Late Durga Das, Ex-R/M. under TDM/BGN.
- 4.Mrs. Niru Priya Malakar, W/O Late Manik Ch. Malakar, Ex-L/M, under TDM/BGN. subject to verification of the name of applicant.
- 5.Mrs. Anjali Baruah, W/O Late Durga Nath Baruah, Ex-T.O. under TDM/Jorhat.

Contd.....2/-

Signature

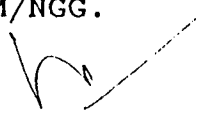
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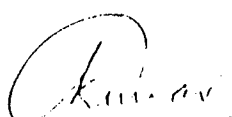
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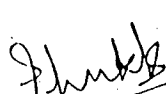
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6. Sri Ramen Bordoloi, S/O. Late Tilon Bordoloi, Ex-L/M. under TDM/NGG.
7. Sri Pabitra Hazarika, S/O. Late Somnath Hazarika, Ex-Head T/M. under TDM/Jorhat.
8. Sri Suren Borah, S/O. Late Sonaram Borah, Ex-S/I. under TDM/Jorhat.
9. Mrs. Lilabati Tipomia, W/O. Late Cheniram Tipomia, Ex-R/M. under GMT/Dibrugarh.
10. Mrs. Kalpana Rai, W/O. Krishna Rai, Ex-Phone Mech. under GMT/Dibrugarh
11. Mrs. Marani Chakraborty, W/O. Late Sadananda Chakraborty, Ex-TM. under TDM/NGG.


(J.K. CHHABRA)
C.G.M.T.


(ANIL KUMAR)
G.M.T/KAMRUP


(MAHESH SHUKLA)
D.G.M(A)

22.08.2000

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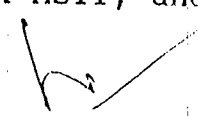
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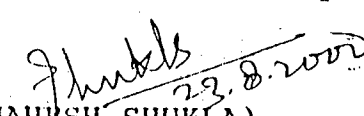
The following cases in Group-"C" and Group-"D" cadres are not approved due to the Reason shown against each.

GROUP-"C" CADRE.

Name of the cases. -----	Reason -----
1) Sri Pradip Mazumder, S/O Late Ramesh Ch. Mazumder, Ex-S.I, under TDM/Dibrugarh.	Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as the elder brother of the applicant is engaged in self buisness.
2) Sri Sajal Chakraborty, S/O Late Jadab Chakraborty, Ex-Chowkider, under GMT/SC.	Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as elder brother of the applicant is employed and living seperately.
3) Sri Raju Kr. Bora, S/O Late Ganesh Ch. Bora, Ex-TOA(TG) under TDM/JRT.	Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as the two elder brothers of the applicant are employed in a private firm.
4) Sri Tanuj Malakar, S/O Late Matilal Malakar, Ex-S.I. under GMT/SC.	Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as the elder brother of the applicant is employed as TSM in this Department and living seperately.
5) Sri Blswadeep Kar, S/O Late Nirmaljyoti Kar, Ex-ASTT, under GMT/GH.	Case is rejected as the wife of the deceased is a regular state Govt.employee.


(J.K. CHHABRA)
C.G.M.T.


(ANIL KUMAR)
G.M.T/KAMRUP


(MAHESH SHUKLA)
D.G.M(A)

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GROUP-"D" CADRE.

- 1) Sri Bhulu Kr. Ghosh,
S/O Late Narendra Lal Ghosh,
Ex-R/M, under TDM/BGN.

Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as the younger brother of the applicant is employed as Tea boy in postal staff canteen, H.P.O. Dhubri.

- 2) Sri Debasish Malakar,
S/O Late Digendra Ch. Malakar (I)
Ex-S.I. under GMT/Silchar.

Case to be forwarded to the Telecom Directorate with H.P.C. recommendation as the elder brother of the applicant is employed as TSM in this Department and living seperately.

- 3) Sri Gautam Kalita,
S/O Late Suren Kalita,
Ex-L/M, under GMT/GH.

Case is rejected as death occurred 23 years ago.

(J.K.CHHABRA)
C.G.M.T.

(ANIL KUMAR)
G.M.T./KAMRUP

(MAHESH SHUKLA)
D.G.M.A.

17.08.2002

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

O.A.No.98/2001

Shri Gautam Kalita

.. Applicant

- Versus -

Union of India & Others

.. Respondents

(Written statements for and on behalf of the
Respondent No. 1, 2 and 3)

The written statements of the above noted
respondents are as follows :

1. A copy of the O.A.No.98/2001 (hereinafter referred to as the "application") has been served on the respondents. The respondents have gone through the contents of the said application and understood the contents thereof. The interest of the respondents No.2 and 3 are to some extent different than the interest of the respondent No.1. However, at present as agreed upon by the respondents written statement as ^{common} ~~not~~ for all of them are filed in the case. In case any difference or subsequent development comes up, the respondents crave the leave of this Hon'ble Tribunal to allow them to file, support or additional written statements to that extent.
2. That the statements, which are not specifically admitted, are hereby denied by the respondents.
3. That before traversing various statements made in the application, the respondents raise preliminary objections regarding locus standi of the application

and the jurisdiction of this Hon'ble Tribunal to adjudicate the matter as under :

(A) That the Govt. of India in pursuance to the New Telecom policy 1999, in order to corporatise the functions of Department of Telecom, created a Company named and styled as "Bharat Sanchar Nigam Ltd."

