

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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O.A./T.A No. 06/2001
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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 6/2001

... Sri. Jayanta D. Applicant.
versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. S. Sarma,
" U.K. Nair,
" U. & Goswami,
For the Respondents. C.G.S.C.

NOTES OF THE REGISTRY

DATE

ORDER

17.1.2001 Present: 'Hon'ble Mr K.K. Sharma,
Administrative Member

Heard Mr S. Sarma, learned
counsel for the applicant. The
application is admitted. Issue usual
notice. Two weeks time allowed for
filing of written statement. List it
for orders on 1.2.01.

Member(A)

nk

NS
15/1/01

18.2.2001 Present: Mr. K.K. Sharma,
Administrative Member

NS

16.2.

16.2.

16.2.2001 NO S.B. Admonered to 5.3.2001:

NS

16.2.

16.2.

5.3.01

List on 11.4.01 to enable the
respondents to file written statement

Vice-Chairman

lm

IPC/15 No. 77/826
Dated.....28.12.00
Dy. Registrar.

Steps & Envelops

are filed.

2-1-01

18.2.2001
NS
15/1/01

Notice prepared and sent to
D/S for issuing the respondents
No 1 to 5 by Regd AD/
Wd DINo 246-200
dd 24.1.2001

11.4.01

No written statement has been filed.
List on 16.5.01 to enable the respondents to file written statement.

Vice-Chairman

lm

16.5.01

List on 22.6.01 to enable the respondents to file written statement.

Vice-Chairman

lm

22.6.01

On the prayer of Ms.U.Das learned counsel appearing on behalf of Mr.S.Sarma learned counsel for the applicant case is adjourned to 27.7.01 for orders.

Vice-Chairman

lm

27.7.01

Mr.A.Deb Roy, Sr.C.G.S.C. requests for time to file written statement. Four weeks time is allowed for filing of written statement. List on 29.8.01 for orders.

Member

lm

29.8.01

List again on 26/9/01 to enable the respondents to file written statement.

Vice-Chairman

mb

26.9.01

Written statement filed. The O.A. may be listed for hearing. The applicant may file rejoinder, if any, within 10 days from today. List on 23.11.01 for hearing.

Vice-Chairman

pg

27.9.2001

OTS on behalf of Repdt. 1, 2, 3 and 4. have been submitted.

No rejoinder has been filed.

22.11.01

Notice duly served on R.No.1475.

No. Wts has been filed.

21.6.2001

No. Written Statement has been filed.

26.7.01

No. Written Statement has been filed.

28.8.2001

Notes of the Registry

Date

Order of the Tribunal

23.11.2001

Adjourned on the prayer of the learned counsel for the parties for obtaining instructions. List for hearing on 19.12.01.

Vice-Chairman

nk m

19.12

on the prayer of Counselor for both the parties, the case is adjourned to 30.1.2002.

Ms. A.K. Das
19.12

30.1.02

Ms. U. Das learned counsel prays for adjournment on behalf of Mr. S. Sarma learned counsel for the applicant, and submit that Mr. Sarma is unable to attend the Court due to his personal difficulty, and prays for adjournment. Mr. B.C. Patha Addl. C.G.S.C. has no objection.

List on 6.3.02 for hearing.

Member

lm

6.3.2002

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

Vice-Chairman

nk m

16.4.2002

Copy of the Judgment has been sent to the Office for issue of the order to the applicant as well as to the Addl. C.G.S.C. for the response.

for 26.4.2002

① WLS has been filed.
② No. rejoinder has been filed.

29.1.02

Notes of the Registry

Date _____

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 6 of 2001

Date of Decision.....6.3.2002

- Shri Jayanta Das - - - - - Petitioner(S)

Mr S. Sarma, Mr U.k. Nair and
- Mr U.K. Goswami - - - - - Advocate for the
-Versus- Petitioner(s)

- The Union of India and others - - - - - Respondent(s)

- Mr B.C. Pathak, Addl. C.G.S.C. - - - - - Advocate for the
Respondent(s)

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

THE HON'BLE

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

Judgment delivered by Hon'ble : Vice-Chairman

No

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.6 of 2001

Date of decision: This the 6th day of March 2002

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

Shri Jayanta Das,
Bakrihawar Pt-I,
P.O. Kalinagar, P.S. Algapur,
District- Hailankandi.

.....Applicant

By Advocates Mr S. Sarma, Mr U.K. Nair and
Mr U.K. Goswami.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication,
New Delhi.
2. The Chief General Manager, Telecom,
Assam Circle,
Ulubari, Guwahati.
3. The General Manager, Telecom,
Silchar SSA, Silchar.
4. The Sub Divisional Officer, Telecom,
Hailakandi.
5. The Sub Divisional Officer, Telecom,
Badarpur.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The issue relates to conferment of temporary status. This is the second round of litigation. The applicant earlier moved this Bench by way of O.A.No.289 of 1999 praying for a direction for conferment of temporary status. The Tribunal considered the said O.A. alongwith other connected O.A.s and by Judgment and Order dated 31.8.1999 disposed of all the connected O.A.s including O.A.No.289/1999, filed by the present applicant, directing the respondents to consider the case of the applicants as per law within the period prescribed.

All the applicants including this applicant were directed to submit representations individually within the period prescribed. According to the applicant the respondents by communication dated 26.4.2000 asked the applicant to appear before the scrutinizing committee on 4.5.2000 with the connected documents. The applicant appeared, but finally by order dated 26.9.2000 he was informed that as per the report of the scrutinizing committee he was not found eligible for conferment of temporary status under any scheme or order of the Department of Telecommunications on the basis of his engagement record in view of the fact that he did not fulfil the eligibility criteria by completing 240 days of service in the Department of Telecommunication in any calendar year preceeding 1.8.1998 and that he was not in engagement as on 1.8.1998. Hence this application assailing the action of the respondents as arbitrary and discriminatory.

2. The respondents contested the case and filed their written statement denying and disputing the claim of the applicant. In their written statement the respondents have stated that the case of the applicant was duly considered, but since he was not in engagement as on 1.8.1998 and did not complete 240 days work in the Department he was not conferred the temporary status. According to the respondents the applicant was initially engaged in December 1995 and worked for 23 days and in January 1996 the applicant worked for 19 days. The applicant had put in work for a total of 42 days spread over a period of two months. The applicant was not in engagement as on 1.8.1998. The respondents also stated that the case of the applicant was duly considered and examined by the verification committee set up for that purpose. The committee examined the paid vouchers and muster roll etc. to work out the engagement particulars of the applicant and on examination of the relevant records it transpired that the applicant was put on duty for 42 days. According to the respondents the certificate issued by the field staff were not authentic record and

could.....

an

could not be relief upon as on verification the contents of the certificate were found to be false and incorrect.

