

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
GUWHATI BENCH ::::: GUWAHATI

ORDER SHEET
APPLICATION NO .99 OF 2001

Applicant (s) Sri Krishna Das

Respondent(s) U.O.I Pans,

Advocate for Applicant(s) Mr. B.K. Sharma

Mr. S. Sharma

Advocate for Respondent(s) Mrs. U. Das

Ch. S. C.

Notes of the Registry Date Order of the Tribunal

This application is in form
Petition for removal of
Mr. Krishna Das
for s. 57 covered vide
IPC/Sec No 503.699
Dated 27.2.2001

[Signature]
1/e Dy. Registrar 21/3/01

21.3.01

Issue notice on the respondents as to why the application shall not be admitted. Returnable by four weeks. Mr. A. Deb Roy, Sr. C.G.S.C. accepts the notice for the respondents.

List on 2.5.2001 for consideration of admission.

[Signature]
Vice-Chairman

26-3-2001

trd

[Signature]
22/3/01

2.5.

Pass over to 4.5.2001

19/0
A.K. 2
2.5

Service of Notice prepared
issued to the respondents
vide No. 2116-62 of
G.O.

[Signature]

4.5.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 1.6.01. Meanwhile the applicant should be allowed to continue if he is still holding the post.

[Signature]
Vice-Chairman

2
Notice duly served
on R. No. 1 & 3.

1.6.2001

List the matter on 25-6-2001 to enable the respondents to file written statement.

20
21.6.01

Vice-Chairman

bb

4.9.01

Written statement has been filed. The applicant may file rejoinder, if any.
List on 11/9/01 for hearing.

6.8.2001

W/s submitted
on behalf of the respondents. mb

K. (Shree)
Member

11

11.9.2001. Left at 19.9.2001

Plw
A. K. Jey
11.9

19.9.01

Heard counsel for the parties. Hearing concluded. Judgement delivered in open court, kept in separate sheets. The application is dismissed disposed of in terms of the orders No order as to costs.

10.10.2001

Copy of the Judgement has been sent to the office for entry to name to the applicant as well as to the Respondent for the Respondent.
H.S.

Vice-Chairman

bb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 99 of 2001.

Date of Decision. 19-9-2001...

Sri Krishna Das and another. Petitioner(S)

Sri S. Sarma. Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors. Respondent(s)

Sri A. Deb Roy, Sr. 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.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 99 of 2001.

Date of Order : This the 19th Day of September, 2001.

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

1. Shri Krishna Das
Casual Worker,
Office of the SDOT, Nagaon.
2. Shri Naren Ch. Bora,
Casual Worker,
Office of the SDOT, Nagaon. . Applicants.

By Advocate Sri S.Sarma.

- Versus -

1. Union of India
represented by the Secretary to the
Government of India,
Ministry of Communication,
Sansar Bhawan, New Delhi-1.
2. The Chief General Manager,
Telecom, Assam Circle,
Ulubari, Guwahati.
3. The Sub Divisional Telecom Officer,
Nagaon. . . . Respondents.

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

ORDER

CHOWDHURY J.(V.C)

The controversy pertains to conferment of temporary status. The applicants, namely, Sri Krishna Das and Naren Ch.Bora moved this Tribunal by way of O.A.99/2001 seeking for a direction for granting temporary status. By order dated 31.8.99 the Tribunal disposed of the applications of similarly situated employees directing the applicants to submit individual representations and the respondents were also directed to consider the representations. The applicants were accordingly submitted their representations for consideration. Since these applicants were not favoured with any order they filed this application for passing a direction.

2. The respondents submitted their written statement. In the written statement the respondents denied and disputed the contention of the applicants and stated that both the applicants did not complete 240 days. The case of the applicants were considered by the Committee constituted by the Chief General Manager, Telecom and on consideration of their cases they were not found eligible and therefore their cases were rejected.

3. From the materials on record it appears that the respondents only acted on the basis of the payment register revealed in ACG-17. In my view the said documents are not conclusive evidence in the absence of other materials like the Muster Roll Register and other documents. In the instant case the applicant produced certificates issued by the concerned officer, namely, SDO and JTO indicating about the period in which they were engaged. It is difficult for the Tribunal to scrutinise each and every entry and to ascertain whether these applicants completed 240 days. In the circumstances I am of the view that ends of justice will be met if a direction is issued on the applicants to submit a detailed individual representation giving all the facts within 2 weeks from today. If such representation is made, the respondents concerned shall examine and verify the same and pass an order as per law and in the light of the directions issued from time to time including the directions issued by the office of the Chief General Manager dated 15.1.2001, 15.2.2001 and 22.3.2001. The above exercise shall be completed within a period of 2 months from the date of receipt of the representation.

The application stands disposed of. No order as to costs.


