

FROM No. 4  
(SEE RULE 42 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No: \_\_\_\_\_

Misc Petition No: \_\_\_\_\_

Contempt Petition No: 3612003. 1m GA 120/2003

Review Application No: \_\_\_\_\_

Applicants: - Sri Parekh Barman

Respondents: - S. K. Bhadurei & Sons

Advocate for the Applicants: - Sri R. K. Malakar, K. C. Sarma  
" Mr. G. C. Deha

Advocate for the Respondents: - Sr. C. S. P. B. C. Pathak, Ad. C. S. P.

Notes of the Registry	Date	File No.	Order of the Tribunal
This Contempt petition has been filed by the Applicant praying for discharge of the Judgment & order dld 4th September / 2002 9.7.2003 handed by this Hon'ble Tribunal in GA 120/03.	9.7.2003	bb	Heard Mr. R. K. Malakar, learned coun- sel for the petitioner and also Mr. A. Deb Roy, learned Sr. C. G. S. C. List the case again on 31.7.2003 for further order.
Laid before the Hon'ble Court for further orders. 2003 Section Officer	31.7.2003	mb	Put up again on 20.8.2003 for orders.
Stamps & Envelopes required		Member	Vice-Chairman
			Vice-Chairman

(20)

20.8.2003 Present: The Hon'ble Mr. Justice N.  
Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahala dan  
Administrative Member.

List the case on 5.9.2003 for further  
order.

*KR Pathak*  
Member

*Vice-Chairman*

bb

5.9.03

List on 19.9.03 for further orders.

*KV Prahala dan*  
Member

*Vice-Chairman*

lm

19.9.03

List on 29.10.03 for further  
orders.

*KV Prahala dan*  
Member

lm

29.10.2003

Mr. B.C. Pathak, learned Addl. C.G.S.C.  
appearing on behalf of the respondents  
prayed for time to file reply.

Prayer allowed. List the case on  
27.11.2003 for reply.

*KR Pathak*  
Member

*Vice-Chairman*

27.11.03 No Bench today. Adjud  
t 15.12.03.

1870  
19.

16.12.2003 Four weeks time is allowed to the  
respondents to file reply.

List on 20.1.2004.

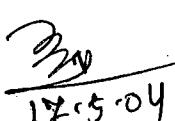
*KV Prahala dan*  
Member (A)

mb

No reply has been  
filed.

*May*  
19.1.03.

Office Note	Date	Tribunal's Order
	20.1.2004	<p>Present: Hon'ble Shri Bharat Bhushan, Member (J)</p> <p>Hon'ble Shri K.V. Prahladan, Member (A).</p> <p>Mr G.C. Deka, learned counsel for the petitioner and Mr B.C. Pathak, learned counsel for respondent 4 are present. The learned counsel for the petitioner seeks permission of the Court to amend the array of the respondents. Permission granted. Amendment to be completed within ten days. List it for orders on 5.2.04.</p> <p><i>[Signature]</i> Member (A)</p>
o. WB has been filed.	24.2.2004	<p>Present: Hon'ble Shri Shanker Raju, Judicial Member</p> <p>Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>Learned counsel for the respondents seeks and is allowed four weeks time to file reply to the contempt issue. List it for orders on 26.3.04.</p> <p><i>[Signature]</i> Member (J)</p>
<i>By</i> 25. 1.4.04 Affidavit is not filed by the respondent	26.3.2004	<p>On the plea of counsel for the respondents list on 20.4.2004 for orders.</p> <p><i>[Signature]</i> Member (A)</p>
4 <i>[Signature]</i>		

Office Note	Date	Tribunal's Order
	27.4.2004	On the plea of counsel for the respondent list on 18.5.2004 for orders.
Affidavite in reply bilek by R.No-4.	mb	 K.V. Prahla Member (A)
 17.5.04	18.5.2004	List on 11.6.2004 before the Division Bench.
	mb	 K.V. Prahla Member (A)
Notice return from respondent No=1. <del>(Date 10/6/04)</del>	11.6.2004	List on 17.6.2004 before the Division Bench for orders.
	mb	 K.V. Prahla Member (A)
	17.6.2004	Present: The Hon'ble Smt. Bharati Roy Judicial Member. The Hon'ble Shri K.V.Prahla Administrative Member. Order reserved.
	bb	Member (A) Member (J) E.

18.6.2004 Order pronounced in open Court,  
kept in separate sheets.

C.P. is dismissed in terms of  
the order.

Received for  
the applicant  
Geetha  
Advocate  
2/6/2004

*LCY*  
Member (A)

*J.*  
Member (J)

bb

*Recd.  
11/7/04*

10/11/2004  
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No.36 of 2003 (O.A.120/2001)

Date of Order : This, the 18th Day of June, 2004.

THE HON'BLE SMT. BHARATI ROY, JUDICIAL MEMBER.

THE HON'BLE SHRI K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Paresh Barman  
S/o Sri Rohini Barman  
Aged about 32 years, by occupation  
Casual Labourer (Driver)  
a resident of Barnaddi village  
P.O: Belsor, P.S: Belsor in the  
district of Nalbari, Assam. . . . . Petitioner

By Advocates Mr.R.K.Malakar, G.C.Deka & K.C.Sarma.

- Versus -

1. Sri S.K.Bhaduri  
General Manager, Telecom  
Kamrup District, Guwahati  
from 17.8.2000 to 31.10.2002 and at present  
Kolkata Telephones, Kolkata.
  
2. Sri M.K.Gogoi  
General Manager, Telecom  
Kamrup District, Guwahati- 7  
from 31.10.2002 to 12.11.2002  
and at present Guwahati Area Manager  
(East), Dispur, Ulubari  
Guwahati - 6.
  
3. Sri N.N.Benerjee  
General Manager, Telecom  
District Kamrup, Guwahati - 7  
from 12.11.2002 to 22.1.2003 and at present  
Senior Deputy Director General (Vigilance)  
and General Manager (Dev) Office of the  
Chief General Manager  
Assam Telecom Circle, Guwahati-7.
  
4. Sri B.K.Mishra  
General Manager, Telecom  
Kamrup District, S.R.Bora Lane  
Ulubari, Guwahati-7 since 22.1.2003 till date.

. . . . . Respondents.

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

O R D E R

SMT.BHARATI ROY, MEMBER(J):

The petitioner, who was engaged as Casual Driver and was terminated from the post w.e.f.1.4.1999, filed the Original Application No.120 of 2001 assailing the order of termination and also sought for direction to regularise his service.

2. Vide order dated 4.9.2002 ~~passed~~ in the said O.A. this Tribunal opined that respondents need to take care of the situation and consider the case of the applicant against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It was also kept open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority was directed to consider such prayer of the applicant fairly.

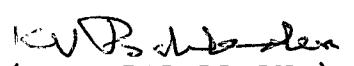
3. The present Contempt Petition has been filed by the applicant for violating the order of this Tribunal. It is the contention of the applicant that the respondents did not consider his case in terms of the order of the Tribunal and recruited person who is junior to him. Respondents appointed one outsider and one Sri Bhupen Deka, who ~~is~~ <sup>is</sup> junior to the applicant.

4. Respondent No.4 have filed counter reply. However, Mr.B.C.Pathak, learned Addl.C.G.S.C. for the

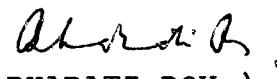
contemner raised the point of jurisdiction of the Tribunal in entertaining the Contempt Petition. He further referred to the order of this Tribunal passed in C.P.6/2004 (in O.A.467/2001), wherein this Tribunal dismissed the C.P. for lack of jurisdiction. In the similar context, he has also referred to the Full Bench judgment of the CAT, Jaipur Bench in O.A.401/2002 and 7 Others. Learned counsel for the applicant Mr.R.K.Malakar, however, submits that the orders of the Tribunal referred <sup>to</sup> by the learned l/c relates to the C.P. where B.S.N.L. was party before this Tribunal, whereas in the present case B.S.N.L. has not been made party. In this context, Mr.B.C.Pathak, learned Addl.C.G.S.C. submits that in so far as the reliefs and question of appointment and regularisation are concerned, the Deptt. of Telecommunication (DOT) has no role to play in implementing the order of the Tribunal because of the fact that all the posts of Group 'B' & 'C' have been transferred from DOT to B.S.N.L. w.e.f.1.10.2000. In so far as the appointments of the two persons referred above is concerned, Mr.B.C.Pathak submits that the appointments were made by B.S.N.L. In this context, he has also drawn our attention to Annexure-P2 enclosed by the applicant in the O.A. to show that the appointments were made by B.S.N.L. We find force in the contention of the learned counsel for the contemners. In view of the facts and circumstances that the alleged contemners are not in a position to implement the order of this

Tribunal dated 4.9.2002 passed in O.A.120/2001, it cannot be held that there is any wilful disobedience of the order of this Tribunal. In this context, it requires mentioning that Bharat Sanchar Nigam Limited (B.S.N.L.) is a newly constituted corporation and no notification under section 14 under Section 14(2) of the Administrative Tribunals Act, 1985 has been issued in respect of new organisation i.e. B.S.N.L. Therefore, this Tribunal cannot issue any direction on the B.S.N.L. authoritiies.