(referred as "BSNL") with effect from 15-9-2000. This Company has been duly registered under the Companies Act, 1956. In accordance with the said policy, the Govt. of India has transferred all the business, assets and liabilities of Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) to the said new Company w.e.f. 1-10-2000. The Department of Telecom, Ministry of Communications, Govt. of India, retained the matter of policy formulation with them. This was done vide Office Memo No.2-31/2000-Restg. dated 30-9-2000.

By the said O.M. dated 30-9-2000, the Govt. of India also made it clear by Clause-4, that for the period of transition and transfer, the cases pending before the Courts/Tribunals/Arbitrators etc. were to be defended by the Company as assignee/successor in interest of the Govt./Department of Telecom and such arrangement were made limited upto 31-12-2000. By Clause-5, it was also made categorically clear that in the matter relating ^{to} personnel (Government Servants) pending before various Tribunal, High Courts and Supreme Court, the Company will defend as assignee or successor in interest as per existing Rules till the time employees are on deemed deputation with the

Company. By clause-6, it was also made clear that so far as the judgement/order/award already delivered prior to 1-10-2000, such judgement/order/award etc. would be implemented in letter and spirit by the Company in accordance with the Rules, Regulations, directions and statutes. All these instructions came into force with effect from 1-10-2000. The Department of Telecom also on 23-1-2001 issued the Notification of the "Resolution" which was published in the Gazette of India, Part-I, Section-I dated 17-3-2001.

Thereafter, the management of BSNL discussed with trade unions about the modality of absorption of Group 'C' and 'D' employees including casual labours in BSNL. The decision adopted were placed before the Board meeting held on 9-11-2000. The Board of Directors empowered the management of BSNL to negotiate with the Trade Unions bodies. Accordingly, the management and the Trade Union Bodies approved certain proposal on its meeting held on 2-1-2001. The minutes of the said meeting was circulated under No.BSNL/4/SR/2000 dated 2-1-2001. By the said settlement, the case of Casual labours were also decided. According to clause-3 of the said settlement it was resolved that Left/^{out}and cases of casual labourers would be settled by BSNL in accordance with ^{The} Order No.269-94/98-STN-II dated 29-9-2000. As per condition laid down in the letter dated 29-9-2000 all the left/^{out}and cases of casual labourers were to be referred to Headquarter separately for consideration for regularisation.

(B) That the instant OA No.98/2001 has been filed after 1-10-2000 when the BSNL came into existence. Moreover, the O.M. dated 30-9-2000 is silent about the matter of casual labourers. However, BSNL by its own decision dated 2-1-2001 has agreed to settle the pending cases in terms of Circular letter dated 29-9-2000. Under such circumstances, BSNL being a registered Company, a body Corporate, can sue or be sued by its name for its claims and liabilities and others rights and duties. On formation, the BSNL will not come automatically within the jurisdiction of central Administrative Tribunal as provided under the Central Administrative Tribunal Act, 1985 and Rules framed thereunder. A Corporation, a Society or other body, may be brought under the jurisdiction of the Central Administrative Tribunal only by separate notification as provided as a condition precedent under Sub-Section 2 of Section 14(3) of the CAT, Act, 1985. The Calcutta Bench of Hon'ble CAT in O.A.No.198/2001 (Biswanath Banerjee Vs Vol & Ors.) took a similar view and held vide order dated 1-3-2001 that unless BSNL is notified that Court had no jurisdiction to entertain such petition.

Under these facts and circumstances and the legal provisions, the applicants had no locus standi to file the instant case and at the same time this Hon'ble Tribunal also shall not exercise its jurisdiction and power as it has no jurisdiction to adjudicate such matter. Hence, the application is liable to be dismissed with cost.

The copies of the O.M. dated 30.9.2000, Gazette Notification dated 17.3.2001, Minutes dated 2.1.2001, letter dated 29.9.2000, Order dated 1.3.2001 are annexed as Annexure - R1, R2, R3^{R4} and R5 respectively.

(c) That subject to the provisions of restriction as stated above, the Bharat Sanchar Nigam Ltd. (BSNL) is a necessary party in this case. As the Bharat Sanchar Nigam Ltd. has not been implicated as a party by its name, and as there is no notification thereby bringing BSNL under the jurisdiction of this Hon'ble Tribunal, this Tribunal shall not entertain application and the same be rejected as without locus standi and for want of jurisdiction.

