

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Contempt APPLICATION NO. 48 / 2001
w.O.A 42/2001

Applicant (S) K. C. Boro

Respondant(S) J. K. Chhabra etc.

Advocate for the Applicant: A. C. Boragohain, N. Bora, D. Borah

Advocate for the Respondant: Addl. case. B. C. Pathak for Report No. 1.

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the counsel for the petitioner praying for wilful deliberate violation of order dated 7.3.2001 passed by this Hon'ble Tribunal w.O.A. 42/2001.	26.9.01 mb	Issue notice. Returnable on by 4 weeks. List on 15/11/01 for order. K. C. Boro Member Vice-Chairman
Laid before the Hon'ble Court for further orders.	15.11.01 mb	List again on 20/12/01 to enable Mr. B. C. Pathak, learned Addl. C.G.S.C. to file reply on behalf of respondents K. C. Boro Member Vice-Chairman
<i>Section Officer</i> 25/9/01	20.12.01 mb	List on 21.1.2002 on the prayer prayer of learned counsel for the applicant. K. C. Boro Member Vice-Chairman
Pl. comply order dated 26/9/2001.	26/9/2001 mb	

Notice prepared and sent to D/S for issuing the Respondent No 1 & 2.

4/10/07

D/S No 3869 W 3860
Dtd 8/10/07

Service report are still awaited.

13.11.2004

(2)

21.1.02

Written statement has been filed. The case is ready for hearing. The applicant may file rejoinder, if any.

List on 21.1.2002 for hearing.

K. Ushay
Member

Vice-Chairman

mb

21.2.02

Adjourned on the prayer of learned counsel for the applicant. List again on 7.3.2002 for hearing.

K. Ushay
Member

Vice-Chairman

mb

7.3.02

29.11.2001

List the matter on 14.3.2002 for hearing.

Affidavit in reply submitted by Dept. No. 1.

K. Ushay
Member

Vice-Chairman

trd

14.3.2002

List the case on 3.4.2002 along with O.A. 85 of 2002.

10.12.2001

Affidavit in reply filed by the Respondent No. 2.

K. Ushay
Member

Vice-Chairman

bb

3.4.02

List the matter of hearing on 7.5.02 along with O.A. No. 85/2002.

mb

7.5.02

List on ~~21.5.02~~ 21.5.02 for hearing along with O.A. 85/2002.

K. Ushay
Member

Vice-Chairman

pg

23/5. List on 21/6/2002

29/5

3

C.P.48 of 2001

Notes of the Registry	Date	Order of the Tribunal
	29.7.2002	<p>None appears. put up on 1.8.2002 alongwith O.A.85 of 2002.</p> <p><i>V. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
bb	1.8.	<p>None appears for the applicant. W.M. again on 24.8.2002.</p> <p><i>M/S. A. K. Jaiswal</i> P.P.</p>
	22.8.02	<p>On the prayer of the learned counsel for the parties this case is posted for hearing alongwith like cases on 3.9.02.</p> <p><i>V. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
pg	3.9.2002	<p>Heard Mr N.Bora, learned counsel for the applicant and also Mr B.C.Pathak, learned counsel for the respondent. On considering all the aspects of the matter we do not find any merit in the contempt petition. Accordingly the C.P. is dropped.</p>
<p><u>1.10.2002</u></p> <p>Copy of the order has been sent to the Dy Sec. for issuing the line to the applicant as well as to the Dy Sec. G.S.C. for the Respondent.</p> <p><i>[Signature]</i></p>	pg	<p><i>V. C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

4

Notes of the Registry	Date	Order of the Tribunal
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6.

केन्द्रीय प्रशासनिक न्यायालय
Cent.bunal
25 SEP 2001
गुवाहाटी न्यायालय
Guwahati Bench

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

CONT. PETITION NO. 48 /2001
IN O.A. NO. 42/2001

Sri Kiran Ch. Boro Petitioner


-Vs-

Shri J.K. Chhabra & anr. Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Petition	1 to 6
2.	Affidavit	7
3.	Annexure-A	8
4.	Annexure-B	9 to 10

Filed by


KIRAN BORO
Advocate

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Cont. Petition No. 48 /2001
In. O.A. No. 42/2001

IN THE MATTER OF :

Contempt Petition Under Section 12 of
the Contempt of Courts Act.

-AND-

IN THE MATTER OF :

Wilful and deliberate violation of
order dated 7-3-2001 passed by the
Hon'ble Central Administrative Tribunal,
Guwahati Bench in O.A. No. 42/2001.

-AND-

IN THE MATTER OF :

Sri Kiran Ch. Boro
S/O (L) Bhaktaram Boro
Vill. Nawagaon
P.O. Garshuk Chariali
Guwahati-35, Dist. Kamrup, Assam.

.... Petitioner

-Vs-

contd....2

6

Filed by the petitioner
Sri Kiran Ch. Boro
through Niran
Borah Advocate
23/9/2001

Sri Kiran Ch. Boro

-Versus-

1. Shri J.K. Chhabra
Chief General Manager
B.S.N.L. Assam Telecom Circle,
Ulubari, Guwahati-7.
2. Sri S.K. Bhaduri
General Manager Telecom
Kamrup Telecom District,
Guwahati-7.

Sri Kisan Ch. Baro

.... Contemners
Respondents.