3. We have heard Mr S. Sarma, learned counsel for the applicant and also Mr B.C. Pathak, learned Addl. C.G.S.C. at length. The materials on record indicated that the case of the applicant was considered and according to the respondents and on verification of the record he was found not eligible for conferment of temporary status. In the order dated 26.9.2000, whereby the applicant's representation was rejected, the respondents gave two reasons. One of the reasons was that the applicant did not complete 240 days work in the Department of Telecommunication in any calendar year preceding 1.8.1998 and the other reason was that the applicant was not in engagement as on 1.8.1998. The respondents were directed to consider the case of the applicant on merit. Whether the applicant was in engagement as on 1.8.1998 was not the relevant consideration. The consideration which the respondents ought to have made was as to whether the applicant worked for 240 days in any of the calendar year preceeding 1.8.1998. The applicant has referred to a certificate issued by the Sub-Divisional Officer, Hailakandi. The order did not indicate as to whether that certificate was at all considered. Mr B.C. Pathak, referring to the written statement pointed out that the said certificate was not genuine. The respondents did not produce the original records. An averment in the written statement in view of the manner of the affirmation in the written statement did not inspire any confidence. Needless to state that the verifications are to be made stating the source of the information. The deponent was only the Assistant Director who allegedly did not participate in the scrutiny committee. In the set of circumstances it is difficult to uphold the assertions of the respondents. The applicant does not have any right to be conferred temporary status, but then he is entitled to be considered by the respondent authority fairly and justly. His case is

to.....

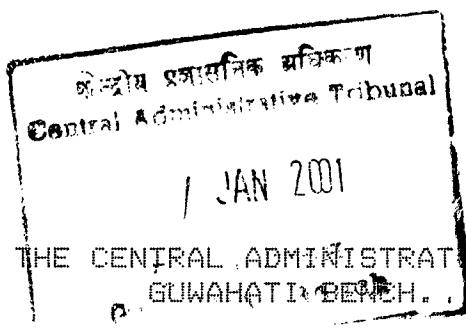
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to be considered in the right perspective. The applicant, if, in fact, worked for 240 days in any calendar year and to that extent if he could establish any reliable materials acceptable to the respondents in that case there is no justification for not considering his case for temporary status. As argued by Mr Pathak, no doubt, the assessment is to be made as to whether he worked for 240 days must be to the satisfaction of the respondents and for that purpose they have to assess the same and pass a reasoned order.

4. In the circumstances the order dated 26.9.2000 is set aside and the respondents are directed to scrutinize and re-examine the case of the applicant as per law by giving opportunity to the applicant to place his materials and after making the assessment the respondents shall pass a reasoned order. The respondents are directed to complete the above exercise within three months from the date of receipt of this order..

5. With the above observations the application is disposed of. No order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN



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

D.A.No. 6/2001 of 2000

BETWEEN

Sri Jayanta Das,
son of Sri Jatindra Chandra Das,
Bakrihawa Pt-I,
P.O. Kalinagar, P.S. Algapur,
Dist Hailakandi.

..... Applicant.

VERSUS

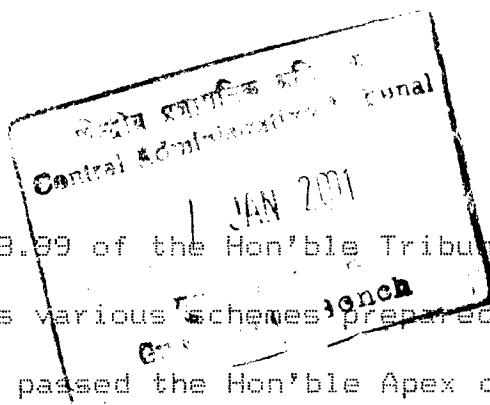
1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Communication,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, Telecom
Assam Circle, Ulubari, Guwahati.
3. The General Manager, Telecom
Silchar SSA, Silchar-1.
4. The Sub Divisional Officer, Telecom
Hailakandi.
5. The Sub Divisional Officer, Telecom
Badarpur.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the order dated 26.9.2000 by which it has been intimated that the case of the applicant have been scrutinised by a committee for conferment of temporary status, however the said committee did not recommend his case for grant of temporary status. This application is also directed against the action of the respondents in not granting temporary status and regularisation thereafter in total violation



of the order dated 31.8.89 of the Hon'ble Tribunal passed in O.A. No.289/99 as well as various schemes prepared in the light of the judgment and order passed the Hon'ble Apex court.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

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

4.2. That the applicant is presently working as casual labour under the Department of Telecommunication since 1988 till date he is continuing in the said post without any break. The applicant entered the service of the respondents in the year 1988 as casual workers. The applicant through this application has prayed for granting of temporary status and regularisation as directed by the Hon'ble Tribunal and in the light of the scheme prepared in the year 1989 and the subsequent clarifications

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issued from time to time.

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

" We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall

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prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents counsel has not chosen to appear and contest at the time of hearing though they have filed a counter affidavit."

24.11.89
1
11/11/89
sustained bench

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

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

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

4.5. That the applicant begs to state that he has been by the respondents as casual worker in the year 1988 . It is perti-

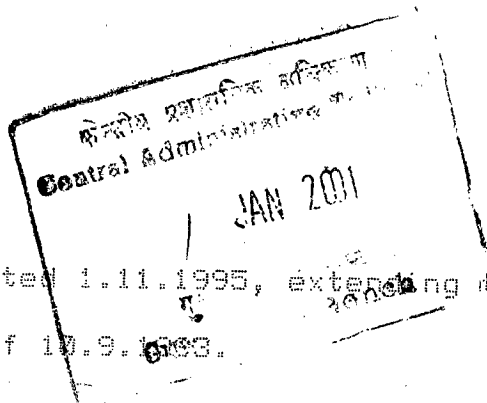
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ment to mention here that the applicant prior to his such appointment, the respondents have placed indent before the District Employment Exchange, and the name of the applicant has been sponsored by the said Employment Exchange.

4.6 That the applicant begs to state that after issuance of the appointment interview was held for the said post of Mazdoor and he was selected for the said post by the said duly constituted interview board. It is pertinent to mention here that till date he is continuing in his posts without any break and each year he has completed more than 240 days of work in a calender year. It is also pertinent to mention here that all of them were recruited prior to issuance of the letter dated 7.11.89 by which the scheme of 1989 for grant of Temporary Status and Regularisation has been circulated. In view of the criteria laid down in the said scheme the applicant are entitled to Temporary Status and subsequent Regularisation just after 7.11.89 i.e, the date on which the aforesaid scheme was circulated. The respondents however, ignoring their claim have been denied the said benefit and till date he has not been conferred with temporary status and subsequent regularisation.

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



an order dated 1.11.1995, extending the said cut-off date up to recruits of 17.9.1993.

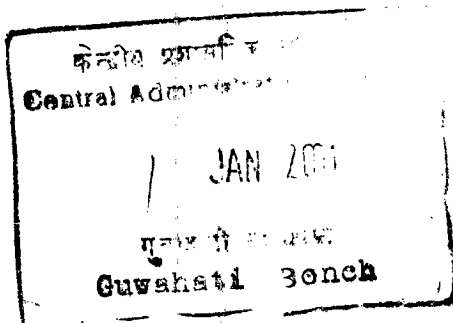
Copies of the orders dated 17.12.93 and 1.1.95 is annexed herewith and marked as ANNEXURE-3 AND 4.