4. That with regard to the statements made in Para 1 of the application, the answering respondents state that the said order dated 9-2-2001 was issued on the basis of findings of the verification committee as he could not come within the zone of consideration as provided in the Scheme of 1989. However, the said order of termination with effect from 11-3-2001 could not come to effect ~~to~~ as this Hon'ble Tribunal passed interim order on 8-3-2001 thereby directing to allow the applicant to work and not to disengage him. ~~as~~ The applicant has raised the issue of appointment on compassionate ground to the post of Group 'D'. But the issue of appointment on compassionate ground and the issue of conferment of temporary status and regularisation of casual labourers under the Scheme of 1989 are too distinct and separate matters. These two matters cannot be raised in a single petition as restricted by Rule 10 of the Central Administrative Tribunal (Procedure) Rules, 1987. Hence, the application is liable to be dismissed on this preliminary issue.

5. With regard to the statements made in Para 2 of the application, the respondents have no comments to offer.

6. That with regard to the statements made in Para 3 of the application, the respondents re-assert^{the} foregoing statements and the application is liable to be dismissed for want of jurisdiction.

7. That with regard to the statements made in Para 4.1 of the application, the respondents have no comments to offer.

8. That with regard to the statements made in Para 4.2, the respondents state that the applicant was engaged as casual labourer only from the year 1996 and not from 1990 as claimed by the applicant. The applicant, however, could not complete 240 days in any calendar year from 1996 onwards upto 1998 and therefore his case for conferment of temporary status could not be considered under the Scheme. The respondents, after the filing of this instant case, once again directed for further verification of the service records including the records of payment and engagement antecedents. The verification committee verified the records and submitted their report on 12.3.2002. According to the said verification report, the applicant was engaged for 78 days, nil days and 120 days in the year 1996, 1997 and 1998 respectively. During these periods he was engaged by the SDOP, Dispur and J.E.(Civil), Guwahati. The applicant at present is working in the Departmental Inspection Bungalow at Guwahati by virtue of the Court's order and he is still working.

The copy of the verification report dated
12.3.2002 is annexed as Annexure - 6.

9. That with regard to the statements made in Para 4.3 and 4.4, the respondents state that these are the matter of records and hence nothing is admitted beyond such record.

10. That with regard to the statements made in Para 4.5 and 4.6, the respondents re-assert the foregoing statements and denied the correctness of the said statements. The applicant was never engaged in the year 1990 and there was no such sponsorship or selection or interview ^{was there} as claimed by the applicant. The casual labourers are engaged as per need of the department on daily rated basis. As the applicant could not complete 240 days in any calender year for the period that he was engaged, he could not be considered for giving benefit under the Scheme.

11. That with regard to the statements made in Paragraph 4.7, 4.8, 4.9 and 4.10/ the respondents state /4.11 that these are matter of records and nothing is admitted which are beyond such record. The respondents also state that all the orders/judgement passed by the Hon'ble Courts/Tribunal are duly followed by the respondents as far as legally applicable depending upon the various facts and circumstances of cases.

12. That with regard to the statements made in Para 4.12, the respondents state that the scope of the Scheme 1989 was extended upto 1.8.98 provided any such casual labourer were in engagement as on 1.8.98. Those who were not in engagement as on 1.8.98 were not considered for such benefit under the Scheme. The present applicant was also not in engagement on the said date.

13. That with regard to the statements made in paragraph 4.13, 4.14, 4.15 and 4.16, the respondents state that a large number of cases were considered by the respondents and those casual labourers who fulfilled the criteria as laid down under the Scheme of 1989 and under such extended term, were given the benefit under the Scheme. Those, like the present applicant, who could not fulfil the required criteria were not considered. The impugned order dated 9-2-01 is the proof of such action of the respondent.

14. That with regard to the statements made in paragraph 4.17, the respondents state that allegations and the contents of that para are not correct and the respondents denied the same. The applicant have not completed 240 days as explained hereinabove from 1996 to 1998 but the applicant is still working by virtue of the Court's order. Such engagement at the instance of the Court, however, could not be considered under the Scheme. So, action of the respondents are very much within the parameters of the law.

15. That with regard to the statements made in paragraph 4.18 and 4.19, the respondents state that ^{all} the cases of casual labourer were not common and similar. There were lot of differences with regard to the dates, facts, evidence, false claim, period of engagement, authorities etc. Therefore, the Hon'ble Tribunal vide order dated 31st August, 1999 passed in O.A.No.107/98 (series) ^{did} ~~but~~ not passed any order ^{on} merits or ^{on} finding of facts. The ^{Hon'ble} Tribunal directed all the applicants to make representation with all such evidence of engagement

with them and ~~if needed can also direct the respondents~~ to verify and consider cases of applicants for conferment of temporary status under the Scheme, if necessary, by giving ~~them~~ the applicants personal hearing in the matter. This direction was strictly followed and the respondents have disposed of a ^{/large} number of cases. Those who were found eligible under the Scheme were conferred with temporary status and those who could not come within the zone of consideration, their cases were rejected and duly communicated, to them. Similarly, the case of the applicant was rejected as he could not fulfill the required criteria under the Scheme.

16. With regard to the statements made in Paragraph 4.20, 4.21 and 4.22 of the application, the respondents state that the application is liable to be dismissed solely on the ground for seeking plural remedies in a single petition and the remedies not being connected and ancilliary to each other. In this regard, the law is well settled at the instance of the Hon'ble Apex Court that compassionate appointment are required to be made immediately to substitute loss and vacuum created by the death of the earning member of the family. The purpose of such appointment is to give immediate relief to the family of the deceased but in the instant case, ^{father of the} ~~after~~ the applicant died 23 years ago, and the family could survive even after the death of the father, whereby the very purpose of the scheme is not applicable in this instant case. Accordingly, the case of the applicant was not considered.