(D.N.CHOWDHURY)
VICE CHAIRMAN

8 MAR 2001

गुवाहाटी ब्याचपीठ
Guwahati Bench

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

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

Title of the case :- O.A. No. 99...2001.

Between:-

Krishna Das & Anr. :- Applicant.

And.

Union of India & ors. :- Respondents.

I N D E X .

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Filed by, S.Sarma. Advocate.

Regd No.

Date.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
8 MAR 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

Filed by the applicants
through
Alaka Das
Associate
7/3/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. of 2001

Between

1. Shri Krishna Das.
Casual Worker , In the Office of the, SDOT Nagaon.
2. Shri Naren Ch Bora.
Casual Worker , In the Office of the, SDOT Nagaon.

... Applicants.

- AND -

1. Union of India, represented by the Secretary to the ,
Government of India, Ministry of Communication, Sansar,
Bhawan, New Delhi-1.
2. The Chief General Manager, Telecom , Assam, Telecom Circle
Ulubari Guwahati.
3. The Sub Divisional Telecom Officer, Nagaon.
..... Respondents

DETAILS OF THE APPLICATION.

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

The present application is not directed against any particular order but has been made against the action of the part of the Respondents in not considering the case of the Applicants for grant of temporary status and regularisation in the light of Apex Court verdict and the scheme prepared pursuant to the said verdict as well as subsequent clarifications issued from time to time by the Respondents. The Applicants through this application

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pray for an appropriate direction to the Respondents to extend the benefit of the scheme as well as its subsequent clarifications by granting temporary status and subsequent regularisation.

2. JURISDICTION OF THE TRIBUNAL

That the Applicants declare that the subject matter of the present application is well within the Jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

The Applicants declare that the present application have been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE

4.1. That the Applicants are citizens of India and as such they are entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the Applicant No.1 initially got his appointment as a casual worker in the in the month of April 1989 in the office of the Respondent No.3. Prior to his such appointment he was appointed as Muster Roll worker in the year 1990. After his aforesaid appointment as Casual Worker, he was allotted the work of regular nature like the other Gr-D workers. The applicant although has been appointed as casual worker but in fact he has been treated as regular Gr-D staff in all respect and he has been getting his salary under the departmental pay bills like ACG-17. The applicant is a sponsored candidate from the local Employment Exchange and till date he has been working without any break.

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The Applicant No.2 initially got his appointment as casual worker in the year 1987 under respondent No.3. He was allotted the regular nature of work as regular Gr D staff under the said respondents. Prior to his such appointment he has been working as Muster Roll Worker under the respondents since 1986. Thereafter his service has been converted to Casual worker and he has been continuing as such till date. The applicant No 2 is a sponsored candidate from the local Employment Exchange and each year from the year 1987 he has completed 240 days of casual work, however, under the regular establishment of the respondents No 3.

The cause of action and relief sought for by all the four applicants are similar and hence they pray for joining together in a single application invoking Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules 1987.

Since the date of engagement is not in dispute, the Applicants instead of annexing all the certificates, beg to produced the certificate regarding their engagement at the time of hearing of the case.

4.3. That the applicants initially appointed as a Muster Roll worker on various dates and their services were put under the casual establishment after 1/2 years of service and as such they are entitled to get the benefit of the scheme prepared pursuant to a verdict of Hon'ble Supreme Court. The applicants beg to state that since their date of entry in to the services under the respondents, each year they have been continuously working for more than 240 days and as such they fulfill all the required qualifications as described in the scheme and its subsequent clarifications issued from time to time. Till date they have been working as casual worker but the Respondents have

not yet granted them temporary status and other benefits as described in the scheme as well as its subsequent clarifications.

4.4. That the Applicants beg to state that some of the casual workers of the Department of Post had approached this Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the parties was pleased to issue direction to the official Respondents thereto to prepare a scheme. Claiming similar benefit another set of casual workers working in the Telecommunication department also approached the Hon'ble Supreme Court seeking a similar direction and the said matter was also disposed of by a similar order and direction has been issued to the Respondents to prepare a scheme on rational basis for the casual workers who has been working continuously for one year and who have completed 240 days of continuous service.

A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure-1.

4.5. That the Applicant begs to state that the Respondents thereafter issued an order vide No. 269-10/89-STN dated 7.11.89 by which a scheme in the name and style "casual laborers" (grant of temporary status and regularisation scheme 1989) has been communicated to all heads of Departments. As per the said scheme certain benefit have been granted to the casual workers such as conferment of temporary status, wages and daily rates etc.

A copy of the order dated 7.11.89 is annexed herewith and marked as Annexure-2.

4.6. That the Applicants state that as per the direction contained in Annexure-1 judgment of the Hon'ble Supreme Court and Annexure-2 schemes they are entitled to get the benefit

including temporary status and subsequent regularisation. The Applicants fulfill required qualifications mentioned in the said judgment and as such they are entitled to all the benefits as described in the aforesaid scheme.