That being the position, we hold that there is no contempt lies and accordingly the present Contempt Petition is dismissed.

  
( K.V.PRAHLADAN )

ADMINISTRATIVE MEMBER

  
( BHARATI ROY )

JUDICIAL MEMBER

BB

Form No.1  
INDEX

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI.

C.P.(CIVIL) NO. 36 /2003 (CA 120/2001).

Shri, Paresh Barman. .... Petitioner  
-Vs-

Shri S.K. Bhaduri & Ors. .... Respondents.

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Ratna Kanta Malaker  
Signature of the Petitioner  
Legal Practitioner 4/7/2003

For Use by the Registry

Date of Presentation/Filing 4/7/2003

Date of receipt by Post ..... X

Registration(Diary) No. .....

Signature for  
Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI

Contempt Petition(Civil)No. 36 /2003

Sri Paresh Barman - Petitioner

- Versus -

S.K. Bhaduri - Respondents  
Sri D.K. Mishra, & 025.  
General Manager, Kamrup

Telecom District, Guwahati-7

A petition under Rule 5 of the Contempt of  
Courts (C.A.T.) Rules, 1992.

(i) (a) Name (including as far as :-

far as possible the name  
of the father/mother/husband)  
age, occupation and address of

(i) The Petitioner :- Sri Paresh Barman,  
S/O Sri Rohini Barman  
aged about 32 years, by  
occupation Casual  
Labourer (Driver), a  
resident of Barnadi  
Village, P.O. Belsor, P.S.

Filed by,  
Paresh Barman  
Branch  
Rohini Barman  
4/7/2003  
Gauhati High Court  
Guwahati.

Belsor in the District of  
Nalbari, Assam.

(ii) The respondents(s) : 1. Sri S.K.Bhaduri  
General Manager, Telecom,  
Kamrup District, Guwahati  
from 17.8.2000 to  
31.10.2002 and at present  
Kolkata Telephones,  
Kolkata.

2. Sri M.K.Gogoi  
General Manager, Telecom,  
Kamrup District, Guwahati  
- 7 from 31. 10. 2002 to  
12.11.2002 and at present  
Guwahati area Manager  
(East), Dispur, Ulubari,  
Guwahati- 6.

3. Sri N.N.Benerjee,  
General Manager,  
Telecom, District Kamrup,  
Guwahati - 7 from 12.11.2002  
to 22.1.2003 and at present  
Senior Deputy Director  
General (Vigilance) and  
General Manger(Dev), Office  
of the Chief General

Manager, Assam Telecom  
Circle, Guwahati - 7.

4. Sri B.K.Mishra,  
General Manger, Telecom,  
Kamrup District, S.R.Bora  
Lane, Ulubari, Guwahati-7  
since 22.1.2003 till date.

(b) Provision of the Act :- (b) Under provisions of Section 12 of the Contempt of Courts Act, 1971 (70 of 1971) read with Section 17 of the Administrative Tribunals Act, 1985 (13 of 1985) and nature of contempt is civil.

c) The grounds and material facts constituting the alleged contempt including the date of alleged contempt divided into paragraphs, numbered consecutively, alongwith Supporting documents of Certified/ Photostat (attested) copies of the originals thereof

c) All the respondents and particularly the respondent No.4 (Sri B.K.Mishra) who is currently holding the post of the General Manager, Telecom, District Kamrup, S.R.Bora Lane, Ulubari, Guwahati - 7 is responsible for contempt of Courts Order dated

4.9.2002 passed by the

Hon'ble Central

Administrative Tribunals,

Guwahati Bench, Guwahati in

O.A.No.120 of 2001 (Sri

Paresh Barman - Vs-Union of

India & Ors.) on the grounds

the respondent No.4 issued

regular appointment order

vide Memo No.GMT/EST-

17/TSM/Part-II/02-03/15

dated 17.3.2003 in favour of

Sri Bhupen Deka junior to

Sri Paresh Barman in the

select list who is

petitioner in this Contempt

Petition(Civil) for his

violation of the Hon'ble

Tribunal's above order when

committed on 17.3.2003.

The copies of the above

Tribunal's Order dated

4.9.2002 and impugned

appointment letter dated

17.3.2003 are annexed at

ANNEXURES - P1 and P2

The facts constituting the alleged contempt is as follows :

1. That the petitioner served in the office of the General Manager, Kamrup Telecom District at Guwahati as Casual Driver from 1.1.1990 to 12.7.1999 in stop-gap vacancies and during this long period he was engaged under various officers of the telecom Department.

A statement of the petitioner's engagement in service during 1.1.90 to 12.7.99 is annexed herewith at ANNEXURE - P3

2. That when the petitioner was working in the Telecom Department the Casual Labourers filed several Court cases in the Central

Administrative Tribunal, Guwahati Bench, Guwahati for regularization of the services of the casual employees and during the pendency of those cases the Hon'ble Central Administrative Tribunal, Guwahati, Guwahati Bench, Guwahati passed interim orders with direction to the Opposite Party not to disengage the casual workers till disposal of the original applications vide order dated 20.8.98.

It may be mentioned here that the Circle Secretary, Assam Circle, Guwahati of "All India Telecom employees' Union" when communicating the above Hon'ble Tribunal's Orders submitted a list of the applicants of those cases concerned giving priority on seniority basis and approved by the Telecom Departmental

authority and the seniority position of this petitioner in the above list is at Sl.49.

The copies of the above documents are annexed at ANNEXURES - P4, P5, P6 and P7.

3. That the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati after hearing the parties passed a common Order dated 31.8.1999 comprising 15 Nos. Original applications covering most of the cases having similar facts for regularization of the services of the casual employees in Telecom Department, Kamrup District, Guwahati and in disposing the above applications in the common Order the Hon'ble Tribunal directed the respondents to examine the case of each application.

Further, it was also observed by the Hon'ble Tribunal that the applicants may file representations individually within a period of one month from the date of receipt of the order and is such representations are filed individually, the respondents shall scrutinize and examine each case in consultation within the records and thereafter pass a reasoned order on merits of each case within a period of six months thereafter. Besides , it was also stated in the said final order of the Hon'ble Tribunal that the interim Order passed in any of the cases with direction not to disengage the casual employees in the department shall remain in force till the disposal of the representations.

A copy of the above final Common Order dated

31.8.1999 passed by the  
Hon'ble Tribunal is annexed  
at ANNEXURE - P8

4. That the petitioner  
begs to state that though the  
petitioner could not get a  
copy of the Common Order  
(Annexure - P8) he applied  
before the then General  
Manager, Telecom, Kamrup  
Telecom District, Guwahati  
for continuous engagement at  
least at the same status till  
regular appointment which was  
received by the respondent  
authority on 2.11.99 as the  
interest of the petitioner  
was effected in the above  
Tribunal's Order (annexure -  
P5(a), Sl.49).

A copy of the above  
representation is annexed at  
ANNEXURE - P9.

5. That the petitioner  
begs to state that when the

petitioner was not engaged even as casual Driver also for a long time he was compelled to file again an individual application before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati which was registered as O.A.No.120/2001 (Sri Paresh Barman-Vs- Union of India and Others(Telecom) which was finally disposed of by the Hon'ble Tribunal vide Order dated 4.9.2002 in original application No.120/2001 (Annexure-P1) and in disposing the above application the Hon'ble Tribunal observed that the petitioner worked all in all and as such the respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if

necessary by relaxing his age keeping in mind the services rendered by him in the department. It may be mentioned here that the term "alongwith others on priority basis" stated in the above order indicated the casual employees in the list prepared by the respondents and approved by the Hon'ble C.A.T., Guwahati Bench on seniority basis where in the position of the petitioner is at serial 49 (Annexure - P5 and P5(a)) which was also covered by the Common Order dated 31.8.1999 passed by the Hon'ble tribunal (annexure - P8).

It may be further mentioned that the Hon'ble Tribunal in the Order dated 4.9.2002 (annexure-P1) kept open to the applicant for seeking for being engaged as Casual Mazdoor till he is

finally absorbed in a regular post and in that event the respondent authority may consider such prayer of the applicant fairly which the respondents have not yet complied with inspite of the application submitted by the petitioner dated 16.10.2002.

A copy of the application dated 16.10.2002 submitted by the applicant is annexed herewith at ANNEXURE P 10.