17. That with regard to the statements made in paragraph 4.23, 4.21(4.24) and 4.22(4.25) of the application, the answering respondents reiterate and re-assert the foregoing

statements made in this written statement and state that the case of the applicant could not be considered by the respondent inspite of their all efforts as the applicant could not fulfill the required criteria for conferment of temporary status and regularisation under the Scheme. The case of the applicant also could not be considered for appointment on compassionate ground due to the extreme delay which is against the ratio laid down by the Hon'ble Apex Court. Hence, for the reasons as stated above the application is devoid of any merit and the same is liable to be dismissed with cost.

18. That with regard to the statements made in Paragraph 5.1 to 5.10 of the application, the respondents state that under the given facts and circumstances of the case and also provisions of law and the Scheme of 1989, the ground shown by the applicant cannot sustain ⁱⁿ any law to justify and to support the claim of the applicant.

19. That the respondents have no comment to the statement made in Paragraph 6 and 7.


20. That with regard to the statements made in Paragraph 8.1 to 8.4 including Para 9, the answering respondents state that in view of the above facts and circumstances and the provisions of law, the applicant is not entitled to any such relief as prayed for and the application is liable to be dismissed with cost.

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

VERIFICATION

I, Shri S. C. Das, Asstt. Director (Legal), working in the Office of the Chief General Manager, Bharat Sanchar Nigam Ltd., Ulubari, Guwahati-7, being competent and duly authorised to sign this Verification, do hereby solemnly affirm and state that the statements made in Paragraph 1, 2, 3, 3A, 3C, 4, 5, 6, 7, 9 to 19 and 20 are true to my knowledge and belief, those made in paragraph 3 B and 8 - 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 29 th day of July, 2002 at Guwahati.


(S. C. Das)

DEPONENT

Assistant Director Telecom (Legal)
O/o the Chief General Manager
Bharat Telecom Circle, Guwahati-7

No. 2-31/2000-Kesig.
Government of India
Ministry of Communications
Department of Telecommunication Services

New Delhi, the 30th September, 2000.

OFFICE MEMORANDUM

Subject:- Transfer and assigning of existing and subsisting contracts, agreements and Memoranda of Understanding of the Department of Telecommunications, Department of Telecom. Services and Department of Telecom. Operations to Bharat Sanchar Nigam Limited.

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision, functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licensing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission.

3. Government of India has decided to transfer all assets and liabilities, (except certain assets which will be retained by Department of Telecommunications required for the units and offices under control of DoT, to be worked out later on), to the Company with effect from 1st October 2000. All the existing contracts, agreements and MoUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and

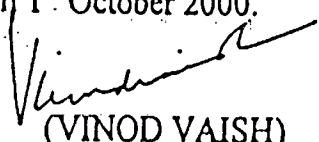
individuals in respect of supply of apparatus and plants, materials, purchase of land and buildings and supply of services, subsisting on date of transfer of business and/or required for operations of the Company and with subscribers of all types of services to be provided by the Company, will also stand transferred and assigned to the Company with effect from 1st October, 2000. The Company will be solely responsible for honouring these contracts, agreements and MoUs for their due performance and in case of disputes to sue and be sued as the successor/assignee under the contract, agreement and MoU.

4. The Company, Bharat Sanchar Nigam Limited will file suitable required appearances/memos in all pending cases before the Courts, Tribunals, Arbitrators, Adjudicators in all matters except issues of licensing; and policymaking which are with the Department of Telecommunications. The Company may get substituted or become an additional party as the case may be, or just conduct the cases as assigns or successor in interest of the Government/Department of Telecommunications, as permissible. This may, in so far practicable, be completed by 31st December 2000.

5. In respect of matters relating to personnel (Government servants) pending before various Administrative Tribunals, High Courts and Supreme Court the Company will defend as assigns or successor in interest as per existing rules till the time employees are on deemed deputation with the Company.

6. Any judgement/order/award delivered by an Authority/Tribunal/Court/Arbitrator in respect of all the matters described there shall be implemented in letter and spirit by the Company, in accordance with rules, regulations, directions and statutes.

7. These instructions will come into force with effect from 1st October 2000.


(VINOD VAISH)

Secretary to the Government of India

To

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology), Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.