4.7. That the Applicant begs to state that after issuance of Annexure-2 schemes dated 7.11.89 the Respondents issued an order vide No. 269-4/93-STN-II dated 17.12.93 by which the benefit conferred to the casual workers by the said scheme has been clarified.

4.8. That the Applicants beg to state that of the Respondents thereafter have issued various orders by which modification/clarifications has been made in the aforesaid Annexure-2 scheme dated 7.11.89. By the aforesaid clarifications the Respondents have made the scheme applicable to almost all the casual workers who have completed 240 days continuous service in a year. To that effect mention may be made order dated 1.9.99 issued by the Government of India Department of Telecommunication by which the benefit of the scheme has been extended the recruitees up to 1.8.98.

A copy of the said order dated 1.9.99 is annexed and marked as Annexure-3.

4.9. That the applicants beg to state that some of the similarly situated employees like that of the Applicant had approached this Hon'ble Tribunal by way of filing OA No. 299/96 and 302/96 and the Hon'ble Tribunal was pleased to passed an order dated 13.8.97 directing the Respondent to extend the benefit of the said scheme.

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

4.10. That the applicants being aggrieved by the said action submitted numbers of representations to the concerned authority i.e. Respondent No. 2 for grant of temporary status and regularisation but till date nothing has been done so far in this matter.

The Applicants instead of annexing all the representations beg to produce all the representations at the time of hearing of the case.

4.11. That the applicants beg to state that under similar facts situation numbers of casual workers had approached this Hon'ble Tribunal by way of filing various OAs and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OAs by a common judgement and order dated 31.8.99 directing to the Respondents to consider their cases in the light of Hon'ble Apex Court verdict as well as the scheme and its subsequent clarifications issued from time to time.

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

4.12. That the applicants beg to state that their cases are covered by the aforesaid judgement of this Hon'ble Tribunal. It is stated that pursuant to the aforesaid judgment and order dated 31.8.99 the Respondents have initiated proceedings for filling up at least 900 posts of DRM under Assam Circle. However, the Respondents have only taken into consideration those casual labourers who had approached this Hon'ble Tribunal and in whose favour the Hon'ble Tribunal has given the direction. The applicants has been pursuing the matter before the Respondents but the Respondents have shown their helplessness in absence of any order of this Hon'ble Tribunal. It is therefore the

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applicants have come under the protective hands of this Hon'ble Tribunal, praying for an appropriate direction from this Hon'ble Tribunal to the Respondents to consider their cases for grant of temporary status and regularisation in accordance with the verdict of the Hon'ble Apex Court as well as the scheme and its subsequent clarifications issued from time to time.

4.13. That the applicants beg to state that the Respondents have acted illegally in not considering the case of the applicants only on the ground of not having an order from this Hon'ble Tribunal. The law is well settled that in a given case if any law is laid down for one set of employees, same is applicable to all the similarly situated employees. However, in the present case the Respondents have acted illegally in differentiating the applicants with others and for that the entire action of the Respondents is liable to be set aside and quashed.

4.14. That the applicants beg to state that as per the direction of the Hon'ble Apex Court (Annexure-1) they are entitled to all the benefits described in the Annexure-2 schemes dated 7.11.99. The direction of the Hon'ble Apex Court is very clear and Respondents now cannot shift their burden by taking the ground of not having any order from this Hon'ble Tribunal. The judgment and order of the Hon'ble Apex Court is applicable to all the casual employees working under the Telecommunication departments and as such the applicants are also entitled to all the benefits as has been granted to others similarly situated employees like that of them.

4.15. That the applicants beg to state that presently they

employment as has been done in the instant case. Hence the entire action of the Respondents is illegal and not sustainable in the eye of law.

5.3. For that the Respondents have acted illegally in not considering the case of the applicants for grant of temporary status in view of order dated 1.9.99 as well as judgment and order dated 31.8.99 passed in similar matters and hence same is liable to set aside and quashed with a further direction to the Respondents to extend the benefits of the said scheme to the applicants including all other consequential benefits.

5.4. For that in any view of the matter the action on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the applicants declare that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than to approach this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declare that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the

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applicants pray that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

8.1. To direct the Respondents to extend the benefit of the scheme and to grant them temporary status as has been granted to the other similarly situated employees like them with retrospective effect with all consequential service benefits including arrear salary and seniority etc.

8.2. To direct the respondents to allow the applicants to continue in their present post after granting temporary status and regularisation..

8.3 Cost of the application.

8.4. Any other relief/reliefs to which the present 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:

Under the facts and circumstances of the case the applicants pray for interim order directing the Respondents not to disengage them from their current employment and to allow them to continue in service pending disposal of this application.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(i) I.P.O. No.: 2G 503699

(ii) Date: 27/2/2001

(iii) payable at Guwahati

12. LIST OF ENCLOSURES :

(1) As stated in the Index.