6. That the petitioner begs to state that regarding the time factor for compliance of the Hon'ble Tribunal's Judgement and Order the Petitioner begs to state that the final Order in O.a.No.120/2001 was passed in 4.9.2002 similarly and in parity with the earlier Common Order dated 31.8.1999 (Annexure- P8) where in the

respondents were directed to scrutinize and examine each case after receiving the individual representations in consultation with the records and thereafter to pass a reasoned Order on merits of each case within a period of six months from the date of receiving such individual representations. Besides, the interim Order passed in any of the concerned cases not to disengage any of the casual employees was allowed to be remain in force till the disposal of the representations.

7. That the petitioner begs to state that he received the formal copy of the Order dated 4.9.2002 passed by the Hon'ble Tribunal in O.a.No.120/2001 after 13.12.2002 vide letter original application

No.120/2001/3342 dated

13.12.2002 and the petitioner submitted individual representation before the respondents on 16.10.2002 (Annexure-P10) as soon as he could know the passing of the order by the Hon'ble Tribunal, but no action for disposing the representation of the petitioner dated 16.10.2002 has yet been taken by the respondents.

A copy of the Hon'ble Tribunal's above letter is annexed herewith at ANNEXURE - P 11.

8. That the petitioner begs to state that when the petitioner is waiting for regular appointment as per Hon'ble Tribunal's verdict dated 4.9.2002 in O.a.No.120/2001 (Annexure-P1) in parity with the Common Order dated 31.8.1999

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(Annexure- P8) systematically as per seniority in service amongst the casual employees in the list prepared by the department itself and already approved by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati at Annexure - P5 and P5(a) the respondents started to discriminate in regularizing the casual employees according to their suit will and the interest of the petitioner was kept pending abnormally and negligently till date.

9. That the petitioner begs to state that the petitioner becomes more surprised when the respondent No.4 appointed one out sider Sri Tankeswar Talukder 9Sl.1 in Annexure-P2) and Shri Bhupen Deka (Sl.2 in Annexure-P2) junior to Your

petitioner violating the norms of regularization of the casual employees as per Hon'ble Tribunal's verdict without even engaging Your petitioner in casual manner whimsically and willfully and as such the respondents and particularly the respondent No.4 has outrightly committed the Contempt of Court's order passed by the Hon'ble C.A.T., Guwahati (Annexure-P 1 and Annexure-P 8)

10. That the petitioner begs to state that the seniority position of Your Petitioner in approved list (Annexure- P5 and P5(a)) is at Sl.No.49 and that of Shri Bhupen Deka is at Sl.50 according to the service rendered in the department and accordingly Your petitioner should have been conferred temporary status

and subsequently regularised in service prior to Shri Bhupen Deka which the respondents, have not done, besides the question of conferring temporary status to that of Shri Tankeswar Talukdar whose name has not appeared in the list (Annexure-P5 & P5(a)) should have not come till and until the list in question is exhausted as per order passed by the Hon'ble Tribunal and still in force which the respondents have willfully violated committing Contempt of Court's Order and particularly the respondent No.4 has committed offence by the act conferring temporary status to Shri Bhupen Deka (at Sl.50 in the list at Annexure - P5 and P5(a)) in supersession to his senior Shri Paresh Barman 9this petitioner) at Sl.49 in the

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same list), besides appointing outsider Shri Tankeswar Talukdar before the list is exhausted under the Provisions of Section 12 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985.

11. That the petitioner begs to state that if the Hon'ble C.A.T., Guwahati would not intervenes in the matter the petitioner will suffer irreparable loss which can not be compensated in terms of money.

12. That the petitioner begs to state that it is a fit case where the Hon'ble Tribunal may initiate appropriate action drawing Proceedings against the respondents and particularly against the respondent No. 4

for Contempt of Court's Order  
by the Act vide letter Memo  
No. GMT./EST-179/TSM/Part-  
II/02-03/1`5 dated 17.3.2003  
(Annexure- P2)

13. That the petitioner  
begs to state that this  
petition is filed bonafide  
and for the ends of justice.

(d) The nature of Order:- (d) That the petitioner sought  
from the Hon'ble therefore, prayed that the  
Tribunal Hon'ble Tribunal may be  
pleased to admit this  
Contempt Petition, issue  
notices on the respondents  
call for the records of the  
Original Application No. 120/  
2001 and other O.As.  
concerning the Common Order  
dated 31.8.1999 passed by the  
Hon'ble Central Administrative  
Tribunal, Guwahati Bench,  
Guwahati and Your Hon'ble  
Tribunal may be pleased to  
direct the respondents and

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particularly respondent No.4 to appear in person in the Hon'ble Tribunal and to show cause as to why the respondents would not be punished for Contempt of Court for willfully and deliberately violating and flouting the Hon'ble Tribunal's Order dated 4.9.2002 in O.a.No.120/2001 (Annexure - P1) in parity with the Common Order dated 31.8.1999 (Annexure- P8) and also direct the respondents strictly to absorb Your petitioner in service by issuing regular appointment Order in favour of Your Petitioner immediately fixing seniority in service in favour of Your Petitioner prior to both illegal appointees (at Annexure P2) as per Hon'ble Tribunal's Order and also punish the guilty respondents for

violating the Hon'ble  
Tribunal's Order.

-AND -

Pass any other or such  
further order or orders as  
your Hon'ble Tribunal may  
deem fit and proper.

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

(e) If a petition has :- (e) No other contempt  
previously been made petition has previously been  
by him on the same made by the petitioner on the  
facts, the details, same fact in any Court.

particulars and the  
result thereof

(f) The petition shall be:- (f) The petitioner has sworn in  
supported by an affid- an affidavit supporting the  
avit verifying the petition and verifying the  
facts relied upon facts relied upon in a  
except when the motion separate sheet attached here  
is by the Attorney with the petition.

General or the Solicitor  
General or the Addl.  
Solicitor General.

(g) Every petition shall be :- (g) The petition has been signed by the petitioner and his Advocate, if any and shall show the place and date.

signed by the petitioner and his Advocate showing place and date.

(h) Draft charges shall be :- (h) The draft charges has enclosed in a separate sheet

been enclosed in a separate sheet. (Page 49-50)

(i) In the case of "Civil :- Contempt" certified copy of the Judgement Decree, Order, Writ or undertaking alleged to have been disobeyed shall be filed along with the petition

(i) The certified copies of the order dated 4.9.02 in O.A. No. 120/2001 and the concerned Common Order dated 31.8.1999 have been filed along with the petition at Annexure-P1 and Annexure P8 respectively.

(j) Where the petitioner:- relies upon any other document(s) in his possession, or power he shall file them alongwith the petition.

(j) The petitioner has no other documents(s) in his possession at present as such no further documents are filed

(ii) In the case of Criminal:- (ii) As the petition is not Contempt of the Tribunal for Criminal Contempt the question does not arise.

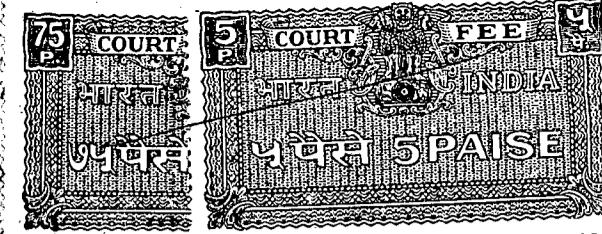
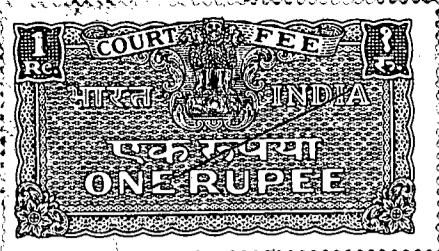
Other than a Contempt

Referred to in Section

14 of the Act, the petitioner shall state whether he has obtained the consent of the Attorney General or the Solicitor General and if so, produce the same if not the reason thereof.

iii) The petitioner shall :- iii) The number of respondents being 4 (four) three complete sets of the petition including the Annexures in paper book form duly indexed and paginated where the number of respondents is more than one, equal number of extra paper book shall be filed.

iv) No fee shall be payable :- (iv) No fee has been paid on a petition or any document filed in the proceedings.



AFFIDAVIT

I, Shri Pares Barman, aged about 32 years, S/O Shri Rohini Barman, by caste Hindu, by occupation Casual worker (Driver) in the office of the general Manager, Kamrup Telecom District, Guwahati, a resident of Vill- Barnadi, P.O. & P.S.Belsor in the District of Nalbari, Assam and at present residing C/O Sri Pran Charan Deka, Purbachal Nagar, near red-Cross Hospital, P.O. Silpukhuri, P.S.Chandmari, Guwahati, District- Kamrup, Assam do hereby solemnly affirm and declare as follows :-

1. That I am the petitioner of the instant Contempt Petition(Civil) and as such acquainted with the facts and circumstances of the case.
2. That I have verified the facts on the petition relied upon and I have supported the statements and the connected documents narrated and annexed thereto and I have duly supported all of them to the best of my knowledge and belief.
3. That the statements made in the Contempt Petition(C) and in Paragraphs i(a), (b), (d) to (f) and ii to iv are true to my knowledge and those in paragraphs i(c) are the informations derived from records which I believe to be true and the rests are my humble submissions before Your Hon'ble Tribunal.
4. That this affidavit may be treated as part of the original petition and the petitioner craves to submit Additional Affidavit if and when necessary.
5. This is true to my knowledge and I sign this affidavit on this the 4 th day of July, 2003 at Guwahati.