The humble petition of the petitioner
in the above named -

MOST RESPECTFULLY SHEWETH :

- 1) That, your petitioner is a citizen of India and he is permanent resident of Village- Nawagaon (Garshuk chariali in the district of Kamrup, Assam.
- 2) That your petitioner worked as Casual Majdoor/ Labour (Night Guard) in the office of the Telecommunication, Kahilipara under the Divisional Engineer, Telegraph Office, Guwahati Circle for last several years and received regular salaries from the aforesaid Office under the Telecom Department.

contd....3

3) That, your petitioner fulfilled all the conditions required for regularisation his service but the Department did not regular his service, so the petitioner and similarly situated casual labours of the Department of Telecommunication has moved this Hon'ble Tribunal for regularisation of their services by filing O.A. No. 184/99 (Sri Probin Dolly & ors -Vs- The Union of India. The Hon'ble Tribunal by Judgment & Order dated 18-8-1999 has discussed the relevant Notifications issued by the Department of Telecommunication proposing to confer status of Temporary Employees and confirm them phase wise, and also relied on them Judgment and the Apex Court Daily Rated Casual Labours employees in Postal Department -Vs- Union of India & others reported in 1988(1) Sec. 122.

Sri Probin Ch. Dolly

4) That, your petitioner beg to state that after pronouncement of the above Judgment dated 18-8-97 O.A. No. 184/99, the Deputy General Manager, Administration has issued a Office Memorandum dated 16-10-98 bearing No. STES-21/160/26 for implementation of the Hon'ble CAT/Guwahati order passed in & similar cases namely O.A. 107/98, 100/97, 142/98, 120/98, 145/98, 131/98, 112/98, 141/98 and 118/98. The said office Memorandum has specified that the General Casual Labours like the petitioner who has worked for more than 240 days in a year are entitled to one month notice a payment of salary of one month in lieu of notice as provided U/S 25(R) of the Industrial Dispute Act 1947

before termination/retracement order. It is further indicated in the said Office Memorandum that if any casual labours who worked more than 240 days in a year is terminate without notice or payment of salary in lieu of notice, the termination could be illegal ab-initio and the casual labour is liable to be re-instated with immediate effect. It may be mention that the petitioner has daily worked for more than 240 days as casual labour and therefore his termination without notice or without payment of salary, as has been done by the Respondents, is illegal and the applicant is liable to be reinstated with immediate effect.

5) That your petitioner states that some of the similarly situated casual labours who are engaged later than ~~the petitioner in the Department~~ the petitioner in the Department are being re-instated on the instruction of the legal Adviser by the Divisional Engineer, C/O Guwahati by his order dated 18-11-98 by Memo No. STA-51/CC/98-99/Loose/05 and as many as 12 members of casual labours who were terminated along with the petitioner and some of who has joined the Department later than the petitioner are instated/re-engagement passed by the Hon'ble CAT Guwahati. But for some unknown reason the petitioner was left over and he was not re-instated till date.

6) That your petitioner fulfilled all the conditions required for regularisation his service but the Department did

gri Wilson J. Bose

not regular his service so the petitioner again filed the O.A. No. 42/2001 before the Hon'ble Tribunal praying for giving direction to the respondents including Contemners No. 1 & 2.

7) That, on 7-3-2001 the Hon'ble Tribunal has given an order that

" Therefore, I direct the respondents to the similar benefits as well as the casual labours under the Department of Telecom. The Respondents are accordingly ordered to take up the matter with utmost despatch in the light of the Judgment within 3 months from the date of receipt of this order. Application is allowed. NO order as to cost."

A photo copy of the aforesaid order dated 7-3-2001 is annexed and hereto marked as Annexure-A.

8) That, your petitioner as in the Hon'ble Tribunal order dated 14-3-2001 approached the Respondent No.1 with a representation dated 14-3-2001 praying for re-engagement as casual Mazdoor as per the Hon'ble Tribunal order dated 14-2-2001. But no action has been taken till date.

contd....6

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si kiran ch. 2000

(A copy of the representation dated 14-3-2001 is annexed hereto and marked Annexure-'B')

9) That no communication has been sent to the post with reasoned order as directed by the Hon'ble Tribunal Judgement / ~~in~~ order.

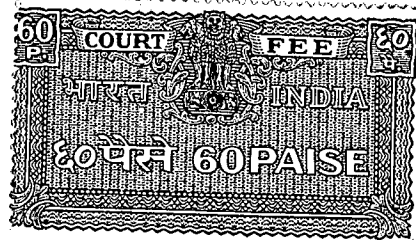
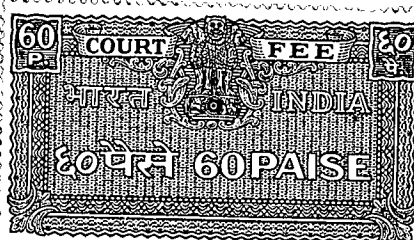
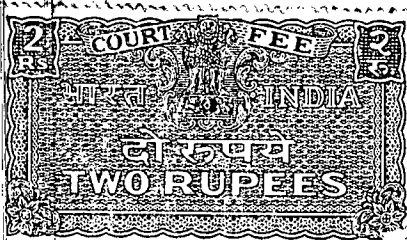
10) That, the Respondents deliberately and intentionally violated the direction of the Hon'ble Tribunal and as such the Respondents are liable to be punished in accordance with provisions of Contempt of Courts Act.

It is therefore, respectfully prayed that the Hon'ble Tribunal may be pleased to admit the petition, call for the records, issue to the contemner notice to show cause as to why they should not be punished for deliberate and intentional violation of direction of the Hon'ble Tribunal order given on 7-3-2001.

And for this act of kindness the humble petitioner as in duty bound shall ever pray.