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9. Joint Secretary(A), DoT.
 10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.
 11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
 12. All Principal Chief Engineers / Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
 13. Chief Architects - Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
 14. All Chief General Managers - Telecom Factories, with request to communicate these orders to all units working under their administrative control.
 15. Sr.DDG(TEC)
 16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
 17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
 18. Sr.DDG(IC & A)
 19. Executive Director, C-DOT.
 20. Sr.DDG(Vigilance), DoT
 20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. ~~Bharat~~ Bharat Sanchar Nigam Limited

[भारत के राजपत्र, भाग-1—खण्ड-1 दिनांक 17 मार्च 2001 को प्रकाशित]
[Published in the Gazette of India, Part-1, Section-1, dated 17th March 2001]

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, दिनांक 23 जनवरी 2001

संकल्प

सं० 2-31/2000-मुनि०5न-—भारत के राष्ट्रपति (भविष्य, भारत सरकार, संचार मंत्रालय, दूरसंचार विभाग के माध्यम से) और भारत संचार निगम लिमिटेड के बीच 30 सितम्बर 2000 को हुए समझौता ज्ञापन की हैतियता से, देश में दूर-संचार सेवाएं प्रदान करने, दूरसंचार नेटवर्क का अनुरक्षण करणे/दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा दूरसंचार फीसट्रियों को चताने संबंधी कार्य (इहले दूर-संचार विभाग द्वारा किए जाते थे) 1 अक्टूबर 2000 से वीएसएनएल के मात भारत संचार निगम लि० (बीएसएनएल) को हस्तांतरित कर दिए गए हैं।

2. दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग को सभी परिसंपत्तियों और देवताएं (दूरसंचार विभाग द्वारा रखे जाने वाली कतिपय उने परिसंपत्तियों को छोड़कर) को दूरसंचार विभाग के निर्माणवादी मूल्यों और कार्यालयों के लिए अपेक्षित हैं। उक्त ताराख से वीएसएनएल में अन्तर्हित हो जाएगी।

3. उपकरणों और संयता, सामग्रियों का आपूर्ति भूमि और भवन को खरीद तथा सेवाओं की आपूर्ति के संबंध में दूरसंचार विभाग, दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा विभिन्न जापूरकों, ठेकदारों, विक्रेताओं, कंपनियों और अलग-अलग व्यक्तियों से किए गए सभी मौजूदा ठेके, करार और समझौता ज्ञापन, कारोबार के हस्तांतरण की तारीख को वैसे के वैसे बने रहेंगे और/अथवा वीएसएनएल के प्रचालनों के लिए अपेक्षित ठेके, करार, आदि 1 अक्टूबर 2000 से वीएसएनएल में हस्तांतरित तथा चले गए माने गए हैं।

4. प्रभावित काम-निष्पादन हेतु इन ठेकों, करारों और समझौता-ज्ञापनों को प्रभाव रखने वाला उक्त ठेकों, करारों और

समझौता-ज्ञापन के सहित उत्तराधिकारी/अधिन्यासी के बतौर मुकदमा चताने और मुकदमा चताने संबंधी विवादों के मामलों में वीएसएनएल पूर्ण रूप से जिम्मेदार है और किसी तरह की भूल होने, भिलंज होने अथवा कार्य निष्पादित न करवाने के लिए भी वह स्वयं जिम्मेदार होगा।

5. 1 अक्टूबर 2000 से पूर्व दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई पताचार बिल, नोटिस और अन्य दस्तावेज भले यह दूरसंचार सेवा विभाग और दूरसंचार प्रचालन विभाग द्वारा जारी किया गया हो, 1 अक्टूबर 2000 से जहाँ कहीं भी ऐसा संदर्भ आए, उसे वीएसएनएल के हवाले के रूप में पढ़ा जाए।

6. 1 अक्टूबर 2000 से वीएसएनएल द्वारा जारी किसी बिल नोटिस अथवा अन्य दस्तावेज जिसके सम्बन्ध में दूरसंचार सेवा विभाग अथवा दूरसंचार प्रचालन विभाग का कोई पताचार दिया गया हो वहाँ कहीं भी ऐसा संदर्भ आए, उसे वीएसएनएल के हवाले के रूप में ही पढ़ा जाए।

7. 1 अक्टूबर 2000 से सभी बतों/बुपटों/अन्य दस्तावेजों, जिसके तहत दूरसंचार सेवा विभाग और/अथवा दूरसंचार प्रचालन विभाग को दी गइने वाली धनराशि के सम्बन्ध में भारत सरकार के पक्ष में भुगतान किया जाता है, जहाँ कहीं ऐसा संदर्भ आए, धन-राशि भारत संचार निगम लि० के पक्ष में जाहरित होगी।

अवधि

यह आदेश दिया जाता है कि इस संकल्प की एक प्रति सभी राज्य सरकारों, सभी मंत्रालयों और भारत सरकार के विभागों को मप्रेषित की जाए।

यह आदेश दिया जाता है कि इस संकल्प को सामान्य भुचन हेतु भारत के राजपत्र में प्रकाशित किया जाए।

भूरीश कुमार
निर्देशक (पुनर्गठन)

MINISTRY OF COMMUNICATIONS
(DEPARTMENT OF TELECOMMUNICATIONS)

New Delhi, the 23rd, January 2001

RESOLUTION

No. 2-31/2000-Resg.- by virtue of the Memorandum of Understanding dated 30th September

2000 entered into between the President of India, acting through the Secretary to the Government of India, Ministry of Communications, Department of Telecommunications (DoT) and Bharat Sanchar Nigam Limited, the business of providing telecom services in the country, maintaining the telecom network running the telecom factories by the Department of Telecom Services (DTS) and the Department

of Telecom Operations (DIO) [which were earlier provided by Department of Telecommunications (DoT)] has been transferred to the newly formed company viz. Bharat Sanchar Nigam Limited (BSNL) with effect from 1st October 2000.