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

The applicant in spite of their best efforts could not collect the copy of the said order and hence prays before this Hon'ble Tribunal for a direction to the respondents to produce the same before the Tribunal at the time of hearing of this case.

4.9 That the applicant begs to state that claiming similar benefit the Union namely, All India Telecom Employees Union, had approached the Hon'ble Tribunal by way of filing O.A. Nos. 299 and 302 of 1996. The Hon'ble Tribunal on 13.8.97 after hearing the parties to the proceeding was pleased to allow the said Original Application in favour of the applicant directing the respondents to extend the benefit of the said scheme of 1989. It is pertinent to mention here that the applicants in the aforesaid OAs have also prayed for a direction to treat them at par with

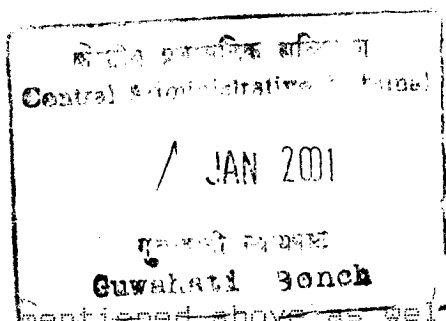
the casual workers of Postal Deptt. as the scheme prepared in their respect was more beneficiary than that of the Telecom Deptt. The Hon'ble Tribunal while disposing of the said OAs was also pleased to grant the aforesaid relief by directing the respondents therein to treat them at par with the casual workers of Postal Deptt.



A copy of the said order of the Hon'ble Tribunal dated 13.8.97 is annexed herewith and marked as Annexure-5

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

4.11. That the applicant begs to state that even after the judgment and order dated 13.8.97 the respondents have not done anything in regard to the granting of Temporary Status pursuant



to the scheme mentioned above as well as the clarifications issued by the respondents to that effect. It is stated that being aggrieved, the present applicant as well as some similarly situated employees like that of applicant have approached the Hon'ble Tribunal by way of filing various Original Applications before the Hon'ble Tribunal and the Hon'ble Tribunal after hearing was pleased to dispose of the said O.As. vide its judgment and order dated 31.8.99 directing the respondents to consider their cases for grant of temporary status and regularisation.

A copy of the order dated 31.8.99 is annexed herewith and marked as ANNEXURE-6.

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

A copy of the order dated 1.9.99 is annexed herewith and marked as ANNEXURE-7.

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

4.14. That as stated above the applicant being aggrieved by the action of the respondents for non consideration of his case for grant of temporary status, was constrained to move the Hon'ble Tribunal by way of filing D.A. No 289 of 99 and the Hon'ble Tribunal was pleased to direct the respondents to consider his case vide its (Annexure-6) judgement and order referred to above. The applicant as per the direction of the Hon'ble Tribunal filed a detailed representation to the authority concerned for consideration of his case for temporary status as well as regularisation in the light of the scheme.

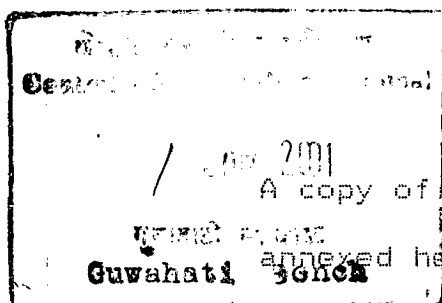
4.15. That the respondents thereafter issued various orders directing the local/divisional heads to furnish the particulars of the applicant before the Committee for scrutinising the eligibility for grant of temporary status as per the scheme. The Sub-Divisional Officer furnished all the relevant document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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

/ JAN 2001

A copy of the said certificate issued by the Sub-Divisional Officer Telegraph is annexed herewith and marked as ANNEXURE-8.

4.16. That thereafter the respondents have issued an order dated 26.9.2000 to the applicant intimating that his case for grant of temporary status can not be acceded to. In the said representation the ground stated by the respondents are firstly that he was not in employment as on 1.8.98 and soundly he did not complete 240 days of service in any calender year.



A copy of the order dated 26.9.2000 is annexed herewith and marked as ANNEXURE-9.

4.17. That the applicant begs to state that the applicant ever since his entry in the service in the year 1988, has completed 240 each year. The aforesaid fact can very well be verified from the Annexure-8 certificate issued by the Sub Divisional Officer Telegraph, Hailakandi. Even in the year 1998 and 1999 he has completed 240 days of service without any break. Till his entry in to service, he has been working continuously without any break not to speak of any artificial break. It is noteworthy to mention here that the respondents i,e, the divisional authority has recommended the case of the applicant for grant of temporary status and subsequent regularisation of the services of the applicant, but now their stand taken in the impugned order is hence baseless and contrary and liable to be set aside and quashed.

4.18. That the applicant begs to state that his case is required to be considered as per the scheme which was prepared pursuant to the Judgement and Order passed by the Hon'ble Apex Court. The direction of the Hon'ble Supreme Court was for preparation of a scheme for those casual who have worked for at least one year completed at least one year of continuous service. The present applicant has completed almost 12 years of sincere and continuous service and as a reward for his such service, the respondents have issued the Annexure-9 order dated 25.9.2000.

4.19. That in fact the impugned Annexure-9 order is in a form of a format for rejecting the claims. From the above fact it can be revealed that the said order has been issued by the respon-

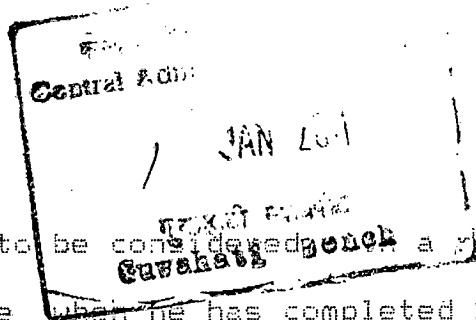
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/ 2001
Guvahati Bench

dents without applying their mind. The direction of the Hon'ble Tribunal contained in Annexure-5 judgment and order was quite clear regarding the method as well the mode of consideration of the cases of the applicants but the respondents have dealt the cases of the applicant as well as other and perhaps they have made mass of it and thereby the case of the present applicant fall within the purview of unqualified candidates. Whatever, be the reason of such non-consideration apparently the action of the respondents speak of total non application of mind and liable to be set aside and quashed.

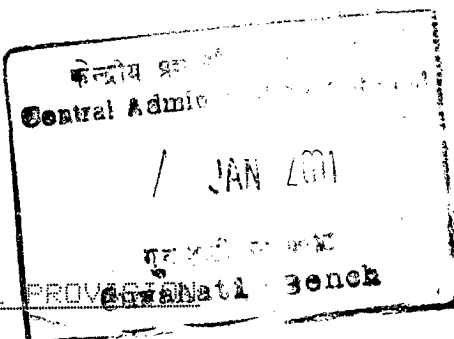
4.20. That the applicant begs to state that as stated above at least 900 posts of Regular Mazdoor has been allotted to Assam Circle, Telecom, and some them have already been filled up by the respondents ignoring the bona fide claim of applicant. It is stated that the respondents by issuing the impugned order has sought to nullify the claim of the applicant only to fill up the said posts by their nearer and dearer. Presently move is going on to fill up the said posts of Regular Mazdoors by some outsiders and hence the applicant having no other alternative approaching the Hon'ble Tribunal praying for setting aside of Annexure-9 order dated 26.9.00 and for grant of Temporary Status and Regularisation in the light of the Scheme as well as the clarification issued by the respondents from time to time.