Affidavit

Handwritten notes on the right margin: "11" at the top, followed by vertical text "K. S. Ramesh" and "Srin".



A F F I D A V I T

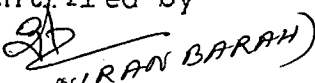


I Sri Kiran Ch. Boro, aged about years,
son of (L) Bhaktaram Boro, resident of village-Nawagaon,
P.O. Garshuk Chariali, Guwahati-35, District-Kamrup, Assam
do hereby solemnly affirm and declare as follows:-

- 1) That I am the petitioner of this instant case
as such I am well acquainted with the facts and circumstances
of the case and competent to swear this Affidavit.

- 2) That the statements made in this affidavit and
the statements made in the petition in para 1 2 3 4 5 6 8 9
_____ are true to my knowledge and those made in
para 7 & 8 _____ are matters of records are
true to my information derived therefrom which I believe to
be true and rests are my humble submissions before this
Hon'ble Court.

And I sign this affidavit on this 25th day of
September, 2001 at Guwahati.

Identified by

(KIRAN BARAH)
Advocate's ~~Office~~.

Sri Kiran Ch. Boro.
DEPONENT

CENTRAL ADMINISTRATIVE TRIBUNAL

ORIGINAL APPLICATION NO.

42/2001

9 13

Ritwan Ch. Borko Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s)

A.C. Burujohain
N. Borkh
D. Borkh

For the Respondents.

C.G.S.C.

NOTES OF THE REGISTRAR

DATE

ORDER

7.3.01

This matter is squarely covered by a number of cases which were passed by this Tribunal more particularly 302 of 96 and 299 of 96. The applicant is also casual labourer in the Telecom Department and is similarly situated those persons which cases were disposed in this Tribunal. Considering the facts and circumstances of the case and upon hearing of Learned Sr.C.G.S.C. Mr.A. Deb Roy I am of the view that since the present applicant is also situated those casual labourers involved in the 302 of 96 and QA. 299 of 96. The benefit of the scheme of Casual labourer (Grant of Temporary Status and Regularisation) prepared by Department of Telecom. Therefore, I direct the respondents to the similar

contd/-



9

7.3.01

benefits as well as the casual labourers ^{under} the Department of Telecom. The respondents are accordingly ordered to take up the matter with utmost care ^{despatch} and caution in the light of the judgment within 3 months from the date of receipt of this order. Application is allowed. No order as to costs.

Sd/VICE CHAIRMAN

Certified to be true Copy

प्रमाणित प्रतिलिपि

21/3/2001

Section Officer (J)

अध्यक्ष, मध्यम स्तर का न्यायालय
Central Administrative Tribunal

केन्द्रित कार्यालय, गुवाहाटी
Guwahati, Assam, Guwahati-8
গুৱাহাটী-৪, অসম

HS
21/3/2001

certified to be true copy

RB

Ashwade



To

The Chief General Manager, Telecom, BSMIL,
Assam Telecom Circle, Uluberi, Guwahati-7.

Sub: Prayer for Re-engagement as Casual Mazdoor and
declaration of ISM as per CAT verdict of Case No.
OA 42/2001 dated 7.3.2001.

Sir,

I have the honour to inform you that I had been working as casual Mazdoor under the establishment of Divisional Engineer, C.T.O., Guwahati period from 03.05.1995 to 31st May, 1998 and each year I have completed more than 240 days. Even after completion of more than 240 days in each year suddenly I was removed from the service verbally without any written order from First June, 1998. Against which I represented my disengagement several times without any fruitful result. Finding no other alternative, I have filed a case against my disengagement before the honourable CAT, Guwahati under Case NO.OA.42/2001.

The honourable Court in its Judgement dated 7.3.2001 viewed that since the present application i.e. my case is also situated those casual labourers involved in the 302/96 and OA 299 of 96. The benefit of the Scheme of casual labourer (Grant of Temporary status and regularisation) prepared by Department of Telecom. Therefore the honourable Judge of CAT, Guwahati directed the respondents to similar benefits as well as the casual labourers under the Department of Telecom.

contd....2

So, I request to your kind honour to consider my case in the light of above mentioned Judgement and issue necessary instruction to the GMI, Kamrup for re-engaging me as Casual labourer and declare me also as TSM at an early date for which I shall remain ever grateful to you.

Yours faithfully,

Sri Kiron Ch.

14.3.2001

Copy encls:

1. Letter and list of Casual Labourers engaged by JSCTO, Guwahati.

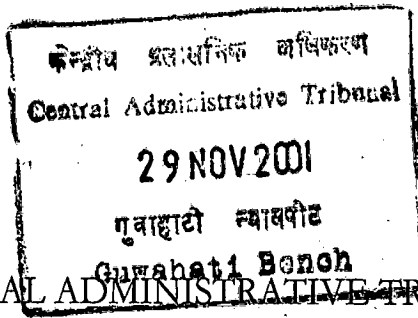
2. Copy of Judgement dated 7.3.2001.

(Sri Kiron Ch. Boro)
Son of late Bhaktaram Boro,
Village Nawagaon,
P.O. Garchuk Chariali,
Guwahati-35.

certified to be
true copy

AB

Acharya



Filed by
B. C. Pathak
29/11/01
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

CONTEMPT PETITION NO. 48/2001
(IN O.A. NO. 42/2001).

Shri Kiran Chandra Boro Petitioner.

- Vs -

Shri J. K. Chhabra and another Respondents.

(Affidavit-in-reply filed by Respondent No. 1).