VERIFICATION

I, Shri Naren Ch Bora, S/o late S Bora, aged about 33 years, presently working as casual worker under the SDOT Nagaon, do here by solemnly affirm and state that the statement made in this petition from paragraph 1,2,3,4,1,4,3,4,6,4,12 to 4,15

and 5 to 12 are true to my knowledge and those made in paragraphs 4,2,4,4,4,5,4,7,4,8 to 4,11

are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I am the applicant No 2 in the present application and I have been authorised by the other applicant to swear this verification.

And I sign this verification on 7th day of Feb 2001.

Shri-NAREN Ch. Bora

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

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

By the said Judgment this Court said :

*Attested
Alsha Das,
Advocate*

07 MAR 2001

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

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/-

Sd/-

(Ranganath Mishra) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1990.

*Attested.
Usha Das
Advocate*

07 MAR 2001

ANNEXURE-2.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

Attested
Alsha Das,
Advocate

07 MAR 2001

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No SMF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

*Attested
Alsha Das
Advocate
07 MAR 2001*

ANNEXURE

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

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

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

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

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

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

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

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles on the basis of availability of work.

iv) Such casual labourers who acquire temporary status will not, however be brought on to the permanent establishment unless they

Attested
Alpha Das ..
Advocate
07 MAR 2001

are selected through regular selection process for Gr. posts.

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

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

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

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

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

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

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

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

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

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

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

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Attested
Alsha Das
Advocate
07 MAR 2001

No.269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchar Bhawan
STN-II Section
New Delhi

Dated 1.9.99.

To

All Chief General Managers Telecom Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative Offices
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

I am directed to refer to letter No.269-4/93-STN-II dated 12.2.99 circulated with letter No.269-13/99-STN-II dated 12.2.99 on the subject mentioned above.

In the above referred letter this office has conveyed approval on the two items, one is grant of temporary status to the Casual Labourers eligible as on 1.8.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoors eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Attested
Asha Das
Advocate
07 MAR 2001

ANNEXURE-4.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996
AND 302 of 1996.

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

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

O.A.No.299 of 1996

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

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

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

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants :Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury, Addl.C.G.S.C.
ORDER

BARUAH J.(V.C.)

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

Attested
Usha Das,
Advocate
07 MAR 2001

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

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of

Attested
Alsha Das,
Advocate
07 MAR 2001

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.

Attested
Alsha Das
Advocate
07 MAR 2001

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.

*Attested
Usha Das
Advocate*

07 MAR 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. O.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.

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

- versus -

The Union of India and others. Respondents.

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

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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.

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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.

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4. J.F.No.116/1998

Shri Bhuvan 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.

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5. O.F.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.

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6. O.A.No.131/1998

Attested
Usha Das
Advocate
07 MAR 2001

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

- versus -

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

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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.

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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.

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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.

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10. O.A. No.142/1998

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

- 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.

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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.

.....

Attested
Abha Das
Advocate
07 MAR 2001

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.
.....

ORDER

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

*Attested
Asha Das
Advocate*

07 MAR 2001

respondents, be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned. O.A.s, however, in O.A. No.263/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

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

Attested
Isha Das
Advocate

07 MAR 2001

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

Attested
Isha Das
Advocate

07 MAR 2001

members or office bearers to the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the D.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 13.6.1997 passed in D.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.6.1997 passed in D.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.

Attested
Absher Das,
Advocate

07 MAR 2001

6. We have heard Mr.B.K.Sharma, Mr J.L.Sarkar, Mr.I. Hussain and Mr.B.Malakur, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.E.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 implentation 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 consulta-

Attested
Alsha Das,
Advocate
07 MAR 2001

tion 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.

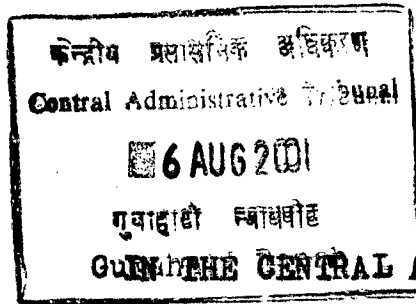
9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

*Attested
Alsha Das,
Advocate*

07 MAR 2001



37/01
Regd
10/8/01
Sr. c.g.s.s

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 99/2001

Sari Krishna Das & Others.

- Vs -

Union of India & Others.