4.21. That the applicant begs to state that the respondents issued the Annexure-1 scheme pursuant to a verdict of the Hon'ble Supreme Court, wherein the direction was for absorption as far as practicable taking into consideration of at least one year of service. The applicant was appointed as casual worker in the year 1998 following the due processes of recruitment and his case is



liable to be considered ~~on~~ a retrospective effect, i.e, from the date when he has completed 242 days after his initial appointment. Thereafter the respondents have issued the order dated 17.12.93 (Annexure-3) clarifying the dates and the present applicant is also in possession of those qualification and his case is required to be considered at least w,e,f, 1993 if not earlier, for grant of temporary status as well as regularisation. It is pertinent to mention here that the similarly situated employees like that of the applicant have been granted with temporary status much earlier and by now they have been regularised in their respective services/posts.

4.22. That the applicant begs to state that after issuance of the said order dated 26.9.00 (Annexure-9) now he has no other alternative than to approach the Hon'ble Tribunal. The applicant, because of issuance of the aforesaid impugned order dated 26.9.00 (Annexure-9), coupled with the fact that the administrative control have subsequently been changed to the "Nigam", now apprehends that his service may be terminated at any moment. He is still in employment and because of the aforesaid developments his services may be dispensed with at any moment and hence he prays before the Hon'ble Tribunal for an interim order directing the respondents not to disengage them from his present employment till the disposal of the C.A. It is further stated that the respondents have filled up all most 600 posts and till date about 200 posts are being filled up and in fact there are as many as 28 vacancies under the respondents and hence there would be difficulties for the respondents in implementing the interim order as has been prayed for. In case the interim order as has been prayed for is not granted the applicant will suffer irreparable loss and injury.



5. GROUND FOR RELIEF WITH LEGAL PROVISION

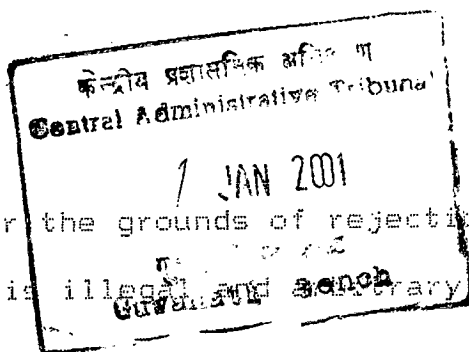
5.1. For that the denial of the benefit of the scheme to the applicant in the instant case by the respondents is prima facie illegal, arbitrary, and violative of Articles 14 and 16 of the Constitution and hence the action of the respondents are liable to be set aside.

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

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

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

5.5 For that the issuance of the Annexure-9.order dated 26.9.00 is illegal, arbitrary and the same depicts total non application of mind of the respondents and the respondents have shown their



inconsistence so far the grounds of rejections of the cases of the applicant which is illegal and arbitrary

5.6 For that the contention raised by the respondents in the Annexure-9 order dated 26.9.00 by which the representation claiming grant of Temporary Status has been rejected is not at all tenable in view of existence of the records and the same is liable to be set aside and quashed.

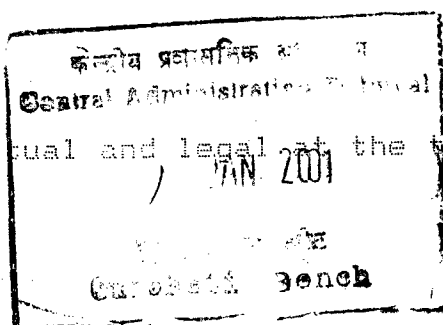
5.7 For that the contentions raised by the respondents in the Annexure-9 order dated 26.9.00 regarding non-fulfillment of minimum requisite qualification as prescribed in the Scheme for grant of Temporary Status and Regularisation is not sustainable in view of existence of order dated 1.9.99 issued by the Department of Telecommunication and hence the same is not sustainable in the eye of law.

5.8 For that the contention of the respondents in regard to ban on recruitment as mentioned in the impugned order dated 26.9.00 is not sustainable as the respondents themselves have placed the indent for filling up the said post of casual mazdoors to the local Employment Exchange and now by issuing the said impugned order and raising the claim of ban on recruitment, the respondents cannot shift their responsibility, and therefore the entire action of the respondents are liable to be set aside and quashed.

5.9. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to ad-

vance more grounds both factual and legal at the time of hearing of this application.



6. DETAILS OF REMEDIES EXHAUSTED:

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

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

The applicant further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully pray that the instant application be admitted, records be called for, and after hearing the parties on the cause or causes that may be shown, and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the Annexure-9 order dated 26.9.00 and any other such orders, with a further direction to the respondents to extend the benefit of the said scheme of 1989 as well as the subsequent clarifications issued from time to time for grant of Temporary Status and Regularisation with retrospec-

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Control & Administration
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tive effect, e, from the date on which he has completed 240 days of service, if not then from 17-12-93, with all consequential service benefits including arrear salary, seniority etc.

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

8.3. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents not to disengage them from service and allow them to work in their respective post.

10. This application is filed through Advocate.

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

1. I.P.O. No. : 69771826
2. Date : 29-12-2000
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

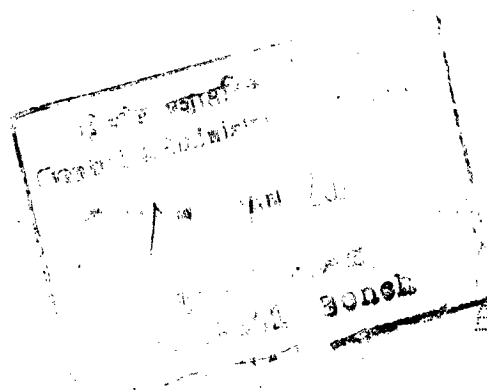
I, Shri ,Jayanta Das , son of Sitendra Ch. Das , aged about 31 years, at present working as Casual Mazdoor, under the General Manager Telecom Silchar SDA., I hereby solemnly affirm and verify that the statements made in paragraphs 1,2,3,4,1,4,2,4,5,4,6,4,8,4,10,4,13,4,14,4,17 to 4,22 and 5 to 12 are true to my knowledge and those made in paragraphs 4(3,4,7,9,11,12,15) and 4,16 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

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

And I sign on this the Verification on this the 16th day of Dec of 2222 .

Jayanta Das
Signature.

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ANNEXURE-1..

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

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

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

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

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

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

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a

*Attested
Amr. Imh
Advocate*

rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the posts and Telegraphs Department".