I, J. K. Chhabra , son of Shri D. N. Chhabra , aged about 58 years, presently resident of Panbazar, CTO Compound, Guwahati - 1, District:- Kamrup (Assam), do hereby solemnly affirm and state as follows:-

1. That I am the Chief General Manager, Assam Circle, Guwahati -7. I have been impleaded as a Respondent in the above noted contempt petition. I have gone through the petition and understood the contents thereof.
2. That before traversing various paragraphs of the petition, a brief resume of the facts of the case is given below:-

As per direction of the Hon'ble Apex Court, a scheme was prepared for regularization and conferment of temporary status of casual labourers and the said scheme was known as casual labourers (Grant of temporary status and regularization) Scheme, 1989. After that this Hon'ble Tribunal in OA No. 299/96 and 302/96 consider the matter of cut off date which was extended for the benefit of casual labourers upto 10.9.93 in the Department of Posts. In the same line the cut off date, however, was further extended upto 1.8.98 in the case of Department of Telecom. By that decision, however, the condition laid down in the scheme of 1989 remained unchanged. The casual labourers of the Department of Telecom in a series of cases, namely OA No. 107/98 (series) claimed for their regularization/conferment of temporary status under the aforesaid scheme of 1989. Those cases were disposed of by this Hon'ble Tribunal with a direction to verify the claim of the applicants in consultation with records and to pass a reasoned order thereafter on merit of each case. Accordingly, in compliance with the said directions, the Department has scrutinized the records of the applicants (1300 Nos.) through a three members independent verification committee constituted for that purpose only. In this exercise, the casual labourers who were found eligible as per provisions of the scheme, had been granted temporary status and those who could not fulfill the required criteria under the said scheme were communicated by a reasoned order.

In the instant case also, the matter was referred to the verification committee. The verification committee, however, has taken some time in completing the entire exercise of verification. The process of

verification has been completed on 2.11.2001 and the verification committee submitted their reports to the competent authority on 7.11.2001. The competent authority has instructed the executing authority to pass a reasoned order based on the materials and information submitted by the committee. It is pertinent to mention here that the answering respondent is the competent authority and has already completed his part of duty in complete compliance of the Hon'ble Tribunal's order. I also categorically make a mention that this petitioner came very late and the verification in his case was not a normal exercise as the committee constituted in earlier cases was no longer in function. The authority had to re-open the entire exercise which has caused some delay. I also say that the case of the petitioner was hopelessly barred by law of limitation which, however, could not be agitated before the Hon'ble Tribunal as the concerned OA No. 42/01 was disposed of at the admission stage as an exparte order.

3. That with regard to the statement made in para 1 of the petition, I have no comments to offer.

4. That with regard to the statements made in para 2 and 3 of the petition, I say that the petitioner himself has no specific knowledge regarding his engagement as casual labourer as to which year and for how many days he was engaged. Hence I deny the correctness for not being specific and supported by authentic documents.

5. That with regard to the statement made in para 4 of the petition, I say that except the fact of the order dated 31.8.99 passed in OA No. 107/98 (series), I do not admit any such statements which are either irrelevant or confusing. In the order of OA No. 107/98 (series), the Hon'ble Tribunal expressed the view that the question of engagement and records available before them were disputed and were not sufficient to come to a conclusion and to pass an order. Therefore, the Hon'ble Tribunal directed the respondents to verify the case of each and every casual labourer on the basis of their representations and records available with them and also with the Department and to pass a reasoned order on merit of each case. Respondents have complied have complied with the said order which is a settled position as per direction of the Hon'ble Tribunal's order as on now. The case of the petitioner in the instant case, has also been verified by the committee and after scrutiny of records it was found that he could not come within the zone of consideration by fulfilling the required criteria under the scheme. The process has been completed and the executing authority has already been instructed to communicate the final order to the applicant based on the result of the verification committee. I also categorically state that the petitioner had never worked for 240 days in a year and he was discontinued from engagement with effect from 30.9.97.


The copy of the verification committee's report along with the instruction of this competent authority are annexed hereto as Annexure - R1 (series).

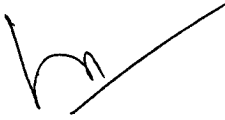
6. That with regards to the statements made in paragraphs 5 to 9 of the petition, I reiterate and reassert the statements made herein above in this affidavit and deny the correctness of the same.
7. That with regard to the statements made in para 10 and prayer portion of the petition, I say that in view of the facts and circumstances elaborately stated in this affidavit and in interpretation of the order dated 7.3.2001 passed in OA No. 42/2001, the actions I have taken in compliance of the order by following the laid down principles of this Hon'ble Tribunal, does not amount to violation of the said order dated 7.3.2001. In a civil contempt, the action must be of willful disobedience for contempt of Court. In this instant case the ingredients of willful disobedience are not proved at all. Moreover 'willful' excludes casual, accidental, bonafide or unintentional acts or genuine inability to comply with the terms of the order. Hence, I respectfully submit that I am not liable for any such act for contempt of Court.
8. That I also respectfully submit that I have the highest regards and honour to the power and authority of Court and I am bound to comply with the order of the Court. In this instant case also I have complied with the order of the Hon'ble Tribunal. However, it was slightly delayed which has been explained herein above. In case this Hon'ble Tribunal comes to a finding in its opinion that I am otherwise liable for contempt of Court, in that case, I hereby pray for unqualified apology and to exonerate from my unintentional bonafide acts if so I have done in connection with the contempt petition and subject matter therein.

9. That the statements made in reply in paragraphs 1,2,3,4, 6,7,8- are true to my knowledge and belief, those made in paragraphs 5 being matter of records, are true to my information derived thereon and the rest are my humble submission before this Hon'ble Tribunal. That I have not suppressed any material facts.