Identified by

Hemen Ray Meeth  
4/7/03

Advocate/Advocate's Clerk  
Guwahati

DEPONENT

Pares Barman

25

Form No.2

Receipt Slip.

To

The Registrar,  
Central Administrative Tribunal,  
Guwahati Bench, Guwahati.

The Receipt of the Contempt Petition(Civil) filed in the Central Administrative Tribunal, Guwahati Bench, Guwahati, by Shri Paresh Barman, Casual Driver in Kamrup Telecom District, Guwahati may kindly be acknowledged.

Presented by Sri R.K.Nalakar

*Paresh Barman*

Signature of the  
Petitioner

Date of Representation  
4.7.2003

Petitioner Sri Paresh Barman

Respondents Sri S.K.Bhaduri & 3 Others.

Native of grievance ... Contempt for violation of  
Tribunal's Order

Number of applicants - one

Number of respondents - four

For Registrar

Central Administrative Tribunal  
Guwahati Bench, Guwahati.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Annexure-PI

Original Application No.120 of 2002

Date of Order: This the 4th Day of September 2002

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN  
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Sri Parash Barman  
Casual Labour(Driver)  
Village Barnartdi  
P.O.Belsor, District Nalbari, Assam ... Applicant

By Advocate Mr.B.Malakar.

-Vs-

1. The Union of India represented by the Chief General Manager, Assam Telecom Circle, S.R.Bora Lane, Ulubari, Guwahati-7.
2. The General Manager, Telecom, Kamrup District, S.R.Bora Lane ... Respondents.  
Ulubari, Guwahati-7.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act the applicant has assailed the order of termination from the post of Casual driver with effect from 1.4.99 and also sought for direction to regularise his service.

2. In this application it was interalia stated that the applicant was engaged as Casual Driver with effect from 1.1.90 to 31.12.96 under SDO(T) Kamrup from 1.1.97 to 31.12.97. He was engaged to work at various places such as SDE(Phone) Goalpara, SDE/C, West Ambari, Guwahati, SDE(E) Ambari Guwahati, SDO(T), Rangia, SDE(C) West Ambari, SDC, East Ambari etc. It was stated that he was first appointed as

contd/-

certified to b.  
True copy.  
S. S. S.  
4/7/03  
A. C. V. O. A.

Driver to run Departmental vehicle from time to time by his concerned officers, though he worked for a long period he was terminated. Hence this application.

2. Assailing the legitimacy of the order of termination and also prayed for direction for regularisation. The Respondents contested the claim of the applicant and stated that the applicant was only engaged in the year 1994, 1996, 1997 and 1998, in total the applicant was engaged for about 94 days. The respondents also mentioned about ban on fresh recruitment of casual labourers against Group 'C' post on the basis of Office Memorandum issued by the Government of India, Ministry of Finance. Any employment in the breach of the Office Memorandum No. 4901/16/89-Estt(c) dated 26.2.1990 is invalid and unlawful contended by the Respondents. Therefore, the benefit for regularisation cannot be given to the applicant. The respondents also raised plea of maintainability of this application on this score that the responsibility of reseeing the pending cases of the Casual labourers are entrusted to the Bharat Sanchar Nigam Limited a Company under the Government of India. The BSNL has not yet been notified under Sub-Section 2 of Section 14 of the Administrative Tribunal Act and thus the Tribunal has no jurisdiction to entertain such position. The new Telecom Policy of Government of India as well as other Office Memorandum issued by the Government of India will clearly spelt out the position. We find it difficult to accept the contention of the Respondent on the basis of the materials produced to the effect that the applicant was not working in the Telecom department prior to the introduction of the New Telecom Policy. The policy of conferment of temporary status was also introduced by the Telecom departments in pursuance to the legal policy laid down by the Supreme Court.

3. On assessment of materials on record we however, find it difficult to issue a direction on the Respondent to confer temporary status to the applicant. The applicant worked as a Group 'C' Driver intermittently. But it will not absolve the Respondents from considering the case of the applicant fairly. The Respondents authority utilised the services of the applicant may be by deviation of the Government ban. It will not be fair to penalise the applicant for the breach. All in all the applicant worked. We are therefore, of the opinion that the Respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It will also be open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority may consider such prayer of the applicant fairly.

4. Subject to the observations made above, the application stands disposed. There shall however, be no

costs. MINISTER

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (Adm)

18/10/02

Warden Office (T)  
Group I (Driver)  
Group II (Administrative Services)  
Group III (Technical Services)  
Group IV (Bench, Gurukul-1)  
Group V (Other Services)

**BHARAT SANCHAR NIGAM LIMITED**  
*(A Govt. Of India Enterprise)*  
**OFFICE OF THE GENERAL MANAGER (BSNL)**  
**KAMRUP TELECOM DISTRICT :: GUWAHATI-7**

Memo No: GMT/EST-179/TSM/Part-II/02-'03/15  
 Dated at Guwahati-7, the 17<sup>th</sup> March, 2003.

In pursuance of C.G.M.(BSNL), Assam Circle, Guwahati No. ESTT-9/12/CO/44 Dtd. 07.03.2003 and No. ESTT-9/12/CM/124 Dtd. 11.03.2003, the following Casual Labourers as approved by Circle Authority vide above mentioned letters are hereby conferred Temporary status and designated as Temporary Status Mazdoors with effect from the date mentioned against their name.

Sl.	Name of Casual Labourer	Unit under which attached	Date of effect
01.	Shri Tankeswar Talukdar	D.E.(Circle Instl.)/GH.	01.09.1999
02.	Shri Bhupen Deka	Circle Office/GH.	With immediate effect

The above Casual Labourers conferred with Temporary Status are entitled to the benefits as furnished in the enclosed Annexure.

Enco: One as above.

( R. Dutta Choudhury )  
 Sub-Divisional Engineer (Admn.)

Copy to :

01. The Chief General Manager (BSNL), Assam Circle, Guwahati for favour of information w.r. to letters cited above.
02. The D.E.(Circle Installation)/Guwahati, Dispur Telephone Exchange Bldg, 2<sup>nd</sup> Floor, Guwahati-781 006.
- 03-04. TSMs concerned.
- 05-08. ServiceBook /Personal File of the TSMs.
09. E-3.
10. Spare.

For GM(BSNL)/Kamrup/Guwahati-7.

*Certified to be  
 true copy.  
 C. D. Talukdar  
 4/7/03  
 Admn. seal.*

30

W

Statement of Shri Paresh Barman ; Casual Driver working in Telecom Department in Different Wings.

Sl. No.	From	To	No of Days or Year.	Working under Whom	Vehicle No.	Remarks.
1	2	3	4	5	6	7
1	1-1-1990	31-12-96	6 Years	SDOT/Kamrup Departmental Vehicle.		Working more than 240 days in each year.
2	1-1-1997	10-1-97	10 days.	- do -		
3	1-4-1997	30-4-1997	30 days	SDE(Phone)Goalpara Departmental Vehile	AS-18/0047	Working less than 240 days in 1997 i.e. only 132 days.
4.	1-5-1997	25-5-1997	25 days	- do -		
5.	26-5-1997	31-5-1997	6 days.	SDE/C(West),Ambari Departmental Vehicle	AS-01/0598	
6	1-6-97	9-6-1997	9 days	- do -		
7	10-6-1997	19-6-1997	10 days	SDE(C)/East/Ambari Departmental Vehicle	AXA- 7814	
8	2-11-1997	20-11-97	19 days	SDOT/Rangia, Departmental Vehicle.	AS-01/E-8203	
9.	22-11-97	30-11-97	9 days	- do -		
10	20-12-97	29-12-97	12 days	SDE(C)/West, Ambari Departmental Vehile	AS-0598	
11	30-12-97	31-12-97	2 Days	- do -		
			132 days.			
12	1-1-98	8-1-98	8 days	SDE(C)/West/ Ambari Departmental Vehile	AS-0598	

Certified to be  
true copy  
Xxxxxxx  
17/12/98  
Adv. V. C. Barman

Annexure P 3 (a)

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13	28-1-98	31-1-98	4 days	SDOT/Rangia Departmental Vehicle	AS-01/E-8203	Working more than 240 days in 1998.
14	1-2-98	7-2-98	7	SDE/Cable(E) Ambari Departmental Vehicle	AXA-7814	
15	1-3-98	31-3-98	31			
16	1-4-98	30-4-98	30			
17	1-5-98	31-5-98	31	Commercial Officer O/o TDM/Guahati-781007. Deptt. Vehicle and also working under ADT (MIS), O/o the CGMT/ Guahati-781007.		
18	1-6-98	30-6-98	30			
19	1-7-98	31-7-98	31			
20	1-8-98	31-8-98	31			
21	3-10-98	31-10-98	29	- do - SDE(Elect), Guahati Departmental Vehicle.	AXA-2029	
22	1-11-98	30-11-98	30	ADT(MIS), O/o CGMT/ Departmental Vehicle.		
23	1-12-98	31-12-98	31	- do -		
			293 days			
			1999.			
24	1-1-99	6-1-99	6 days	ADT(MIS), O/o CGMT Guahati.		Working only 56 days.
25	15-2-99	28-2-99	14 days	- do -		
26	22-6-99	27-6-99	6 days	ADT(Genl), O/o CGMT Guahati.	AS-01/F-4820	
27	1-7-99	12-7-99	12 days	- do -		
28	12-3-99	29-3-99	18 days	D.E.(EXT)/TDM/GH.		
			56 DAYS.			