- And -

In the matter of :

Written Statements submitted
by the respondents

The respondents beg to submit the written statement as follows :

1. That with regard to para 1, the respondents beg to state that the case of applicants was indeed considered by the appropriate authority keeping in view the provision of the Departmental scheme and the number of days the applicants have put on casual duty. The applicant are not entitled for the benefit of the scheme as they have not put on duty for 240 days in any calendar year. The meagre casual service do not make them entitle for grant of temporary status under the Departmental ~~scheme~~.
2. That with regard to para 2, 3 and 4.1 the respondents beg to offer no comments.
3. That with regard to para 4.2, the respondents beg to state that the engagement of daily rated mazdoor is not an appointment to any post according to rules. ~~Even~~

Even for Group 'D' employees, the recruitment process accordingly to Statutory Recruitment Rules is a pre-condition for any appointment to civil post. The applicants were never appointed to any post. No selection procedure of any kind including requisition to employment exchange was followed before engaging the applicants. The applicant No.1 was initially engaged as a daily rated casual mazdoor on 02.11.91 and he worked for 11 days. Thereafter on different occasion he was engaged for small durations. He was last engaged in April 1998 for 10 days. Since then he has not been engaged for any work.

The applicant No.2 was initially engaged on 01.07.92 for 08 (eight) days. Thereafter, he was engaged for 09 (nine) days in 1993, 33 (thirty three) days in 1994, 12 (twelve) days in 1995 and 10(ten) days in 1998. The applicant No.2 has not been engaged for any work after January 1998.

The three member verification committee's report is enclosed herewith.

The averment made in para 4.2 is contradictory and self defeating. At the outset it was stated that the applicant No.1 was initially appointed in April 1989 and then went on to add that before such appointment the applicant No.1 was appointed as Muster Roll worker in 1990. Again, though there are two applicants in the OA it was submitted that 4(four) applicants were joining together in the single application by invoking rule 4(3)(a) CAT (Procedure) rules, 1987.

4. That with regard to para 4.3, the respondents beg to state that the applicants were engaged as casual labourers on various occasions for very small duration. They

They were not engaged continuously for 240 days in any year. The applicants are not entitled for the grant of temporary status as they were not engaged for 240 days in any year. The applicant have not been engaged for any work after April '98.

5. That with regard to para 4.4 and 4.5, the respondents beg to state that the pursuant to the judgement delivered by the Hon'ble Supreme Court of India, the Department of Telecom Prepared a scheme in 1989 for regularisation of all casual labourers who have put in at least 240 days casual service in year. The scheme is known as casual labourers 'Grant of Temporary Status and Regularisation' Scheme, 1989 and come into effect on 01.10.1989 .

The scheme is intended to cover all casual labourers who were on engagement on the day of introduction of the scheme and have completed at least 240 days in one calender year. Under the provision of the scheme thousands of casual labourers who have put in 240 days have since been regularised. The Department has imposed a complete ban on engagement of casual labourers w.e.f. 22.6.88 and restraining order was issued to all/ field units for strict adherence.

The Department of Telecom has addressed the situation on humanitarian ground and as an one time relaxation / it has been decided that all casual labourers on engagement as on 1.8.98 and have completed at least 240 days should be granted Temporary Status followed by regularisation. In the process the DOT has liberalised the scheme and advanced the out off date to 01.08.1998.

6. That with regard to para 4.6 the respondents beg to state that the applicants do not fulfill the essential condition of minimum casual service and they are not entitled for the benefit of the scheme framed in accordance with the judgement.

7. That with regard to para 4.7, the respondents beg to state that since introduction of the scheme in 1989, the Department had extended the cut off date to accommodate the casual labourers engaged after the imposition of ban provided they have put on continuous service for at least 1(one) year.

8. That with regard to para 4.8, the respondents beg to state that the Department of Telecom has finally extended the benefit of the 1989 scheme to all casual labourers who are on job as on 01.08.98 and have put on continuous service for at least one year.

The present applicants are not entitled for the benefit even by the relaxed standard as they have not worked for 240 days in any year.

9. That with regard to para 4.9, the respondents beg to state that the O.A. No. 299/96 and 302/96 was aimed at to remove the disparity in the cut off date as the Postal Scheme accommodated all casual labourers recruited up to 10.09-93 while the Telecom Scheme covered the casual labourers recruited up to 01.10.89. Now that the provision of the Telecom Scheme has been relaxed to cover all casual labourers working as on 01.08.98 and have put at least 240 days in a year the Telecom Scheme has turned to be more benefit. ~~In the~~

In the changed situation, reference to postal scheme is not in the interest of the casual labourers of Telecom Department.

10. That with regard to para 4.10, the respondents beg to state that the casual Mazdoors are not expected to make direct correspondence with Head of Circle. They can file representation to the field officer who are mustering the labourers. In deserving case when the sanction/approval of Head of circle is required, the field officer would take up the case with SSA heads.

11. That with regard to para 4.11, the respondents beg to state that the respondents department contested the OAs by filing the Written Statement of defence through which the department made a humble effort to present a clear picture of the case and the large scale irregularities that have been committed in the units in the matter of mindless engagement of casual mazdoors without justification and jurisdiction in defiance of all established and fair norms. After hearing both sides the Hon'ble Tribunal was pleased to pass the common judgement and order dated 31.08.1999, thereby affording an opportunity to the department to examine each case in depth and take decision on merit.