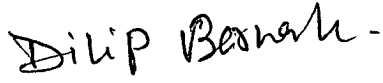
And I sign this affidavit on this 26th day of November, 2001 at Guwahati.

Identified by me


28/11/01
(Advocate)


Deponent.
(J. K. CHHABRA)

Solemnly affirmed and signed before me by the deponent which is identified by Sri B. C. Pathak, Advocate, on this 26th day of November, 2001 at Guwahati.


Magistrate/Advocate.

Annexure - R Series

BHARAT SANCHAR NIGAM LIMITED
(A GOVT. OF INDIA ENTERPRISE)
O/O THE CHIEF GENERAL MANAGER TELECOM
ASSAM CIRCLE, ULUBARI, GUWAHATI-781007.

No: STES- 21/ 312/ 20

Dated at.GH.23.11.01

To
The General Manager
B. S. N. L.
Kamrup Telecom District,
Guwahati.

Sub: Findings of Verification Committee's report of OA No. 42/ 2001 filed
by Sri K. C. Boro and OA No. 220/ 2000 filed by Sri B. Basfore.

Ref: your office letter no. GMT/ EST- 179/ TSM/ 01-02/ 183
Dtd.12/11/2001.

With reference to the letter on the subject cited above, it is intimated that as per the report submitted by the verification committee, none of the casual labourers in the above noted OA have fulfilled the eligibility criteria for grant of Ty. Status.

Sri Kiron Ch. Boro has not completed 240 days in any calender year and has not been on engagement in the Deptt. since 30-9-97 and has never been re-engaged by the Deptt. for any works thereafter. Sri Birbal Basfore, though completed 240 days or more in a year, he had also been retrenched from the engagement since 30/9/97 and has not been re-engaged thereafter. Thus obviously he was not on engagement as on 1/8/98 and therefore cannot be granted Ty. Status.

I am therefore, directed to request you to intimate both the applicants about their ineligibility for grant of Ty. Status under the provision of the scheme/ rules of the Department for the reasons stated above. The communication should be a reasoned and speaking one with clear terms.

The copy of the communication together with the delivery particulars may be sent to this office at an early date for submission before the Hon' ble Tribunal.

This may be treated most urgent.

(G. C. Sarma) 23/11/01
Assitt. Director. Tlccom. (Legal)

Copy to:
File no: STES- 21/ 316

26/11/01
25/11/01

ofc

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

No. GMT/ENQ/CL-I/2001-2002/39 Dated at Guwahati-7, the 7th November, 2001.

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 GMTD/GH vide his office letter No. GMT/EST-179/TSM/01-02/169 dated 08.10.2001 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 :

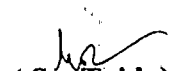
- 1) Shri S. Taid, DE(Admn), O/o the GMTD/GH
- 2) Shri N. K. Das, CAO, O/o the GMTD/GH
- 3) Shri G. C. Sarma, ADT(L), Circle office /GH


The committee has started functioning and verified various records relating to the payment particulars in respect of the two Casual labourers viz 1) Shri Kiran Chandra Boro and 2) Shri Birbal Basfore

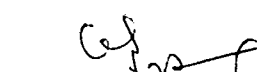
The Committee after careful examination of the records found that Shri Kiran Chandra Boro, the applicant Casual labourer in OA No. 42/2001 has not completed at least 240 days in any calender year. Also the Casual labourer has been retrenched from the engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter. The other applicant Casual labourer, Shri Birbal Basfore (applicant in OA No. 220/00) though has completed 240 days or more in a calender year prior to 01.08.98, he had also been retrenched from engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter.

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary Status and Registration Scheme, 1989" of the Deptt., the Committee does not find any reason to grant them Temporary Status.

The Committee, therefore, does not recommend the name of Shri Kiran Chandra Boro and Shri Birbal Basfore, to grant Temporary Status.


(S. Taid)
D.E. (Admn.)


(N. K. Das)
C. A. O.


(G. C. Sarma)
A.D.T.(L)

Copy to: The G.M.(BSNL), Kamrup, Guwahati -7.

-9-

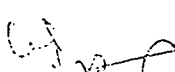
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ANNEXURE (C) (Page 2)
ENGAGEMENT VOUCHERS FROM THE DATE OF FINAL ENGAGEMENT

Shri Kisan Chaitan Bhanu

YEAR	MONTH	NO. OF DAYS	NO. OF PAYMENT i.e. MASTER ROLL/ACT 17 PARTICULARS i.e. VOUCHER NOS	AMOUNT	PERIOD BY WHICH	BILLING/PASSING AUTHORITY	NAME OF A.O. WHO HAS PAID
1994	May	3	48/3-6-94	148/-	ES/270/	Shri Kisan Bhanu	
	June	7.5 16.5	61/4-7-94 124/8-7-94	383/- 854/-	—		
	July	19.5	nil	1530/-	—		
	Aug	—					
	Sept	—					
	Oct	—					
	Nov	—					
	Dec	—					
1995	Jan	—					
	Feb	—					
	March	—					
	April	—					
	May	—					
	June	—					
	July	19	ML	1089/-			
	Aug	18	ML	1032/-			
	Sept	—					
	Oct	12	ML	605/-			
	Nov	02	ML	111/-			
1996	Dec	08	ML	468/-			
	Jan	—					