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Telephone No: 46022

Amhersture-P4

ALL SANGHATI TELECOM EMPLOYEES' UNION

LIVE STAFF & GROUP 'D'  
ASSAM CIRCLE @ GUWAHATI

Dr. L. C. Das Road, Panbazar, Guwahati

File No: 047/98/98

Dated.....  
Dated at Guwahati, the 2<sup>nd</sup> September 98

To  
Shri Yadab,  
General Manager Telecom,  
Kamrup Telecom District,  
Guwahati.

Copy of order regarding Casual Mazdoor's dated 28.08.98

Sir,

Kindly find herewith the verdict of Honourable CAT in respect of Casual Mazdoors dated 20.08.98 vide case No. OA 112/98, OA 114/98 and OA 131/98 covering misc petition no. 151/98, 150/98 and 149/98. (Copy enclosed)

I would therefore request you to engage the Casual Mazdoors as per list enclosed herewith to avoid contempt of the CAT.

In this connection, I like to inform you that the 5(five) Circle Secretaries of NFTE met CGMT, Guwahati in this regard and CGMT Mr. Misra advised the then GMT, Kamrup Mr. Ramalingam in his chamber in presence of 5(five) Circle Secretaries to engaged the Casual Mazdoors in question immediately.

I hope you would do the needful as earliest.

The action taken in this regard may kindly be intimated to the undersigned.

Thanking you,

Yours faithfully,

*J. N. Misra*  
(J. N. MISRA)  
Circle Secretary,  
Assam Circle, Guwahati.

Copy to CGMT Assam

Certified as per  
True copy,  
Dated  
6/12/03  
Advocate

1433  
G.M.T. Kamrup, 5/1

Annexure - PS

SL.NO.	NAME OF THE MAZDOORS.	FATHER'S NAME.	YEAR.
01	Bikram Roy		0
02	Sukeshwar Paswan	S/o Rajendra Paswan.	April' 90
03	Gunjan Bordolai	S/o Kuleswar Bordolai	Jan' 91
04	Suren Kalita	Late Sakunafam Kalita.	Jan' 91
05	Bhumidhar Deka.	Late Maheswar Deka.	Jan' 91
06	Naren Ch. Das	Late Upen Ch. Das.	
07	Ramesh Roy.	S/o Gajendra Ray.	1993
08	Arun Kumar.	S/o Sukuldeo Prasad.	Jan' 91
09	Dayksha Kalita.	Late Jogen Kalita.	Feb' 89
10	Dinesh Thakuria.	S/o Bonkhi Thakuria.	
11	Debendra Sarma.	Late Nareswar Sarma.	Feb' 89
12	Madhab Baishya.	S/o Hariram Baishya.	Feb' 89
13	Pirajhan Ali.	S/o Ali Ahmmmed.	1993
14	Umesh Mahato.	S/o M. Mahato.	1993
15	Umesh Das.	Late Tarani Das.	Jan' 94
16	Mukut Das.	S/o Kamal Das.	Feb' 87
17	Khagen Das.	Late Nripati Das.	Feb' 89
18	Bandhu Kalita.	S/o Abhiram Kalita.	Feb' 92
19	Rohit Chetri.	Late Korno Chetri.	May' 93
20	Bijay Prasad.		Feb' 89
21	Dhiren Bharali.	Late Tarun Bharali.	Jan' 88
22	Jiten Kalita.	S/o Mahendra Kalita.	Feb' 89
23	Biren Bharali.	Late Tarun Bharali.	Jan' 87
24	Akhil Das.	S/o Bipen Das.	March' 88
25	Gobinda Barman.	S/o Jogen Barman.	Feb' 92
26	Akshyamanya Das.	S/o Bhupen Das.	Feb' 85
27	Paben Deka.	S/o Siddheswar Deka.	Feb' 89
28	Kismati Basfore	S/o Dasai Basfore	Dec' 93
29	Harendra Sarma.	S/o Indep Sarma.	Aug' 96
30	Ramesh Basfore.	S/o Gadru Basfore.	Dec' 93
31	Manju Basfore.	S/o Bhadul Basfore	Dec' 93
32	Jagdish Das.	S/o Khagen Das.	Feb' 89
33	Bhagneswar Das.	S/o Bipin Das.	April' 87
34	Mukut Deka.	S/o Hareswar Deka.	Feb' 89
35	Karim Ali.	S/o JamshedAli.	April' 89
36	Musin Ali.	Late Lahar Ali.	April' 89
37	Mainul Choudhury.	S/o Rangsha Ali.	April' 89
38	Kishan Basfore	S/o Lt. Mati Basfore.	Feb' 87
39	Shriram Singh.	S/o B.N. Singh.	June' 88
40	Janmiram Baishya.	S/o Lt. Khageswar Baishya.	Jan' 88
41	Santi Basfore.	Late Kanchan Basfore.	Aug' 94
42	Hakib Ali.	Late Motib Ali.	April' 96
43	Dhiren Majumdar.	S/o Nagen Mazdumder	Feb' 89
44	Debojit Sonowal.	S/o Praful'a Sonowal.	Feb' 92
45	Harindar Singh.	S/o Nandolal Singh.	Feb' 91
46	Gautam Baishya.	S/o Bishnu Baishya.	Jan' 94
47	Sitali Basfore.	Late Sawkhi Basfore.	Dec' 93

Contd...P/2.



Attested  
CO

Certified to be  
true copy.  
C. S. Datta  
4/7/03  
Advocate

S. M. T. Kamrup BH - 15<sup>th</sup> Annexure PS(a)

Name of the Mazdoors.

Father's Name.

Years.

49	Harendra Hazarika.	Late Dijen Hazarika.	Sep' 89
50	Paresh Barman.	S/o Rohini Barman.	Jan' 90
51	Bhupen Deka.	S/o Robin Deka.	Jan' 96
52	Parmananda Das.	Late Gorgo Das.	Feb' 89
53	Ganesh Chetri.	S/o Surja Chetri.	March '83
54	Hishikesh Das.	Late Ramesh Das.	March '85
55	Harkanta Das.	S/o Nareswar Das.	Feb' 93
56	Rajib Duttabarua.	S/o Ramani Duttabarua.	March '97
57	Manoj Ojha	S/o Triveni Ojha	March '95
58	Harish Talukdar		July' 87
59	Atul Baishya.		Jan' 88
60	Bimal Haloi		June' 87
61	Dhiren Bharali		Jan' 88
62	Dibakar Das.		May' 87
63	Babul Das.		April' 87
64	Gadu Lal Roy		Feb' 87
65	Anil Ch. Kalita		April' 87
66	Md. Firoj Kasir		Jan' 87
67	Ram Singh		Jan' 87
68	Dilip Ch. Das.		88
69	Rabi Kumar		Jan' 87
70	Ramendra M. Talukdar		Jan' 96
71	Gautam Kalita.	S/o Suren Kalita.	Jan' 96
72	Shri Dilip Bhattacharjee	S/o N. Kr. Bhattacharjee	Jan' 96
73	Y. Ibomcha Singh	Lt. Y. Apabi Singh	Jan' 96
74	Y. Raju Singh	S/o Y. Ningthemjao Singh	Jan' 96
75	L. Nishikanta Singh	S/o L. Bira Singh	Jan' 96
76	M. Omen Singh	S/o M. Romesh Singh	Jan' 96
77	M. Nongmai Mootoi	S/o M. Singhjit Singh	Jan' 96
78	Ajay Kr. Sinha	Lt. Parash Nath Sayah.	Jan' 96
79	N. Romesh Singh	S/o Kumar Singh	Jan' 96
80	M. Bijoy Meitei	S/o M. Thabai Meitei	Jan' 96
81	A. Shantanu Sharma	S/o Ranbir Sharma	Jan' 96
82.	Chandra Kanta Patguri.		1.2.89.
83	Bishnu Deka Roy.		1.2.97.



Attested  
by  
A. R. O. D. C.



## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. M.P. 150

OF 199 8

OA 114 198

Applicant(s) All India Telecom Employees Union  
Dine Staff & ORS

Respondent(s) Union of India &amp; ORS

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

Mr. S. Sircar

Mr. N.R. Nair

Advocate for Respondent(s) Mr. S. Ali, SC

20/6/98 This Misc. Petition has been filed  
 complaining that the interim order  
 passed in O.A. No. 114/98 was not  
 been implemented. We have heard Mr. S.  
 Ali, learned Sr. C. O. S. C and Mr. B.K. Sharma  
 learned counsel for the applicants. On  
 hearing the counsel for the parties  
 we direct the opposite party to imple-  
 ment the interim order forthwith.  
 Misc. Petition is disposed of.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to  
 true copy  
 4/7/98  
 Adm. Secy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr 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 Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

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

2. O.A.No.112/1998

All India Telecom Employees Union,  
 Line Staff and 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.  
 ....

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.  
 ....

O.A.No.118/1998

Shri Bhuban Kalita and 4 others .....Applicants  
 By Advocates Mr J.L. Sarkar, Mr M. Chanda  
 and Ms N.D. Goswami.

-versus-

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

Perf. Recd. to Mr  
 true copy.

*DK*

*Ch. 417103*  
 Advocate

5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others .....Applicant  
 By Advocates Mr J.L. Sarkar, Mr M. Chanda  
 and Ms N.D. Goswami.

-versus-

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

6. O.A.No.131/1998

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

-versus-

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

7. O.A.No.135/98  
All India Telecom Employees Union,  
Line Staff and Group 'D' and  
6 others

.....Applicants  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

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

8. O.A.No.136/1998

All India Telecom Employees Union,  
 Line Staff and Group 'D' and  
 6 others

.....Applicants  
 By Advocates Mr B.K. Sharma, Mr S. Sarma  
 and Mr U.K. Nair.

-versus-

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

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.  
 ....

Xb



10. O.A.No.142/1998

All India Telecom Employees Union,  
Civil Wing Branch.

By Advocate Mr B. Malakar

.....Applicants

-versus-

The Union of India and others

.....Respondents

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

11. O.A.No.145/1998

Shri Dhani Ram Deka and 10 others

.....Applicants

By Advocate Mr I. Hussain.

-versus-

The Union of India and others

.....Respondents

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

12. O.A.No.192/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

The Union of India and others

.....Respondents

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

## O.A.No.223/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another

.....Applicants

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

-versus-

The Union of India and others

.....Respondents

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

14. O.A.No.269/1998

All India Telecom Employees Union,  
Line Staff and Group 'D' and another

.....Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma,  
Mr U.K. Nair and Mr D.K. Sharma.

-versus-

The Union of India and others

.....Respondents

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

*JK*

15. O.A.No.293/1998

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

-versus-

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

.....  
O R D E R

BARUAH.J. (V.C.)

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

2. The All India Telecom Employees Union, is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applications were submitted by the said union, namely, the Line Staff and Group 'D' employees and some other applications were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants, in these applications, pray that the respondents be directed not to implement the decision of terminating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the

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benefits of the Scheme, namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1989, to the casual Mazdoors concerned. Of the aforesaid O.A.s, however, in O.A.No.269/1998 there is no prayer against the order of termination. In O.A.No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of service and they being fully covered by the Scheme. According to the applicants of this O.A. the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing in their service in different offices of the Department of Telecommunication under Assam Circle and N.E. Circle. The Government of India, Ministry of Communication, made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This Scheme was communicated by letter No.269-10/89-STN dated 7.11.1989 and it came into operation with effect from 1.10.1989. Certain casual employees had been given the benefit under the said Scheme, such as, conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group 'D' employees including DA 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 29.11.1989 were granted the benefit of temporary status on satisfying the eligibility criteria. The benefits were further extended

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to the casual labourers of the Department of Posts as on 10.9.1993 pursuant to the judgment of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A.No.750/1994. The present applicants claim that the benefit extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A.Nos.302 and 229 of 1996. This Tribunal by order 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.A.s.

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.A.s—is that the Association had no authority to

*[Signature]*

represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to 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 O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the

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Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

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

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a

*Xb*

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definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

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

9. No order as to costs.



nkm

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admn)

Certified to be true  
প্রাপ্তি প্রতিপাদিত

17/3/03

Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Guwahati-781005

The General Manager Telecom,  
Kamrup Telecom District, Ulubari,  
Guwahati.

Annexure - Pg. 60

Sub:-Prayer for appointment as casual motor driver/  
casual labour.

Sir,

With due respect and humble submission, I beg to lay before you the following few lines for favour of kind information and necessary action.

That Sir, Since 1997 I am serving in the Telecom Department as a Temporary motor driver in CGMT office, DE(External)-II Dispur SDE Electrical (outdoor) Panbazar, SDO(P) Rongia, TDM's office Guwahati. (Commercial officer), SDO(P)Goalpara, SDE cable(Elect.) Ambari, Guwahati and SDE cable (W), Ambari Guwahati satisfactorily under the officer to whom I was ordered to perform the duties of motor driver. The yearwise figures of days, I worked in the Telecom Department is mentioned below for your kind information.

Year	<u>1997.</u>	<u>1998.</u>	<u>1999.</u>
	118 days.	284 days.	56 days,

It will not be out of place to mentioned here that vide hon'ble(in spot/camp list) CAT Guwahati order dated 1-6-98, my name was listed under serial.49. It is seen that, a good number of persons were appointed as casual Driver who was listed along-with me. It is sorry to intimate that, I have not appointed as casual driver till date . In that connection I applied for the same on 13/5/99 for consideration my case this may kindly be referred.

Lastly, I am earnestly requested; your honour kindly to go through all the aspects of the case, and favourable action in that respect may kindly be taken.

In that connection it is further requested that if at present appointment of casual motor driver is not possible, in that case I may kindly be appointed as casual labour till availability of vacancy of casual driver for this act of kindness, I shall remain ever grateful to you.

Enclo:- Photo copy of the certificate received from the officer under whom, I served previously.

Copy to:-

1. The DE (External-II) for information and necessary action please.
2. SDOT/Kamrup for information and necessary action please.

*Recd  
Copy  
16/10/01  
S. Barman*

*Carried to BC  
true copy  
417/03  
C/0 Bhupen Deka, Panbazar.  
Advalet.*

Yours faithfully,  
Shri Paresh Barman  
( Shri Paresh Barman)  
Telecom Inspection Bengalur

Dated: 16/10/02

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To

The General Manager  
 Kamrup Telecom District  
 Guwahati:-781007.

Sub: Engagement as casual labourer and regularization in  
 Group "C" post.

Sir,

Most respectfully I beg to state that I was engaged as a casual driver by the SDOT/Kamrup w.e.f. 1-1-1990 to 31-12-1996 and from 1-1-1997 to 31-12-1997. I was engaged at various places at SDE, Phones, Goalpara, SDE (C) west Ambari, Guwahati, SDE(E), Ambari, Guwahati, SDOT/Rangia, SDE( C ), West Ambari, SDE( E ) east Ambari. During this period I was driving departmental vehicles of the concerned officers. But at the time of conferment of temporary status, my service was terminated. I move from pillar to post for getting justice from the authority which however was denied to me. Lastly, I approached the Central Administrative Tribunal, Guwahati Bench for getting justice in order that my service was regularized. This application filed by me was registered as OA.120/2001, wherein department contestad my claim. The matter was however heard by the Hon'ble Tribunal and vide order dt. 4-9-2002 disposed the application with observation made therein. It has been observed by the Hon'ble Tribunal to consider the case of my regularization in a Group 'C' post and until such regularization is made I may be allowed to mark as casual mazdoor on the basis of the observation made by the Hon'ble Tribunal. A copy of the order of the Hon'ble Tribunal is furnished herewith.

With kind regards,

Yours faithfully,

PARESH BARMAN

( PARESH BARMAN )  
 EX-CASUAL MAZDOOR

Barman

16/10/02

16/10/02  
 PARESH BARMAN  
 EX-CASUAL MAZDOOR  
 16/10/02

Certified to be  
 true copy.

4/7/03  
 Adi

Adi

BY HAND/BY POST  
Regd. No. 2

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::::: GUWAHATI

CHY/JUDL/ DT. GUWAHATI THE

ORIGINAL APPLICATION NO. 120/02/3342 dt. 13.12.02  
MISC. PETITION NO. \_\_\_\_\_  
CONTEMPT PETITION NO. \_\_\_\_\_  
REVIEW APPLICATION NO? \_\_\_\_\_  
TRANSFER APPLICATION NO. \_\_\_\_\_

Sri. Paresh Barman APPLICANT(S)

-VERSUS-

C. O. I. v. OY RESPONDENT(S)

TO

The General Manager,  
Telecom, Kamrup District,  
S. R. Bora Lane,  
Guwahati,  
Guwahati-7.