12. That with regard to para 4.12, the respondents beg to state that the order dated 31.8.1999 the respondent no.2 formed SSA level committee to examine each case on the basis of authenticated records of the Department. The Committee thoroughly examined the paid vouchers, Muster Roll etc. to work out the engagement particulars of each claimant. The claimant was also given an opportunity of hearing to

present his case to establish his claim on the basis of records/information which may be available in their possession.

Based on the findings of the committee Temporary Status has been granted to more than 500 casual Mazdoors who were found to have worked out for more than 240 days in any year.

13. That with regard to para 4.13, the respondents beg to state that the case of the applicants were indeed considered keeping in view the length of casual service rendered by each and the provision of the scheme. They were found to be not eligible for the benefit of the scheme as they have not put in 240 days duty in any year. The details of engagement particulars of the two applicants as recorded from their payment voucher are annexed here as R/1.

14. That with regard to para 4.15, the respondents beg to state that the essence of the direction issued by the Hon'ble Supreme Court as well as the departmental scheme is to provide security to the casual labourer who have put on duty continuously for at least 1(one) year. The present applicants have not worked continuously to complete 240 days in a year. They are, therefore, not entitled for the benefit of the scheme.

15. That with regard to para 4.15, the respondents beg to state that the applicants are not currently on engagement. They have not been engaged for any work during the last more than 3(three) years. All ties of the applicants with the respondents Department have been severed long back and the employer - employee's relation does not prevail.

The three member verification committee's report is enclosed herewith.

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

I, Shri Ganesh chandra Sarma, Asst. Director

Telecom being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this 20 th day of July 2001,

Ganesh Ch. Sarma
Declarant.

REPORTS

The Committee constituted by CGMT, Guwahati letter No. ESTT - 9/12/Pt.I/23 dated 28-03-2001 and the TDM, Nagaon letter No. E - 182/CAT/2001-2002/51 dated 17-05-2001 met in the office of the TDM, Nagaon from 28-05-2001 to 29-06-2001 to scrutinized/rescrutinized and examine the engagement particulars/payment records of Casual Mazdoors related to different Court cases.

The details of applicant Court Casewise are as follows :-

Sl.No.	Court Case No.	No. of applicant.
1.	OA-316/2000	20
2.	OA-170/2000	2
3.	OA-277/2000	1
4.	OA-161/2000	1
5.	OA-99/2001	2
6.	OA-41/2001	2

The Committee has undertaken verification of available records of TDM office Nagaon and engagement/payment records of the Mazdoors have been scrutinized by the Committee. The finding of the Committee are as follows :-

Sl.No.	Category	Period of engagement	No.
1.	A	Upto 30-03-85	Nil.
2.	B	Between 31-03-85 to 22-06-88	Nil.
3.	C	Between 23-06-88 to 01-08-98	28.

Category - A : In this category no Labour.


Category - B : In this category no Labour.

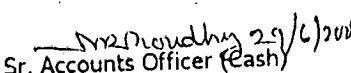
Category - C : In this category, out of 28 Casual Mazdoors one Part Time Mazdoor at Sl/No. 12 (Mrs. Devi Rani Paul OA-316/2001) is approved for full time Casual Labour (Not for TSM as per eligibility criteria) in pursuance of CGMT, Guwahati letter No. ESTT-9/12/Pt-II/48 dated 20-09-2000. The others have not completed eligibility criteria for granting of TSM as per the verification report of the Committee. However, one case of Sri Binay Das applicant at SL/No. 23 (case OA-170/2000) may be referred to CGMT, T/F Guwahati for examining record & taking further action at their end, as the Mazdoor was engaged in T.F. Cirice before 1995.


Sl/No	Name of Casual Mazdoor and OA No.	Eligibility.
1.	Sri Babul Saikia - 41/2001	Not eligible.
2.	Sri Mohan Ch. Kalita - 316/2000	Not eligible
3.	Sri Chandranmal Senapati - 316/2000	Not eligible
4.	Sri Prahlad Ch. Bora - 316/2000	Not eligible
5.	Md. Nur Zaman - 316/2000	Not eligible
6.	Sri Dilip Mazumdar - 316/2000	Not eligible
7.	Sri Gajen Dewraja - 316/2000	Not eligible
8.	Sri Ananda ch. Das - 316/2000	Not eligible
9.	Sri Gokul Ch. Bora - 316/2000	Not eligible
10.	Sri Radha Kanta Bordoloi - 316/2000	Not eligible
11.	Sri Dilip Kr. Bora - 316/2000	Not eligible
12.	Mrs. Devi Rani Paul - 316/2000	Not eligible for TSM but eligible for full time Casual Labour vide TDM, Nagaon letter No. E -5/CM/01-02/52 dated 18-5-2001.
13.	Sri Sanjeet Kr. Banik - 316/2000	Not eligible
14.	Sri Ashok Ch. Dey - 316/2000	Not eligible
15.	Md. Abdul Salam - 316/2000	Not eligible
16.	Sri Luit Kr. Gayan. - 316/2000	Not eligible
17.	Sri Binod Kr. Saikia - 316/2000	Not eligible