SIGNATURE OF THE COMPTROLLER MEMBERS

ADT (Circle office Member):  CAD

1/1/2006

ANNEXURE 'C' (Page-2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

Shri Kanan Ch. Boro

YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT TO MASTER, COLLECTOR PARTICULARS & VOUCHER NOS	AMOUNT	REMARKS BY AGENT	BILLING PARTIAL AUTHORITY	NAME OF A.O. WHO HAS PAID
1996	Sep	—					
	Feb	—					
	March	—					
	April	—					
	May	—					
	June	—					
	July	—					
	Aug	—					
	Sept	13	nil	516/-			
	Oct	12	nil	768/-			
	Nov	19.5	nil	1264/-			
	Dec	21	47/6/1/97	1328/-			
1997	Jan	19.5	nil	1248/-			
	Feb	17.5	nil	1136/-			
	March	22	nil	1392/-			
	April	19	nil	1200/-			
	May	21.5	79/10/97	1376/-			
	June	24.7	nil	1536/-			
	July	3.5	nil	224/-			
	Aug	28.5	nil	1824/-			
	Sept	23.5	nil	1512/-			
	Oct	22.5	nil	1456/-			
	Nov	—					
	Dec	—					

39 Pro rata

38.

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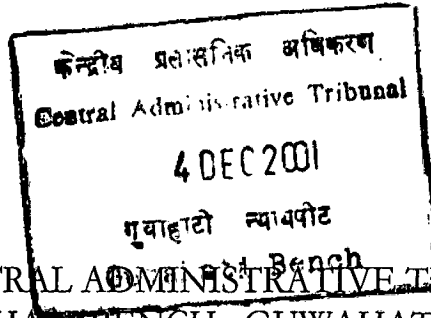
The has been rebranchd w.o.f. A/N 30/9/97
 vide DE CT.O to M STA-51/CL/96-97/18 dt 30/9/97
 The than my been re engaged dt 30-9-97

SIGNATURE OF THE COMMITTEE MEMBERS

[Signature]
 ADT (Circle Office Member)

[Signature]
 (A.O.)
 Circle Office Member

[Signature]
 (A.O.)
 Circle Office Member



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

Filed by 27
B. C. Pathak
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench: Guwahati

CONTEMPT PETITION NO. 48/2001
(IN O.A. NO. 42/2001).

Shri Kiran Chandra Boro Petitioner.

- Vs -

Shri J. K. Chhabra and another Respondents.

(Affidavit-in-reply filed by Respondent No. 2).

I, S. K. Bhaduri, son of Late Panbazar Bhaduri, aged about 47 years, presently resident of Panbazar, CTO Compound, Guwahati - 1, District:- Kamrup (Assam), do hereby solemnly affirm and state as follows:-

1. That I am the General Manager, Kamrup Telecom. District, Guwahati - 7. I have been impleaded as a Respondent in the above noted contempt petition. I have gone through the petition and understood the contents thereof.

2. That before traversing various paragraphs of the petition, a brief resume of the facts of the case is given below:-

As per direction of the Hon'ble Apex Court, a scheme was prepared for regularization and conferment of temporary status of casual labourers and the said scheme was known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989. After that this Hon'ble Tribunal in OA No. 299/96 & 302/96 consider the matter of cut off date which was extended for the benefit of the Casual Labourers upto 10.09.93 in the Department of Posts. In the same line the cut off date, however, was further extended upto 1.8.98 in the case of Department of Telecom. By that decision, however, the conditions laid down in the scheme of 1989 remained unchanged. The casual labourers of Department of Telecom. in series of cases, namely OA No. 107/98 (series) claimed for their regularization/conferment of temporary status under the aforesaid scheme of 1989. The cases were disposed of by this Hon'ble Tribunal with a direction to verify the records and claim of the individual applicant and after scrutiny to pass reasoned order on merit of each case. Accordingly in compliance with the said direction, the department has scrutinized a large number of cases (1300 Nos) of such casual labourers individually through a three member independent verification committee constituted for that purpose. In the exercise those who were found eligible for regularization/conferment of temporary status were confirmed under the scheme and those who could not fulfill the required criteria under the scheme were rejected by the verification committee. Such action with all proof were duly signed by the verification committee and were communicated to the concerned individual casual labourers from time to time as and when their cases were disposed of by a reasoned order.

(3)

In the instant case also, the matter was referred to the verification committee. The verification committee, however, has taken some time in completing the entire exercise of verification. The process of verification has been completed on 2.11.2001 and the verification committee submitted their reports to the competent authority on 7.11.2001. The competent authority has instructed me to pass a reasoned order based on the information and material submitted by the committee. It is pertinent to mention here that the answering respondent is the executing authority and has already completed his part of duty in complete compliance of the Hon'ble Tribunal's order. I also categorically make a mention that this petitioner has come very late and the verification in this case was not a normal exercise as the committee constituted in earlier cases was no longer in function. The authority had to re-open the entire exercise, which has caused some delay. I also say that the case of the petitioner was hopelessly barred by law of limitation, which, however, could not be agitated before the Hon'ble Tribunal as the concerned OA No. 42/01 was disposed of at the admission stage as an *ex parte* order.

3. That with regard to the statement made in Para 1 of the petition, I have no comments to offer.

4. That with regard to the statement made in Para 2 and 3 of the petition, I say that the petitioner himself has no specific knowledge regarding his engagement as casual labourer as to which year and for how many days he was engaged. Hence, I deny the correctness for not being specific and supported by authentic documents.