Please find herewith a copy of Judgment/Order  
date 6.9.02 passed by the Bench of this Hon'ble Tribunal  
comprising of Hon'ble Justice Mr D. N. Choudhury  
and Hon'ble Member Mr K. K. Sharma  
Administrative in the above noted case for information and  
necessary action, if any.

Please acknowledge receipt of the same.

Incl: as above.

By Order

*12/12/02*  
DEPUTY REGISTRAR(A)

Memo No. \_\_\_\_\_ Dtd \_\_\_\_\_

*12/12/02*

Copy to Mr.

Mr.

Mr.

Mr.

*Carried to Mr.  
True copy.*

DEPUTY REGISTRAR(A)

*4/7/03*

*Advocate  
Advocate.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH  
GUWAHATI.

Filed by  
R.K. Malakar  
4.7.2003  
Act No. 2003

Contempt Petition(C) No /2003

Sri Paresh Barman ... Petitioner.

-Vs-

Sri S.K.Bhaduri & Ors. ... Respondents

Draft charges as required in  
column (i) (h) in the C.P.(C) above  
submitted by the petitioner :-

1. Whether the list of casual employees at P5 & P5(a) is still remaining valid or exhausted on the date of conferring temporary status to outsider Shri Tankeswar Talukdar (at sl. 1 in Annexure - P2).
2. On what basis Shri Bhupen Deka, (sl. 50 in seniority list of Annexure P5(a) has been conferred Temporary status in supersession to Shri Paresh Barman, the petitioner (at sl 49 in the same list) sl. 2 in Annexure P2 and whether in doing so the respondent No 4 has committed contempt of court violating the Hon'ble Tribunal's Common order dated 31.8.1999 (Annexure P8).
3. Whether the order dated 4.9.2002 in O.A. No 120/2001 (Annexure P1) and the common order dated 31.8.1999 passed by the Hon'ble Tribunal are similar in all aspects.

Contd....2

- 2 -

4. Whether the respondents obeyed the Hon'ble Tribunal's interim orders dated 20.8.98 (including Annexure P6 & P7) covered by the common order dated 31.8.1999 and whether the petitioner was allowed to continue in service in the same status till regularisation of his service in regular post inspite of his representations dated 2.11.99 and 16.10.2002 (Annexure P9 & P10).

- A n d 3/4

5. Whether the petitioner is in liberty to move the contempt petition (C) before the Hon'ble Tribunal for his being deprived of his legitimate opportunity of being regularised in service as per verdict of the Hon'ble Tribunal.

Dated: 4.7.2003.

Original Application No.120 of 2002

Date of Order: This the 4th Day of September 2002

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN  
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER

Sri Paresh Barman  
Casual Labour(Driver)  
Village Barnartdi  
P.O.Belsor, District Nalbari, Assam ... Applicant

By Advocate Mr.B.Malakar.

-Vs-

1. The Union of India represented by the Chief General Manager, Assam Telecom Circle, S.R.Bora Lane, Ulubari, Guwahati-7.
2. The General Manager, Telecom, Kamrup District, S.R.Bora Lane ... Respondents.  
Ulubari, Guwahati-7.

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

O R D E R.

D.N.CHOUDHURY, VICE-CHAIRMAN:

In this application under Section 19 of the Administrative Tribunals Act the applicant has assailed the

order of termination from the post of Casual driver with effect from 1.4.99 and also sought for direction to regularise his service.

2. In this application it was interalia stated that the applicant was engaged as Casual Driver with effect from 1.1.90 to 31.12.96 under SDO(T) Kamrup from 1.1.97 to 31.12.97.

He was engaged to work at various places such as SDE(Phone) Goalpara, SDE/C, West Ambari, Guwahati, SDE(E) Ambari Guwahati, SDO(T), Rangia, SDE(C) West Ambari, SDC, East Ambari etc. It was stated that he was first appointed as

contd/-

Driver to run Departmental vehicle from time to time by his concerned officers, though he worked for a long period he was terminated. Hence this application.

2. Assailing the legitimachy of the order of termination and also prayed for direction for regularisation. The Respondents contested the claim of the applicant and stated that the applicant was only engaged in the year 1994, 1996, 1997 and 1998, in total the applicant was engaged for about 94 days. The respondents also mentioned about ban on fresh recruitment of casual labourers against Group 'C' post on the basis of Office Memorandum issued by the Government of India, Ministry of Finance. Any employment in the breach of the office Memorandum No.4901/16/89-Estt(c) dated 26.2.1990 is in valid and unlawful contended by the Respondents. Therefore, the benefit for regularisation cannot be given to the applicant. The respondents also raised plea of maintainability of this application on this score that the responsibility of resehing the pending cases of the Casual labourers are entrusted to the Bharat Sanchar Nigam Limited a Company under the Government of India. The BSNL has not yet been notified under Sub-Section 2 of Section 14 of the Administrative Tribunal Act and thus the Tribunal has no jurisdiction to entertain such position. The new Telecom Policy of Government of India as well as other office Memorandum issued by the Government of India will clearly spelt out the position. We find it, difficult to accept the contention of the Respondent on the basis of the materials produced to the effect that the applicant was not working in the Telecom department prior to the introduction of the New Telecom Policy. The policy of conferment of temporary status was also introduced by the Telecom departments in pursuance to the legal policy laid down by the Supreme Court.

3. On assessment of materials on record we however, find it difficult to issue a direction on the Respondent to confer temporary status to the applicant. The applicant worked as a Group 'C' Driver intermittently. But it will not absolve the Respondents from considering the case of the applicant fairly. The Respondents authority utilised the services of the applicant may be by deviation of the Government ban. It will not be fair to penalise the applicant for the breach. All in all the applicant worked. We are therefore, of the opinion that the Respondents need to take care of the situation and consider his case against future vacancy of Group 'C' alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the department. It will also be open to the applicant for seeking for being engaged as Casual Mazdoor till he is finally absorbed in a regular post and in that event the authority may consider such prayer of the applicant fairly.

4. Subject to the observations made above, the application stands disposed. There shall however, be no

costs.

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (ADM)

Nov 15/9/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.107 of 1998 and others

Date of decision: This the 31st day of August 1999

The Hon'ble Mr 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 Advocates Mr J.L. Sarkar and Mr M. Chanda

-versus-

The Union of India and others .....Respondents

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

....

2. O.A.No.112/1998

All India Telecom Employees Union,  
Line Staff and 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.

....

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.

....

O.A.No.118/1998

Shri. Bhuban Kalita and 4 others .....Applicants

By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

The Union of India and others .....Respondents

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

....



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5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others .....Applicant  
By Advocates Mr J.L. Sarkar, Mr M. Chanda  
and Ms N.D. Goswami.

-versus-

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

6. O.A.No.131/1998

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

-versus-

The Union of India and others .....Respondents  
By Advocate Mr B.C. Patha, Addl. C.G.S.C.  
O.A.No.135/98 ....  
7. All India Telecom Employees Union,  
Line Staff and Group 'D' and .....Applicants  
6 others  
By Advocates Mr B.K. Sharma, Mr S. Sarma  
and Mr U.K. Nair.

-versus-

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

8. O.A.No.136/1998

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

-versus-

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

9. O.A.No.141/1998

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

-versus-

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

*SL*



10. O.A.No.142/1998

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

-versus-

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

11. O.A.No.145/1998

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

-versus-

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

12. O.A.No.192/1998

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

-versus-

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

## O.A.No.223/1998

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

-versus-

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

14. O.A.No.269/1998

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

-versus-

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

*DK*

15. O.A.No.293/1998

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

-versus-

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

.....

O R D E R

BARUAH.J. (V.C.)

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

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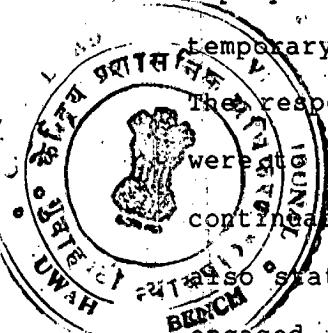


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5. The contention of the respondents in all the above O.A.s—is that the Association had no authority to

*[Signature]*

represent the so called casual employees as the casual employees are not members of the Union Line Staff and Group 'D'. The casual employees not being regular Government servants are not eligible to become members or office bearers of the staff union. Further, the respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries into their engagement as casual employees are in progress. The respondents justify the action to 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 O.A.s were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they cannot get the benefit of the Scheme of 1989 as this Scheme was retrospective and not prospective. The Scheme is applicable only to the casual employees who were engaged before the Scheme came into effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the



24/10/1991

Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A.Nos.302 and 229 of 1996 the respondents have filed writ applications before the Hon'ble Gauhati High Court. However, according to the applicants, no interim order has been passed against the order of the Tribunal.

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

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a



definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking into consideration of the submissions of the learned counsel for the applicants.