2. All assets & liabilities (except certain assets which will be retained by DoT required for the units and offices under control of DoT) of the Department of Telecom Services (DTS) and the Department of Telecom Operations (DIO) stand transferred to BSNL w.e.f. the said date.

3. All the existing contracts, agreements and MOUs entered into by Department of Telecommunications, Department of Telecom Services and the Department of Telecom Operations with various suppliers, contractors, vendors, companies and individuals in respect of supply of apparatus and plants, materials, purchase of land and building and supply of services, subsisting on date of transfer of business and/or required for operations of BSNL also stand transferred and assigned to BSNL w.e.f. 1st October 2000.

4. BSNL is solely responsible for honouring these contracts, agreements and MOUs for due performance and in case of disputes to sue and be sued as the successor/assigned under the said contract agreement and MOU and shall be liable for any defaults, delays or non-performance.

5. With effect from 1st October 2000 any reference in any correspondence, bills, notices, and other

documents to the Department of Telecom Services or the Department of Telecom Operations having been issued before 1st October 2000 by either the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read as reference to the BSNL.

6. With effect from 1st October, 2000 any bill, notice or other document issued by the BSNL bearing any reference to the Department of Telecom Services or the Department of Telecom Operations shall, wherever the context so permits and allows, be read to be a reference to the BSNL.

7. With effect from 1st October, 2000 all cheques, drafts/other instruments under which payment is to be made in favour of the Government of India in respect of monies owed to the Department of Telecom Services and/or the Department of Telecom Operations shall, wherever the context so permits and allows, be drawn in favour of 'Bharat Sanchar Nigam Limited.'

ORDER

ORDERED that a copy of this resolution be communicated to all State Governments, all Ministries and Departments of Govt. of India.

ORDERED that the resolution be published in the Gazette of India for general information.

HARISH KUMAR
Director (Resig.)

DOCUMENT-2



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ANNEXURE-R 3

Bharat Sanchar Nigam Limited,
(A Government of India Enterprise)

No.BSNL/4/5R/2000

Dated the 2nd January, 2001

SUB:- Record of discussions held on 2.1.2001 in the meeting with the three Federations presided by CMD, BSNL regarding terms and conditions for absorption of Group C & D staff in BSNL.

In connecti on with the absorption of Group C & D staff working in BSNL, preliminary meetings were held with the three Federation(s). The decisions taken were discussed in the BSNL Board meeting held on 09.11.2000, which empowered the Management to negotiate with Unions. Accordingly, a meeting was held with the three Federations on 2.1.2001 and the following proposals were approved.

1. IMPLEMENTATION OF STANDING ORDERS OF THE INDUSTRIAL EMPLOYMENT ACT, 1946:

BSNL service rules are to be finalized after discussion with the recognized union formed by the optees of BSNL and the standing orders of Industrial Employment Act, 1946.

2. SERVICE RULES

In the meantime, it was agreed that Government will continue to apply existing rules / regulations. This is in line as per the provision of Rule 13B of Standing Orders of Industrial Employment Act, 1946. However, certain provisional terms and conditions for absorption are enclosed at Annexure I.

3. ABSORPTION OF CASUAL LABOURS

Orders have been issued by DoT for regularizing Ayahs & all casual labourers including part time casual labourers. Left out cases, if any, will be settled by BSNL in accordance with order No.269-94/98-STN-II dated 29.9.2000.

4. OPTION OF STAFF FOR ABSORPTION IN BSNL

The BSNL will absorb the optees on as is where is basis. A list of optees will be made available to the three federations/unions.

5. OPTIONS OF STAFF FACING DISCIPLINARY CASES

It was agreed that the employees with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. Their pending cases will be expedited on a fast track mode by DOT. The appeal / petition cases for these employees will also be decided by DOT authorities.

6. PROMOTIONAL AVENUES

After absorption there will be negotiations with the newly formed recognized union regarding promotional avenues. Pending adoption of Standing Orders on promotional policy, the present OTBP/BCR/ACP (whichever is applicable) etc. will continue to be followed by BSNL.

7. CHANGE OVER TO IDA PAY SCALES

The pay scales and fitment formula will also be adopted through Standing Orders after negotiations with the recognized union in respect of non-executives. After detailed discussions, it was mutually agreed that pending fitment in the IDA pay scales, the Group C & D optees will continue in the Central Government (CDA) pay scales. In addition to this, they will also be paid an adhoc amount of Rs.1000/- per month w.e.f. 1.10.2000 which will be adjusted from their IDA emoluments, perks and benefits on fixation of the same in revised IDA scales. The revised negotiated IDA pay scales will be applicable from the date of absorption i.e. 1.10.2000.

8. TIME FRAME FOR VARIOUS POST ABSORPTION ACTIVITIES

It was agreed that the options will be called in January, 2001 providing about one month time to the employees to give their options and the entire activity is expected to be completed by the end of 28th Feb. 2001. A list of optees of BSNL will be exhibited to rectify inaccuracies, if any.