5. That with regard to the statement made in Para 4 of the petition, I say that except the fact of the order dated 31.8.99 passed in OA No. 107/98 (series) I do not admit any such statements which are either irrelevant or

(4)

confusing. In the order of OA No. 107/98 (series), the Hon'ble Tribunal expressed the view that the question of engagement and records available before them were disputed and were not sufficient to come to a conclusion and to pass an order. Therefore, the Hon'ble Tribunal directed the respondents to verify the case of each and every casual labourer on the basis of their representations and records available with them and also with the Department and to pass a reasoned order on merit of each case. Respondents have complied with the said order, which is a settled position as per direction of the Hon'ble Tribunal order as on now. The case of the petitioner in the instant case, has also been verified by the committee and after scrutiny of records it was found that he could not come within the zone of consideration by fulfilling the required criteria under the scheme. The process has been completed and a reasoned order is issued to the applicant vide this office letter No. GMT/EST-179/TSM/'00-'01/185 dated 26.11.2001 based on the result of the verification committee. I also categorically state that the petitioner had never worked for 240 days in a year and he was discontinued from engagement with effect from 30.9.97.

The copy of the verification committee's report along with the copy of the reasoned order are annexed hereto as Annexure—R1(series).

6. That with regards to the statements made in Paragraphs 5 to 9 of the petition, I reiterate and reassert the statements made herein above in this affidavit and deny the correctness of the same.

7. That with regard to the statements made in para 10 and prayer portion of the petition, I say that in view of the facts and circumstances elaborately stated in this affidavit and in interpretation of the order dated 7.3.2001 passed in OA No. 42/2001, the actions I have taken in compliance of the order by following the laid down principles of this Hon'ble Tribunal, does not amount to violation of the said order dated 7.3.2001. In a civil contempt, the action must be of willful disobedience for contempt of Court. In this instant case the ingredients of willful disobedience are not proved at all. Moreover 'willful' excludes casual, accidental, bonafide or unintentional acts or genuine inability to comply with the terms of the order. Hence, I respectfully submit that I am not liable for any such act for contempt of Court.

8. That I also respectfully submit that I have the highest regards and honour to the power and authority of Court and I am bound to comply with the order of the Court. In this instant case also I have complied with the order of the Hon'ble Tribunal. However, it was slightly delayed which has been explained herein above. In case this Hon'ble Tribunal comes to a finding in its opinion that I am otherwise liable for contempt of Court, in that case, I hereby pray for unqualified apology and to exonerate from my unintentional bonafide acts if so I have done in connection with the contempt petition and subject matter therein.

9. That the statements made in reply in paragraphs 1, 2, 3, 4, 6, 7, 8 are true to my knowledge and belief, those made in paragraphs 5 being matter of records, are true to my information derived thereon and the rest are my humble submission before this Hon'ble Tribunal. That I have not suppressed any material facts.

And I sign this affidavit on this 28th day of November, 2001
at Guwahati.

Sahil Kumar Bhunia

Deponent.

Identified by me

(Advocate)

Solemnly affirmed and signed before me by the deponent which is
identified by Sri B. C. Pathak, Advocate, on this 28th day of
November, 2001 at Guwahati.

Dilip Baruah
Magistrate/Advocate.

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

NO. GMT/EST-179/TSM/00-01/185 Dated at Guwahati, the 26-11-2001.

To

Shri Kiran Chandra Boro, S/O Late Bhakta Ram Boro,
Vill: Nawagaon, P.O: Garsuk Chariali.
Guwahati- 781 035, Dist - Kamrup(Assam).

As you are aware that as per direction given by Hon'ble CAT, Guwahati Bench, Guwahati in OA No: 42/2001, the department constituted verification committee for this SSA 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 yourself. The committee verified all the documentary/as well other proof from the various units/ offices and also personally interviewed you on 30-07-2001. In our office, the committee comprised of three members namely (1) Shri S.Taid, DE(Admn.) O/O the GMT/KTD/ Guwahati (2) Shri N. K. Das, C.A. O (Cash), O/O the GMT/KTD/ Guwahati (3) Shri G. C. Sharma, ADT (Legal), O/O CGMT/ Guwahati.

The aforesaid committee submitted its report to the Department detailing all about their finding/ proof against casual laborers including you. The detail of such scrutiny report is enclosed and furnished herewith as an 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 also not been in engagement under the Department since 30.09.1997 and have never been re-engaged thereafter.

This is done in accordance with the Hon'ble Tribunal's order/direction.

Sly
Divisional Engineer (Admn.)
Head of SSA/Unit
Kamrup Telecom District
Guwahati-781007.

Copy to :

1. The C.G.M.T., Assam Circle, Guwahati for favour of information w.r.to his office letter No.STES-21/312/20 Dtd. 23.11.2001.
2. The DE,CTO. Panbazar,Guwahati-1.
3. The DE(Opn.), O/O the GM(BSNL)/GH-7.

[Signature]
27/11/01
For GM(BSNL)/GH-7.