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

Gd/-

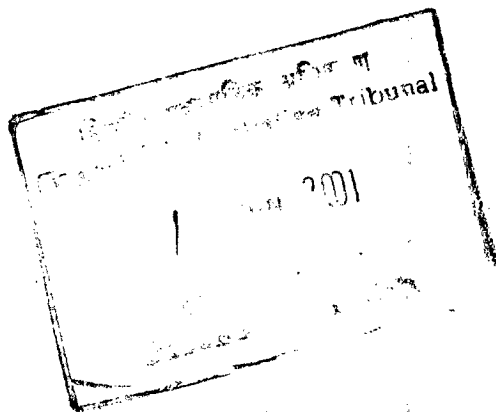
Sd/-

(Ranganath Mishra) J.

(Kuldeep Singh) J.

New Delhi

April 17, 1990.



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CIRCULAR NO.
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

ANNEXURE-2.

No. 269-10/89-STN

New Delhi 7.11.89

To

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

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

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

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

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

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

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

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

*Attended
Ann: Indr
Advocate*

SF/78/98 dated 27.9.89.

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

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

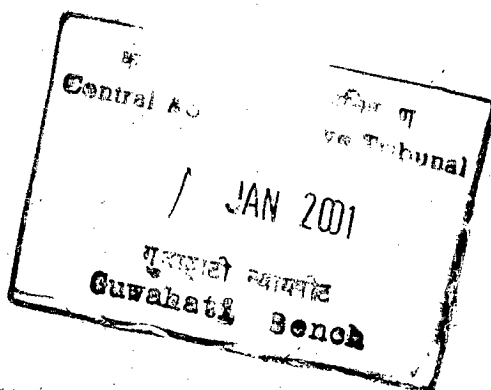
P.S. to Chairman Commission.

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

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).



ANNEXURE

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

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

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

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

Temporary Status.

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

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

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

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

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

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

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

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

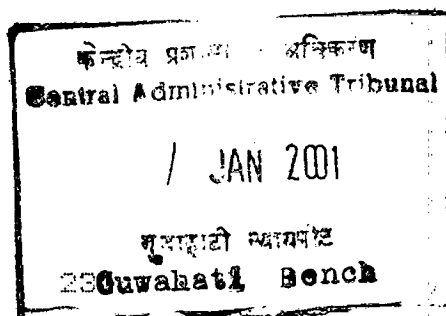
7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

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

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

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

@@@



NO. 269-4/93 STN II
GOVERNMENT OF INDIA.
DEPARTMENT OF TELECOMMUNICATION;
STN SECTION.

Dated New Delhi 17 Dec 1993.

All Heads of Telecom Circles/Metro Telecom Distt.
All Heads of other Administrative Offices.
All Heads of Ntce Regions/Project Circles.

Subj:- Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989 engaged in circles after 30.3.85 and up to 22.06.88.

Sir,

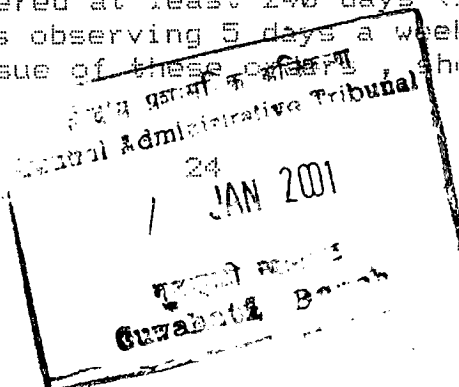
I am directed to refer to this office order no 269-4/93-STN dated 25 th June 1993 , where in orders were issued who were engaged by the project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who are still continuing for such works where they were initially engaged and who were not absent for last more than 365 days continuing from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those casual labourers who were engaged by the circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the circles where they were initially engaged and who are not absent for last more than 365 days continuing from the date of issue of this order, be brought under the aforesaid scheme.

3. The engagement of the casual mazdoors after 30.3.85 in violation of the instruction of the Head Quarter ,has been viewed very seriously and it is decided that all past cases wherein recruitment has been made in violation of instruction of the Head Quarter dated 30.3.85 should also be analyzed and disciplinary action be initiated against defaulted officers.

4. It is also decided that engagement of any casual mazdoors after the issuance of order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Head of the Circle, concerned Class-II Officers and amount paid to such casual mazdoors towards wages should be recovered from the person who has recruited/engaged casual labourer in violation of these instructions.

5. It is further stated that the service of the casual mazdoors who have rendered at least 240 days (206 days in case of Administrative offices observing 5 days a week) of service in a year on the date of issue of these orders should be terminated



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after following the condition laid down in I.D. Act 1947 under section 25 F.G. & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully,

(S.K.Dhawan)
Asstt. Director General (STN.)

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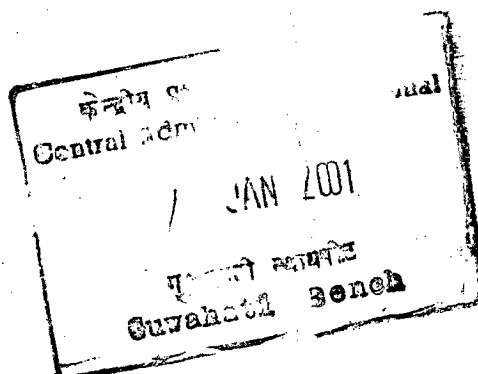
1. All the staff members of Dept. JCM.
2. All recognised Unions/Associations.
3. Budget TE-I/TE-II/SNA/CVC/PAT/NCS/Sr Sections of the Telecom Commission.
4. SPP-I Section Dept. of Posts, New Delhi.

NO. RECTT-3/10 part-II dated at Guwahati, 4.1.94. copy forwarded for information, guidance and necessary action to:-

- 1-2. The AMTs Guwahati/ Dibrugarh.
- 3-8. The TDM Guwahati.
9. The TDEs BGN/DR/SC/TZ/JRT.
- 10-14. The STTs BGN/DR/SC/TZ/JRT.
15. The C.S.C.T.O. Guwahati.
16. The A.E. I/C CTSD Guwahati.
17. The principal CTTC Guwahati.
18. The REM Guwahati.
19. The A.D. (Staff) C.O. Guwahati.
20. The concerned circle Secretaries of Service Unions.

sd/=

(K.S.K. Prasad Sarma.)
Asstt Director Telecom (E. & R.)
O/O CGMT Ulubari, Ghy-7.



ANNEXURE-.4.

EXTRACT.

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

NO.66-52/92-SPB/I

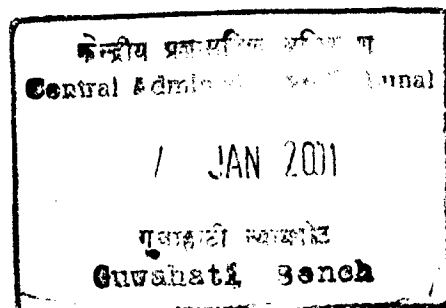
dated 1.11.95.

I am directed to refer to the scheme on the above subject issued by this office vide letter No 45-95/87 SPB-I dated 12.4.91 and 66-9/91-SPB-I dated 30.11.92 as per which full time casual labourers who were in employment as on 29.11.89 were eligible to be conferred "temporary status" on satisfying other eligibility conditions.

The question of extending the benefit of the scheme to those full time casual labourers who were engaged /recruited after 29.11.89 has been considered in the office in the light of the judgement of the CAT Earnakulam Bench delivered on 13.3.95 in O.A. No 750/94 .