The existing system of informal meetings with applicant Unions, as on 30.9.2000 and formal meetings with the three Federations shall continue.

9. The employees who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS Pension Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.9.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS(Pension)Rules, in PSU in the IDA pay scales shall be treated as emoluments.

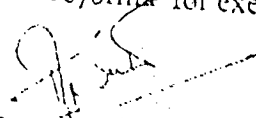
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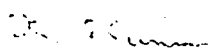
10. DoT has already clarified that the word "formula" mentioned in clause 8 of Rule 37-A means payment of pension as per Government Rules in force at that time. It has also been clarified by the DoT that BSNL will not dismiss / remove an absorbed employee without prior review by the Administrative Ministry / Department.

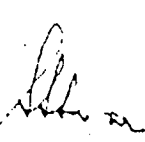
11. The Group C & D employees ~~who appear for any promotional examination~~ whether direct or departmental and qualify in such examinations / outsiders coming through direct recruitment process, would rank junior to all the other employees in the promotional cadre who had already been qualified in earlier examinations even though they get absorbed in BSNL subsequently.

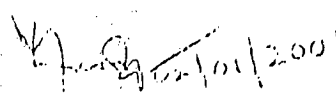
The above modalities have been worked out in consultation with the following trade federations for termination of the deemed deputation status in BSNL and the parties have put their signatures in token of their consent and agreement on this date 02.01.2001.

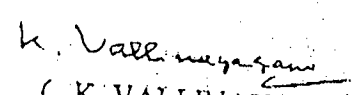
The Proforma for exercising the option is enclosed.

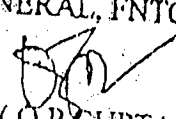

(DR. D. S. SETH)
CMD. BSNL


(KRANTI KUMAR)
DIRECTOR (HRD) BSNL


(S. P. WAR)
DIRECTOR (FIN.) BSNL


(MALLIKARJUN)
SECRETARY GENERAL, BTEF


(K. VALLINAYAGAM)
SECRETARY GENERAL, FNTD


(O. P. GUPTA)
SECRETARY GENERAL, NFTE.

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-19-
DOCUMENT-3

No. 269-14/93-STN-II
Department of Telecom. Services
Sanchar Bhawan, 20, Ashoka Road, New Delhi.
(STN-II Section)

(10)
ANNEXURE-R
102

Dated: 29.09.2000

To:
(Cell)
All CGMs, Telecom. Circles,
All CGMs, Telephone Districts,
All Heads of Other Administrative Offices,
All the IFA's in Telecom. Circles/Districts and other Administrative Units

Sub: Regularisation of Casual Labourers

Sir,

The employees unions are demanding regularisation of all the casual labourers. This issue was under consideration for quite some time. It has been decided to regularise all the casual labourers working in the Department, including those who have been granted temporary status, with effect from 01.10.2000, in the following order:-

- (1) All casual labourers who have been granted temporary status upto the issuance of Orders No. 269-1/93-STN-II dated 12.2.99, circulated vide letter No. 269-13/99-STN-II dated 12.2.99 and further vide letter No. 269-13/99-STN-II dated 9.6.2000.
- (2) All full time casual labourers as indicated in the Annexure.
- (3) All part time casual labourers who were working for four or more hours per day and converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 16.9.99.
- (4) All part time casual labourers who were working for less than four hours per day and were converted into full time casual labourers vide letter No. 269-13/99-STN-II dated 25.8.2000.
- (5) All Ayas and Supervisors converted into full time casual labourers as per order No. 269-10/97-STN-II dated 29.9.2000.

The number of casual labourers to be regularised in categories (2) to (5) above is given in the Annexure enclosed. The figures given in the Annexure are based on information received from the Circles.

The casual labourers indicated from (1) to (5) above are to be Adjusted against available vacancies of Regular Mazdoors. However, Chief General Managers are also authorised to create posts of Regular Mazdoors as per the prescribed norms, and to that extent, the prescribed ceiling for the Circle will stand enhanced.

As per this office letter No. 269-1/93-STN-II dated 12.2.99, vide which temporary status was granted to casual labourers eligible on 1.8.98, no casual labourers were to be engaged after this date and all casual labourers not eligible for temporary status on 1.8.98 were to be disengaged forthwith. Therefore, there should be no casual labourers left without temporary status after 1.8.98 [Other than those indicated in serial nos. (2) to (5) above]. However, if there is still any case of casual labourers left out due to any reasons, that may be referred to the Headquarters separately.

(11)

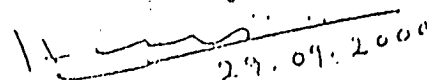
- 21 -

- 20 -

--- 2 ---

This issues with the concurrence of Telecom Finance vide the
Diary No. 3536/2000/FA-I Dated 29.09.2000.