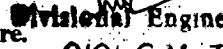
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE GENERAL MANAGER TELECOM

ANNEXURE

Details of findings by the Verification Committee Of Kamrup Telecom. District/Guwahati. (Name of SSA/ Unit) in case of Shri Kiran Chandra Boro in. DE.CTO.GH

Date of engagement.	Authority of engagement	No. of days engaged, year wise/ month wise	Proof of engagement (documentary)	Name & Designation of members of verification committee	Reasons in brief as found	Remarks.
		(A) (B)				
May, 94	DE.CTO. GH.	05/94 - 03.00 06/94 - 24.00 07/94 - 19.50 08/95 - 19.00 09/95 - 18.00 10/95 - 12.00 11/95 - 02.00 12/95 - 08.00 09/96 - 13.00 10/96 - 12.00 11/96 - 19.50 12/96 - 21.00 01/97 - 19.50 02/97 - 17.50 03/97 - 22.00 04/97 - 19.00 05/97 - 21.50 06/97 - 27.50 07/97 - 28.50 08/97 - 23.50 09/97 - 22.50	Payment register.	1. Sri S.Taid, DE (Admn.) 2. Sri N.K.Das, CAO, 3. Sri G.C.Sarma, ADT(Legal)	Not Completed 240 days in any Calender year and has not been in engagement in the Deptt. since 30.09.97 as retrenched by DE/CTO/GH w.e.from A/N of 30.09.97 vide his letter No. STA-51/CL/96-97/18 Dtd. 30.09.97 and he has never been re-engaged by the Deptt. for any works thereafter.	Not recommended by the commettee

Date


 Signature. **Divisional Engineer (Admn.)**
 Designation **O/O G.M. Telecom**
 Seal Etc. **Kamrup Telecom District**
Guwahati-8.

- 9 -

35

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

No. GMT/ENQ/CL-I/2001-2002/39 Dated at Guwahati-7, the 7th November, 2001.

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 revised by GMTD/GH vide his office letter No. GMT/EST-179/TSM/01-02/169 dated 08.10.2001 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) Shri S. Taid, DE(Admn), O/o the GMTD/GH .
- 2) Shri N. K. Das, CAO, O/o the GMTD/GH .
- 3) Shri G. C. Sarma, ADT(L), Circle office /GH .


The committee has started functioning and verified various records relating to the payment particulars in respect of the two Casual labourers viz 1) Shri Kiran Chandra Boro and 2) Shri Birbal Basfore .


The Committee after careful examination of the records found that Shri Kiran Chandra Boro, the applicant Casual labourer in OA No. 42/2001 has not completed at least 240 days in any calender year . Also the Casual labourer has been retrenched from the engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter . The other applicant Casual labourer, Shri Birbal Basfore (applicant in OA No. 220/00) though has completed 240 days or more in a calender year prior to 01.08.98, he had also been retrenched from engagement since 30.09.97 and has never been re-engaged for any Departmental work thereafter .

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary Status and Registration Scheme, 1989" of the Deptt., the Committee does not find any reason to grant them Temporary Status .

The Committee, therefore, does not recommend the name of Shri Kiran Chandra Boro and Shri Birbal Basfore, to grant Temporary Status .


(S. Taid)
D.E. (Admn.)


(N. K. Das)
C. A. O.


(G. C. Sarma)
A.D.T.(L)

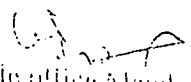

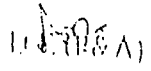
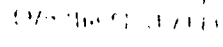
Copy to : The G.M.(BSNL), Kamrup, Guwahati -7.

ANNEXURE 'C' (Part 2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

Shri Kiran Chandra Bora.

YEAR	MONTH	NO. OF DAYS	NO. OF PAYMENT VOUCHERS, PARTICULARS & VOUCHER NOS	AMOUNT	PERIOD BY WHICH	BILLING AUTHORITY	NAME OF A.O. WHO HAS PAID	
1994	May	3	48/3-6-94	148/-	ES/270/Amn. Auth.			
		27.5						
	June	7.5	61/4-7-94	383/-				
		16.5	134/8-7-94	854/-				
	July	19.5	nil	1530/-				
	Aug	—						
	Sept	—						
	Oct	—						
	Nov	—						
	Dec	—						
	1995	Jan	—					
		Feb	—					
March		—						
April		—						
May		—						
June		—						
July		19	nil	1084/-				
Aug		18	nil	1032/-				
Sept		7						
Oct		12	ML	605/-				
Nov		02	ML	111/-				
1996		Dec	08	M	468/-			

SIGNATURE OF THE CONCERNED MEMBERS

ADT (Circle office Member):  CAU
 and the C.M./D.E. 
 and the C.M./D.E. 
 and the C.M./D.E. 

ANNEXURE 'C' (Page-2)
ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT

Sri Karan Ch. Boro

YEAR	MONTH	PAID DAYS	MODE OF PAYMENT To MASTER. FOLLOWED BY PARTICULARS To VOUCHER NOS	AMOUNT	REMARKS BY WORKS	BILLING AUTHORITY	NAME OF A.O. WHO HAS PAID
1996	Sept	—					
	Feb	—					
	March	—					
	April	—					
	May	—					
	June	—					
	July	—					
	Aug	—					
	Sept	13	nil		516/-		
	Oct	12	nil		768/-		
	Nov	19.5	nil		1264/-		
	Dec	21	47/6/1/97		1328/-		
1997	Jan	19.5	nil	1248/-			
	Feb	17.5	nil	1136/-			
	March	22	nil	1392/-			
	April	19	nil	1200/-			
	May	21.5	79/10/97	1376/-			
	June	24.7	nil	1536/-			
	July	3.5	nil	224/-			
	Aug	28.5	nil	1824/-			
	Sept	23.5	nil	1512/-			
	Oct	22.5	nil	1456/-			
	Nov	—					
	Dec	—					

201.5
92A

The has been rebranchd w.o.f. A/N 30/9/97.
vide DE CT-0 to M. STA-51/CL/96-97/18 dt 30/9/97.
The has now been reengaged dt 30-9-97.

SIGNATURE OF THE COMMITTEE MEMBERS

OCT, NOV, Dec —
92A

ADT (Circle office Member):
C.A.U.
CHIEF ENGINEER

WATER