It has been decided the full time casual labourers recruited after 29.11.89 and up to 10.9.93 may also be considered for the grant of benefit under the scheme.

This issue with the approval of I.S and F.A. vide Dy. No 2423/95 dated 9.10.95.



ANNEXURE-5.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

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

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

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicant: Shri B.K. Sharma

Shri S. Sharma

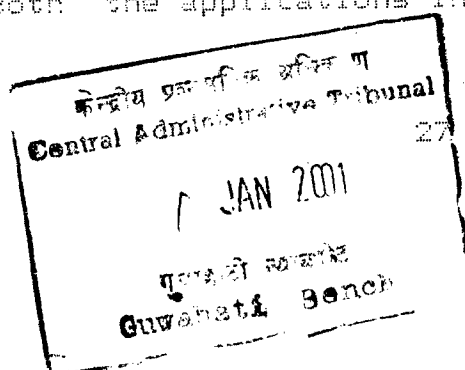
Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

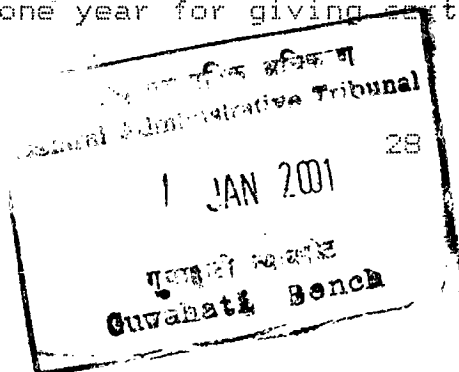
Both the applications involve common question of law



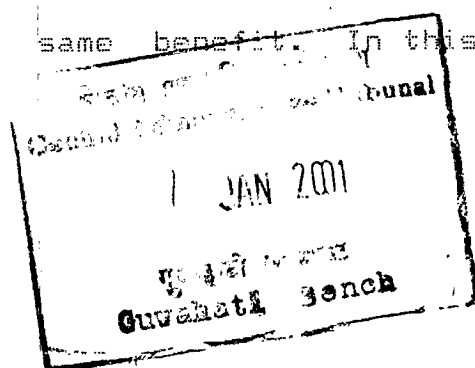
and similar facts. In both the applications the applicant have prayed for a direction to the respondents to give them certain benefits which are being given to their counter parts working in the Postal Department. The facts of the cases are :

1. O.A. No.302/96 has been filed by All India Telecom Employees Union, Line Staff and Group-D, Assam Circle, Guwahati, represented by the Secretary Shri J.N.Mishra and also by Shri Upen Pradhan, a casual labourer in the office of the Divisional Engineer, Guwahati. In O.A. 299/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A. No.299/96 represents the interest of the casual labourers referred to Annexure-A to the Original Application and the applicant No.2 is one of the labourers in Annexure-A. Their grievances are :

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourers working in the Telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicant Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a



scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation) Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94. Pursuant to that judgment, the Govt. of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees



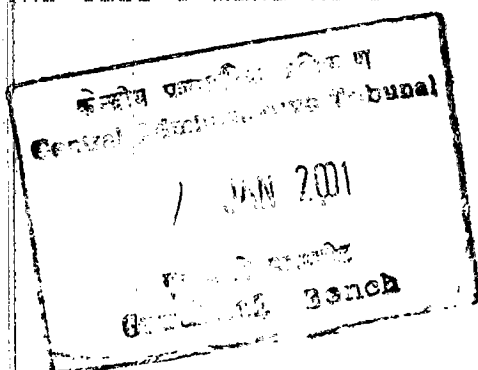
submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

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

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

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

Sd/- Vice Chairman.



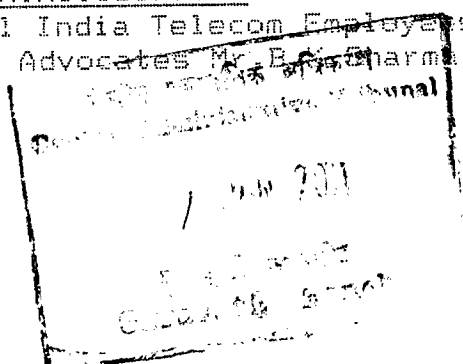
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

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

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

1. O.A. No.107/1998
Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.
.....
2. O.A. No.112/1998
All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.
.....
3. O.A.No. 114/1998
All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.
.....
4. C.A.No.118/1998
Shri Bhuban Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.
.....
5. O.A.No.120/1998
Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.
.....
6. O.A.No.121/1998
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.
.....

9. O.A.No.141/1998

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

- versus -

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

10. O.A. No.142/1998

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

- versus -

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

11. O.A. No.145/1998

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

- versus -

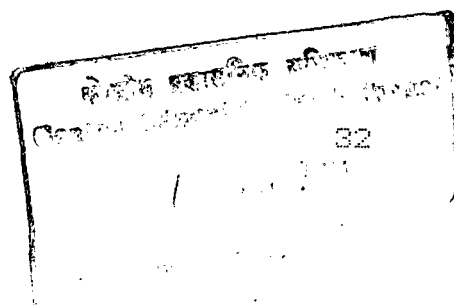
The Union of India and others. Respondents.
By Advocate Mr.A,Deb Roy, Sr. C.G.S.C.
.....

12. O.A.No. 192/1998

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

-versus-

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



13. D.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. D.A.No.269/1998

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

- versus -

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

15. D.A.No.293/1998

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

- versus -

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

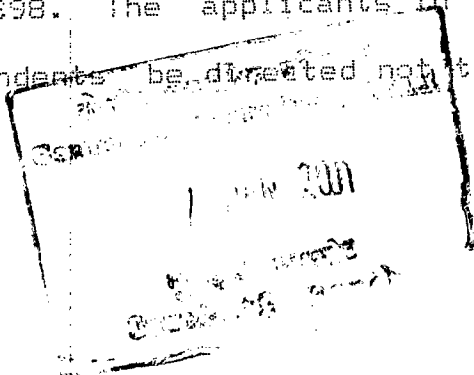
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O R D E R

BARUAH.J. (V.C.)

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

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



45

nating the services of the casual Mazdoors . but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

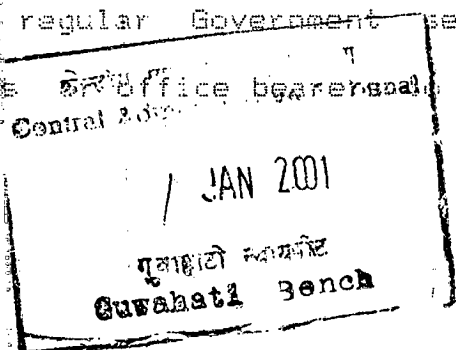
3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation)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



of Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. No.s 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

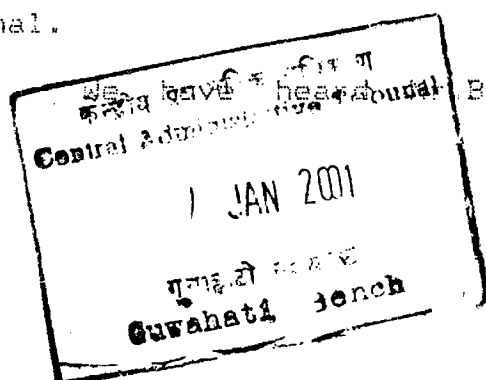
4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders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

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members of the Office bearers of the staff union. Further, the re-



respondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6.