Yours faithfully


29.09.2000

(HARDAS SINGH)

ASSISTANT DIRECTOR GENERAL (STN)

Tel No. : 371 6723 / 303 2531

Copy to :-

- 1) FS to MOC/ MOS(C)
- 2) Advisor (HRD)
- 3) DLG(Pers.)/ (E)/ (EF)/ (SR)
- 4) Dir/ST-I) / (F-I)
- 5) All recognised Associations/ Unions/ Federations
- 6) TE-II, STN-II/ SR/ SCT Sections
- 7) Guard file.



(Vinod Kumar Sharma)
Section Officer (STN-II)

-22-

DOCUMENT-11-6

(9) (15) 727
ANNEXURE-R5

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

NO. O.A. 198 OF 2001

Present: Hon'ble Mr. R.N. Ray, Vice-Chairman
Hon'ble Mr. S.K. Singh, Administrative Member

RESWANANI BANERJEE
VS.

UNION OF INDIA & ORS.

For the applicant: Mr. S.K. Mandal, counsel
For the respondent: Mr. S.S. Banerjee, counsel

Heard on: 1.3.2001
Order on: 1.3.2001

R.N. Ray, V.C.

1. Counsel for both sides are present. This case is relating to the Department of Telecom which has now become a corporate body. Bharat Sanchar Nigam Limited is definitely a corporate body under the Government of India within the meaning of Article 12 of the Constitution. But that has not been notified till today and therefore, this court has no jurisdiction to entertain such petition.

2. Accordingly, the O.A. is disposed of at the stage of admission as 'not maintainable'. The applicant may approach the appropriate forum in respect of his grievances made in this O.A. No order as to costs.

MEMBER(A)



VICE-CHAIRMAN

Stamp: 1.3.2001
Text: Received by the Registrar
Court of the Central Administrative Tribunal
Calcutta Bench

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ANNEXURE-R₆

74

BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)
O/o the General Manager, Kamrup District,
Ulubari :: Guwahati-7.

NO:- GMT/ENG/CL-1/2001-2002 / 48 Dated at Guwahati the 12-03-2002

Sub:- Verification committee's report

A verification committee was constituted to examine and scrutinise the engagement particulars of the casual labourers in consultation with records. The same committee has been revived by GM/KTD/GH vide his office letter No:- GMT/ EST-179/ TSM/ 2000- 2001/ 187 dated 4-01-2002 to examine and scrutinise the working particulars of the Casual Labourers claimed to have worked under the jurisdiction of Kamrup SSA.

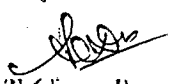
The Committee consists of the following members:-

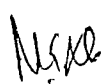
- (1) Sri M.C. Pator, Divisional Engineer (ADMIN)
- (2) Sri N.K. Das, Chief Accounts officer (Finance)
- (3) Sri S.C. Das ADT (Legal), Circle office / Guwahati.

1.8.98

The committee has started functioning & reverified various records relating to the payment particulars in respect of the Applicant of OA NO:-98/2001 (Sri Gautam Kalita). The committee after careful examination of the records found that the applicant in OA No 98/2001 have not completed at least 240 days in any calendar year prior to August 1998. The findings of the committee in respect of the applicant of above OA is furnished in separate sheet.

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary status and Regularisation Scheme, 1989" of the DEPTT & other related letters issued from DOT/ND No:- 269-13/99-STN-II dated 1-9-1999 & 269-20/2000-STN-II dated 4-9-2000, the committee does not find any reason to grant him temporary status. The committee, therefore does not recommend the applicant in the above OA to grant temporary status.


ADT (Legal)
Circle Office


C.A.O. (Finance)
O/o the GMT/ KTD/GH


D. E. (ADMN)
O/o the GMT/KTD/GH

Copy to:- The GM Telecom/Kamrup Telecom District for information please.

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18/c

ENGAGEMENT IN PART - APPEARS FROM THE DATE OF 16 JANUARY 1997

S/O Kalita s/c Late Suren Kalita

CA 78/01

YEAR	MONTH	PERIOD DAYS	MODE OF PAYMENT 1. MARCH 2. APRIL 3. MAY 4. JUNE 5. JULY 6. AUGUST 7. SEPTEMBER 8. OCTOBER 9. NOVEMBER 10. DECEMBER	AMOUNT	PAID TO RECEIVED	PAID TO RECEIVED	PAID TO RECEIVED
1996	JAN	27	44,85,00/A/c 26	1350/-	5-50/- (30 per)		
	Feb	18	22,159/A/c 26	Rs. 907/-	50		
	June	24	44,73,90/A/c 7	1120/-	50		
	July	9	17 n./Ac-7	450/-	50		
		78 days					
1997	JAN	}	NIL				
	Dec.						
1998	Feb	28	A/c 1/97-98	Rs. 1708/-	J.E. Civil c/o The G.M.T.S., 311		
	March	31	" 2/97-98	1891/-	50		
	April	30	V. 9/1/A/c-1	1830/-	50		
	May	31	V. 1/A/c-2	1891/-	50		
		120 days					

SUBMITTED TO THE COMMISSIONER'S

ADT (Circle Office Member)
(Legal)

C.A.D.
To the C.M.T.S./CH

D.E. (PRA)
To the C.M.T.S./CH