Sl/No	Name of Casual Mazdoor and OA No.	Eligibility.
18.	Sri Sukleswar Kumar - 316/2000	Not eligible.
19.	Sri Tarun Ch. Kalita - 316/2000	Not eligible
20.	Sri Jayanta Hazarika - 316/2000	Not eligible
21.	Sri Ganesh Ch. Bora - 316/2000	Not eligible
22.	Sri Dhrubajyoti Das - 277/2000	Not eligible
23.	Sri Binoy Das - 170/2000	Not eligible in Nagaon - SSA.
24.	Sri Krishna Das - 99/2000	Not eligible
25.	Sri Madhu Singh Hira - 170/2000	Not eligible
26.	Sri Anil Das - 161/2000	Not eligible
27.	Sri Naren Ch. Bora - 99/2001	Not eligible
28.	Sri Pradip Pator - 41/2001	Not eligible

Signature of the Committee Members


 ADT
 O/O the CGMT
 Guwahati at Nagaon


 Sr. Accounts Officer (Cash)
 O/O the TDM, Nagaon


 Divisional Engineer(P&A)
 O/O the TDM, Nagaon

ANNEXURE "A" (Part I)



PHOTOGRAPH TO BE SIGNED BY THE CASUAL MAZDOOR IN PRESENCE OF THE COMMITTEE.

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Verification of records of casual Labourers in Assam Telecom Circle.

Ref: Hon'ble CAT Guwahati bench decision dtd 31.08.99.

1. NAME OF THE APPLICANT CASUAL MAZDOOR: SRI KRISHNA DAS.
2. O/A NO. IF THE LABOURER HAS GONE TO COURT: O/A No. 99/2001.
3. FATHER'S NAME AND ADDRESS: SRI BANAMALI DAS, Vill: Benganaat Nagain (Assam).
4. DATE OF BIRTH: 15/12/1971
5. AGE AS ON 01.08.1999: 26 years 7 month 16 days.
6. DATE OF INITIAL ENGAGEMENT; MODE OF SELECTION (THROUGH EMPLOYMENT EXCEPT ANY OTHER METHOD): 2-11-91 (as per payment record)
7. NATURE OF DUTY PERFORMED: Casual nature of work
8. PRESENT STATUS OF THE MAZDOOR: At present not working in an department.
9. SPECIMEN SIGNATURE OF THE MAZDOOR: →
10. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT (as per attached sheet) FILE NO: Sheet attached (hvd)
11. RECOMMENDATION OF THE COMMITTEE WHETHER CASUAL LABOUR SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW GEN. LINE: Not recommended.
12. RECOMMENDATION OF THE SSA HEADQUARTERS:

S.P. Das
Tele. n District Manager,
Bhugon Telecom Dist
Jagoan, Assam.

Signature of the committee members.

A.D.T. (MIS)

A.O. (Cash)

O.B. (R.A.)

ANNEXURE 'C' (Page-2)

ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT.