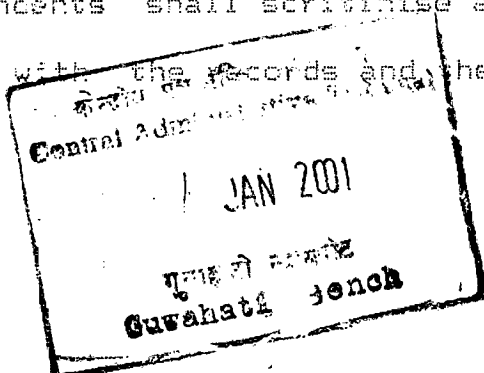


B.K.Sharma, Mr J.L.Sarkar, Mr.I.

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

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

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scrutinise and examine each case in consultation with the records and thereafter pass a reasoned order on

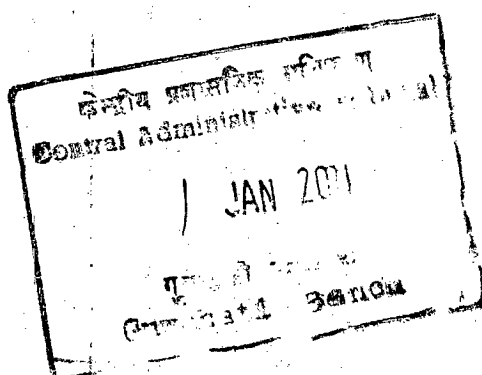


merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)



ANNEXURE. 7

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

Dated 1.9.99.

To

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

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

Sir,

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

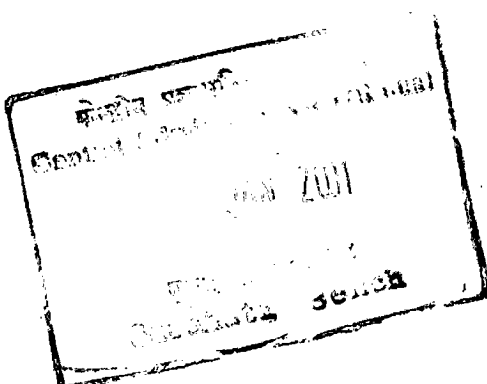
In the above referred letter this office has conveyed approval
on the two items, one is grant of temporary status to the
Casual Labourers eligible as on 1.8.98 and another on regulari-
sation of Casual Labourers with temporary status who are eligible
as on 31.3.97. Some doubts have been raised regarding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

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Fedarations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)



The T.O.E/Sicher.

Sub:- PARTICULARS OF CASUAL LABOURS.

Kindly find herewith a list of Casual Labourers engaged from S.F.O. Phoned/Baderpur, engaged after 31.03.85 and up-to 22.06.88 and these are continued in service. The particulars of Casual Labourers and their particulars are shown below.

No.	Name of casual labourer and their full address.	Caste.	Date of birth.	Spoken in particular.	Year of engagement.	Reason for engagement.	Working days in year wise.
2.	3.	4.	5.	6.	7.	8.	9.

Sri Jayanta Das.	S/O, Sri Jitendra Ch. Das	S/C	15.07.71	1205/83	01.01.1988	Do.	
Vill-Bakrihewar.				XB1.10			
P.O. Kalinagar.							
Dist. Hallakandi.							

Year	Days	Year	Days
1988	- 270	1992	- 247
1989	- 290	1993	- 245
1990	- 245	1994	- 245
1991	- 246		

NO. E-22/Rect/44 95

Sub-Divisional Officer Training
Hallakandi.



GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/TSM Regularisation/SC/05

Dated at Silchar, the 26 -07 -2000

To

Sri Jayanta Das.

s/o Sri Jitendra Ch. Das.

vill. Bakriharwar Pt. I.

P.O. Kalinagar. P.S. Nalgapur.

Dist. Hailakandi.

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Your case in CAT/Guwahati in OA No.

289/99

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. Estt-9/12/PART-1/23 dtd. the 28-03-2000.

The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

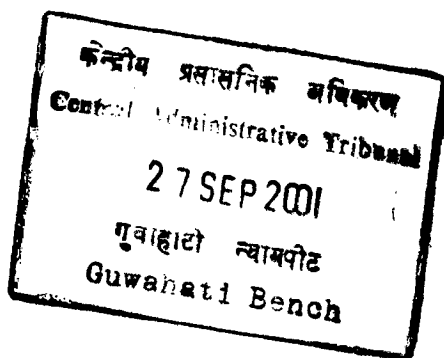
- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceeding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands, disposed of.

General Manager Telecom
Silchar SSA :: Silchar.

General Manager Telecom
SILCHAR



Filed by -

33
26/9/01
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

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

O.A. NO. 6/2001

Sri Jayanta Das

..... Applicant
- Vs -

Union of India & Ors.

..... Respondents.

(Written statements on behalf of the
respondent No. 1, 2, 3 and 4).

The Written Statements of the abovenoted
respondents are as follows :-

1. That the copy of the O.A. 6/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, the respondents have filed the common written statements for all of them.

2. That the statements made in the application which are not specifically admitted, are hereby denied.

3. That with regard to the statements made in para 1 of the application, the respondents state that the order No. E-20/TSM/Regularisation/Sc/05 dated 26.9.2000 was issued by the Respondent No.3 in compliance to the

judgement and order dated 31.8.99 passed by Hon'ble Tribunal, Guwahati Bench in O.A. No. 289/99. The order was passed after due application of mind to the facts and materials of the case.

4. That ~~wikk~~ the respondents have no comments to offer with regard to the statements made in para 2, 3, and 4.1 of the application.

5. That with regard to the statements made in para 4.2 of the application, the respondents state that the Respondents completely deny the averment made in para 4.2. The applicant has not been engaged for any work after June, 96. In this connection, the respondents state that the engagement of daily rates mazdoor is not an appointment to any post. According to rules even for Group 'D' employees the recruitment process according to rules is an essential pre-condition for any appointment to a Govt. post. The applicant was never appointed to any point.

Routine operation and maintenances are attended to by departmental employees of appropriate cadres. In case of any sudden sport of activities or during special Mtoo drive mazdoor are engaged to assist the regular employees such casual engagement of mazdoors are necessiated by unusual situation and is of purely casual or intermittant in nature. When the special occasion disappear or the specific work for which the labour was engaged comes to end, there is no further used for continuous engagement of the labour.

The present applicant was engaged as daily rated

casual labour in December 1995 and put in duty for 42 days .
He is not entitled for the benefit of the Temporary Status
and Regularisation scheme of the Department.