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

9. No order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admn)

Certified to be true  
- गति दिल्ली

17/3/03

Section Officer (J)  
C.A.T. GUWAHATI BANCH  
Guwahati-781005

nkm



21 APR 2004

गवाहाटी न्यायालय  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : AT GUWAHATI

29  
Filed by  
B. C. Pathak  
Advocate  
Central Administrative Tribunal  
Guwahati Bench : Guwahati

C.P. No. 36/2003  
IN O.A. No. 120/2001

Shri Paresh Barman

...Petitioner

-versus-

Shri B.K. Mishra & others

...Respondent

(Affidavit-in-reply filed by the Respondent No. 4)

I, Sri Kumakhye Rayan Das, son of —  
aged about 45 years, resident of Kumarpara, Guwahati.  
and at present working as the S.D.E. (Administration).  
do hereby solemnly affirm and state as follows :

1. That I have been implicated as the Respondent No.4 in the above noted Contempt Petition No. 36/2003 (hereinafter referred to as the "Petition") and a copy of the said petition has been served on me. I have gone through the same and understood the contents thereof.
2. That this Hon'ble Tribunal was pleased to pass the final order in O.A. No. 120/2001 on 4.9.2002 and by the said order this Hon'ble Tribunal observed that the respondents may consider the case of the applicant against future vacancy of Group C post alongwith others on priority basis, if necessary by relaxing his age keeping in mind the services rendered by him in the Department. By the said order, this Hon'ble Tribunal also observed that it would also be open to the applicant for seeking

engagement as casual mazdoor till he is finally absorbed in a regular post and in that event the authority may consider such prayer of the applicant fairly and accordingly the application was disposed of.

3. That with regard to the statements made in **para (i) (b) and (c), 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10** of the contempt petition, I respectfully submit that there is no fresh recruitment upto now in the establishment of BSNL against the post of any Driver (Group C post). So far the engagement of casual mazdoor is concerned, there is no fresh engagement so far made. Only those cases where the casual mazdoors rendered their service earlier and their cases were under examination as to whether they could be considered for conferment of temporary status by virtue of their services rendered for at least 240 days in 12 calendar months in a year; such cases were considered and those found eligible as per scheme of the Department were considered for regularization by conferment of temporary status. Moreover, the mode of recruitment of Driver (Group C post) is different from the system of engagement of casual mazdoors. There are specific recruitment rules for recruitment of drivers while there are no such recruitment rules for engagement of casual mazdoors. Therefore, the petitioner is in no way similarly situated with any such casual mazdoor nor he has any accrued right to demand similar treatment with other casual mazdoors. Therefore, the respondents have not done anything which may otherwise amount to contempt of court, a civil contempt.

In this connection I also say that the law is also well settled that to constitute a civil contempt, there must be willful disobedience of the court's order. But, willful will exclude casual, accidental, bonafide or unintentional acts or genuine inability to comply with the terms of the order. From the fact and circumstances of the instant case, it is very much clear that the respondents have not done anything contrary to the observation made by the Hon'ble Tribunal. It is pertinent to mention here that this Hon'ble Tribunal in the judgment has categorically mentioned that it found difficult to issue a direction on the respondents to confer temporary status to the applicant and this Hon'ble Tribunal disposed of the application with the

“observation” only. As such, any action of the respondents would not attract the required ingredients to constitute a civil contempt as defined under the law and the law laid down by the Hon’ble Supreme Court. Therefore, the contempt petition is liable to be dismissed with cost.

I also say that in a contempt petition, the petitioner cannot introduce a new set of facts and cause of action. In any case, if there is any such new cause of action, it is open to the petitioner to agitate his grievance through a fresh application before the court of competent jurisdiction.

4. That with regard to the statements made in **para 11, 12, 13, (d), (e), (f), (g), (h), (i) and (j)** of the petition, I say that the respondents have not done anything for which any action is warranted at this stage, particularly in view of the order which is alleged to have been violated or disobeyed.

In this connection, I respectfully submit that the respondent, in their written statements categorically took the plea that this Hon’ble Tribunal did not have jurisdiction to try any such matter pertaining to a Company named as “Bharat Sanchar Nigam Ltd.”, more particularly because of the fact that there has not been any notification as required under Sec. 14(2) of the Central Administrative Tribunal Act, 1985 bringing such company under the jurisdiction of the Tribunal by the Govt. Notification. Now law is well settled that the CAT has no jurisdiction over the said Company, BSNL. It has also been held that even no contempt will lie against any officer serving under the BSNL. The Hon’ble Tribunal, Allahabad Bench, in Civil Misc. Contempt Application No. 175/2003 (*RA Patel & others -vs- Prithvi Pal Singh & another*) referring to other two decisions of Hon’ble Delhi High Court and Bombay High Court in “*Ram Gopal Verma -vs- UOI & others*” and “*BSNL -vs- AR Patil & others*” held that the CAT does not have jurisdiction over the BSNL and the contempt petition is not maintainable as there is no notification under Sec. 14(2) of the CAT Act, 1985. Accordingly, the contempt petition was rejected. This Hon’ble Tribunal also has passed similar order by dismissing the Contempt Petition No. 6/2004 (in OA No. 467/2001) (*Pankaj Bora -vs- BK Mishra & another*) vide order dated

1.4.2004. Therefore, in any view of the facts and circumstances of the case and the settled provisions of law and precedents, this contempt petition is not maintainable and is liable to be dismissed with cost. (OPY ANNEXED)

5. That in case this Hon'ble Tribunal comes <sup>to</sup> a finding that the respondent is liable for contempt of court (civil contempt), in that case I respectfully submit that I have the highest regard to the authority, power of the court and I know that I am bound by the order/judgment passed by any such court except the right of appeal and judicial review and I hereby seek unqualified apology and to exonerate me from the charges of contempt of court.

6. That the statements made in this affidavit in para 1, 2 and 3 are true to my knowledge and belief, those made in para 4 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material fact.

And I sign this affidavit on this 19 th day of April, 2004 at Guwahati.

Identified by me



Advocate

Kamakhya Ranjan Das.

Deponent

Solemnly affirmed and signed before me by the deponent, who is identified by Shri B.C.Pathak, Advocate on this 19 th day of April, 2004 at Guwahati.



Advocate

-5-

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ATTN F.S. Venkatesan  
A.M. P.12

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

निःशुल्क प्रतिलिपि

CIVIL MISCELLANEOUS CONTEMPT APPLICATION NO. 175 OF 2003

IN  
ORIGINAL APPLICATION/STORY NO. A.360 OF 2001  
ALLAHABAD THIS THE 30TH DAY OF OCTOBER, 2003HON'BLE AGO GEN K.K. SRIVASTAVA, MEMBER-A  
HON'BLE MR. A. K. DHATNAGAR, MEMBER-D

1. R.K. Patel, Junior Telecom Officer.
2. Ram Swaroop, Line Man.
3. Meena Lal, Telecom Technical Assistant.
4. Kamlesh Kumar Mishra, Regular Mazdoor.
5. Ram Bahwan Patel, Regular Mazdoor.
6. Shunker Lal, Regular Mazdoor.

All posted at Telephone Exchange Sardan,  
District-Allahabad.

7. Andrajaet, Phone Mechanic.
8. Anupdh Rao, Phone Mechanic.
9. Hemish Chandra, Phone Mechanic.
10. Paladeen, Regular Mazdoor.
11. Radha Devi, Regular Mazdoor.
12. Anoop Kumar, Regular Mazdoor.

All posted at Karchhana Telephone Exchange,  
District-Allahabad.

13. Raja Ram, Phone Mechanic,  
Posted as Jaisa Exchange, District Allahabad.
14. B.B. Singh, Junior Telecom Officer.
15. Radha Prasad, Phone Mechanic Posted at Choorpur,  
Telephone Exchange, Allahabad.

.....Applicants

( By Advocate Shri R.B. Singh )

Varanasi

- 2 -

1. Sri Prithvipal Singh,  
CMD, Bharat Sanchar Nigam Ltd.,  
New Delhi.
2. Sri V.K. Snukla,  
Chief General Manager, U.P. at Lucknow.  
..... Respondents  
( By Advocate -----)

ORDER

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

This Contempt Petition is filed against the officers of Bharat Sanchar Nigam Limited a newly constituted corporation. Since no notification under section 14(2) have been issued in respect of this newly constituted corporation i.e., B.S.N.L. This Contempt Petition is not maintainable before this Tribunal.

2. The legal position has been well settled in this regard by the Judgments of Division Bench of Hon'ble Delhi High Court in Ram Gopal Verma Vs. U.O.I. and Ors A.I.S.L.J. 2002(1) 352 and Hon'ble Bombay High Court in B.S.N.L. Vs. A.R. Patil and Ors. etc

2002 (3) 441.

3. In view of the above the contempt petition is rejected and not maintainable with liberty to the applicant to approach the appropriate forum.

TRUE  
COPY

Shalabh  
Section Officer 7/110  
Central Admin. Tribunal  
Mumbai