DR KRISHNA DAS
O/A No 99/2001

YEAR	MONTH	NO. OF DAYS	NO. OF PAYMENT Le. NUMBER ROLL ACC-17 PARTICULARS Le. VOUCHER NOS.	AMOUNT	ENGAGED BY WHOM	BILLING/ISSUING AUTHORITY.	NAME OF A.O. WHO HAS PAID.
1991	Nov/91	7 days	ACG-17 (A No HI)	Rs. 180/-	J. N. Sankia	DR	AO (Cash)
	Dec/91	4 "	ACG-17 (A No HI)	Rs. 210/-	Do	Do	Do
	Total	11 days					
1992	Jan/92	2 days	ACG-17 (A No HI)	Rs. 80/-	Do	Do	Do
	Feb/92	11 "	ACG-17	Rs. 240/-	Do	Do	Do
	March/92	7 "	ACG-17	Rs. 210/-	Do	Do	Do
	April/92	20 "	ACG-17	Rs. 810/-	Do	Do	Do
	Dec/92	6 "	ACG-17	Rs. 210/-	Do	Do	Do
Total	48 days						
1993	Jan/93	21 days	ACG-17	Rs. 973/-	J. N. Sankia	DR	AO
	Feb/93	9 "	ACG-17	Rs. 245/-	Do	Do	Do
	March/93	19 "	ACG-17	Rs. 855/-	Do	Do	Do
	June/93	14 "	ACG-17	Rs. 609/-	Do	Do	Do
	July/93	18 "	ACG-17	Rs. 864/-	Do	Do	Do
	Aug/93	3 "	ACG-17	Rs. 144/-	Do	Do	Do
	Sept/93	6 "	ACG-17	Rs. 288/-	Do	Do	Do
	Oct/93	9 "	ACG-17	Rs. 432/-	Do	Do	Do
Dec/93	16 "	- Do -	Rs. 777/-	Do	Do	Do	
Total	115 days						
1994	Jan/94	13 days	ACG-17	Rs. 588/-	Do	Do	Do
	Feb/94	12 "	- Do -	Rs. 529/-	Do	Do	Do
	March/94	21 "	- Do -	Rs. 1029/-	Do	Do	Do
	April/94	13 "	- Do -	Rs. 637/-	Do	Do	Do
	May/94	22 "	- Do -	Rs. 1122/-	G. Chakraborty	DR	AO
	June/94	27 (28) "	- Do -	Rs. 1377/-	Do	Do	Do
	July/94	23 days	- Do -	Rs. 1173/-	J. N. Sankia	DR	Do
	Aug/94	3 "	- Do -	Rs. 144/-	J. N. Sankia	DR	Do
Sept/94	30 "	- Do -	Rs. 1500/-	Do	Do	Do	
Total	175 days						

Signature of the Committee Member: ..

ADT(MIS)

AO(Cash)

DE(P&A)



ANNEXURE "A" (Page 1)

PHOTOGRAPH TO BE SIGNED BY THE CASUAL MAZDOOR IN PRESENCE OF THE COMMITTEE.

Verification of records of casual Labourers in Assam Telecom Circle

Ref: Hon'ble CAT Guwahati bench decision dtd 31.08.99.

- 1. NAME OF THE APPLICANT CASUAL MAZDOOR: SRI NAREN CH BORA
- 2. O/A NO. IF THE LABOURER HAS GONE TO COURT: 99/2001
- 3. FATHER'S NAME AND ADDRESS: Late ~~SRI~~ SARUPAI BORA
- 4. DATE OF BIRTH: 01-01-72 Nil -> Murcham
- 5. AGE AS ON 01.08.1999: 26 yrs 7 months P.O. - Chalchale Nagaon
- 6. DATE OF INITIAL ENGAGEMENT: 01/08/1992 (as per payment record)
- 7. NATURE OF DUTY PERFORMED: Casual nature of work
- 8. PRESENT STATUS OF THE MAZDOOR: At present not working in the Dept.
- 9. SPECIMEN SIGNATURE OF THE MAZDOOR: -> NAREN. CH. BORA
- 10. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT (as per attached sheet) TILL 01.08.98: Sheet attached (one)
- 11. RECOMMENDATION OF THE COMMITTEE WHETHER CASUAL LABOUR SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW OF DE LINE: Not recommended
- 12. RECOMMENDATION OF THE SSA HEADQUARTERS:

SP. Chowdhury
Telecom District Manager
Nagaon Tel. in Dist.
Nagaon Assam.

Signature of the committee members.

A. D. T. (MIC)

M. Choudhury
A O (Case)

J. P. (P.A.)

MA 99/2001

AGREEMENT PARTICULARS

FROM THE DATE OF INITIAL AGREEMENT.

AM	MONTH	NO. OF DAYS	DATE OF START	DATE OF END	AMOUNT	DEBITED BY WHOM	BY HOW MUCH AUTHORITY	NAME OF A.O. WHO HAS PAID
92	July/92	8 days	AUG. 17	Aug 31	Rs 342/-	M. K Das	SDOTNGS	AO (Cash) Das
93	July/93	2 days	Aug 17	Aug 17	Rs 0	Do	Do	Do
	Sept/93	7 "	Do	Aug 31	Rs 336/-	Do	Do	Do
	Total = 9 days							
94	Jan/94	6 days	Do	Aug 31	Rs 294/-	Do	Do	Do
	Nov/94	18 "	Do	Aug 31	Rs 718/-	B. K. Chakraborty	Do	Do
	Dec/94	9 "	Do	Aug 31	Rs 459/-	R. P. Das	COB	Do
	Total = 33 days							
95	Nov/95	05 days	Aug 17	Aug 31	Rs 336/-	J. N. Saikia	SDOT	Do
	Dec/95	7 "	Do	Aug 31	Rs 392/-	Do	Do	Do
	Total = 12 days							
96	NIL							
97	NIL							
98	Jan/98	10 days	AUG. 17	Aug 31	Rs 510/-	-	-	Do

The labour has not completed 240 days in any above working years.

Signature of the Committee Member

(Signature)

(Signature)
Secretary

(Signature)
DEPSA