6. That with regard to the statements made in para 4.3, the respondents state that pursuant to the judgement delivered by the Hon'ble Supreme Court of India, the department of Telecom Prepared a scheme in 1989 for regularisation of all casual labourers who have put in atleast 240 days casual service in year. The scheme is known as casual labourers (Grant of Temporary status and regularisation) scheme 1989 and come into effect on 01.10.1989.

The scheme is intended to cover all casual labourers who were on engagement on the day of introduction of the scheme and have completed atleast 240 days in one calender year. Under the provision of the scheme thousands of casual labourers who have put in 240 days have since been regularised.

The Department has imposed a complete ban on engagement of casual labourers w.e.f. 22.6.88 and restraining order was issued to all field units for strict adherence.

The department of Telecom has addressed the situation on humanatarian ground and as an one time relaxation it has been decided that all casual labourers on engagement as on 1.8.98 and have completed atleast 240 days should be granted Temporary status followed by regularisation. In the process the DOT has liberalised the scheme and advanced the cut off date to 01.08.1998.

7. That the respondent/deny the averment made in para 4.5, the applicant was initially engaged in Dec 1995 and worked for 23 days in December 1995 followed by 19 days in January 1996. He has put on duty for a total 42 days spread over 2 months. The applicant has not been engaged for any work, in since February 1996.

8. That with regard to the statements made in para 4.6, the respondents state that in pursuance to the judgement and orders passed by the Hon'ble Tribunal in a host of cases the Responent No.2 formed SSA/Telecom Dist. wise verification committees to verify the claims of the C/Is on the basis of authenticated departmental records as well as those provided by the mazdoor. The committee also granted interview to the mazdoor to present their cases.

The committee examined the paid vouchers, Muster Roll etc to work out engagement particulars of the applicant to assess the eligibility for grant of benefit of the leberalised of the Departmental scheme . On examination of the relevant records it transpired that the applicant was put on duly for 42 days and he is not entitled for the benefit of the scheme even after liberalisation.

The copies of all the records of verification committee are annexed as Annexure - R₁ (series).

9. The with regard to para 4.7 and 4.8, the respondents re-iterate and state that as already explained in foregoing paras, the Department of Telecom Liberalised the scheme by

advancing the cut off date to cover all casual labourers who have completed 240 days and engagement is current as on 1.8.98. The applicant is not entitled for the benefit of its scheme even by liberalised ~~xxxxi~~ standard as he was put on duty formerly 42 days and have not been engaged for any work during the last 5 years.

10. That with regard to the statements made in para 4.9 and 4.10, the respondents state that in the O.A. No. 299/96 and 302/96 it was sought to remove the disparity in the cut off date between the Postal scheme and Telecom scheme. In the relevant period of time the Postal scheme was designed to accommodate all casual labourers engaged up to and eligible as on 10.9.93 while the Telecom scheme covered the casual labourers engaged up to eligible on 01.04.1989. Now that the provision of the Telecom scheme has been liberalised to cover all the casual labourers working as on 1.8.98 and have put in at least 240 days in a year the Telecom scheme turned out to be more liberal and beneficial. In the changed situation reference to Postal scheme or the O.A.s No. 299/96 is not in the interest of the casual labourers of Telecom department.

11. That with regard to the statements made in para 4.11, the respondents state that the Respondent Deptt. has filed W.P. before the Hon'ble Hg Tribunal. The same is still pending before the high court. In view of the liberalisation and relaxation granted by the DOT, as explained in above para, the writ petition/OAs have lost the significance and the Respondent Deptt. has granted more than what was prayed for

in the OAs.

The Respondent department contested the O.A. No. 114/98 by filling the written statement of defence through which the department made a humble effort to present a clear picture of the case. After hearing both sides, the Hon'ble Tribunal was pleased to issue the common judgement and order dated 31.8.99. The respondent Department has acted sincerely to comply with the orders. There is no let up in implimentation of the Hon'ble Tribunal order.

12. That with regard to para 4.12, the respondents ~~that~~ state that the Deptt. of Telecom vide their order dated 12.2.99 and clarified under order dated 1999 extended the benefits ~~in~~ the casual labourers becoming eligible as on 1.8.98.

13. That with regard to the statements made in para 4.13, the respondents state that pursuant to the above orders hundreds of casual labourers, who were found to be eligible have been granted Temporary Status. thHowever, the Respondent could not as yet sanctioned the required post of R.M. for their absorbtion. It is found that the required ⁿ number of post of R.M. does not become justified for creation on the basis of work load as per the prescribed norms. It is therefore, obvious that the field units have engaged more casual labourers than actually justified.

14. That with regard to the statements made in para 4.14 and 4.15, the respondents state that the applicant case was indeed considered and examined by the verification committee

set up for that purpose. The committee worked out the engagement particulars on the basis of the authenticated records including paid voucher Muster Roll .

The certificate issued by field staff is not an authentic record and cannot be relied upon. On verification it is found that the contents of the certificate is false and incorrect.

15. That with regard to the statements made in para 4.16, the respondents state that the verification committee comprising of 1 DE, 2 SDEs and I.A.O, thoroughly scrutinised all paid vouchers and Muster Roll for the entire period to work out the number of days that the applicant was engaged for duty. After such extensive scrutiny the committee found that the applicant worked for 23 days in Dec. 95 and January, 1996. The length of the casual service rendered by the applicant does not make him eligible for benefit of the scheme even by the relaxed and liberalised norms. Based on the findings of the committee, the Respondent No.3 passed the order dated 26.9.2000.

16. That with regard to the statements made in para 4.17, the respondents state that as already submitted the applicant was initially engaged in 12/95 and worked till January 1996. He was not engaged for any work before 12/95 and after 1/96 . Annexure '8' to OA is not supported by corroborate document. No reliance can be made on it. The contents of this cannot prevail over the findings of the verification committee.

17. That with regard to the statements made in para 4.18 and 4.21 the respondents state that the essence of the judgement of the Hon'ble Supreme Court and that of the department scheme is to absorb all casual Mazdoors who have put in duty for at least 240 days in a calender year. As the applicant has not completed 240 days in any year he is not entitled for the relief sought for.

18. That with regard to the statements made in para 4.19, the respondents state that the Respondent No.3 has issued the Annexure-9 order dated 26.9.2000 after due application of his judicious mind taking in to consideration the findings of the verification committee and the provisions of the Department scheme.

19 That with regard to the statements made in para 4.20 and 4.22, the respondents state that as already submitted earlier no post of R.M. has been allotted to Assam Circle. The required posts are to be made available by creation on the basis of workload and prescribed norms. The Respondent carried out the required review and found that adequate number of R.M. posts does not become justified for creation in order to absorb all casual labourers found eligible and granted temporary status. It become obvious that casual labourers were engaged without justification and job requirement. The applicant was engaged in 12/95 and dis-engaged from 2/96 after he had worked for 42 days. He has not been engaged for any work in the last 5 year. His dis-engagement in 2/96 is total and final. His ties with the

department stand finally severed in 1996.

20. That with regard to the statements made in para 5.1 to 5.9, the respondents state that the grounds shown cannot sustain in law at all in relation to the facts and circumstances of the case. Hence, the application is liable to be dismissed with cost.

21. That with regard to the statements made in para 6 and 7 the respondents state that the applicant has made false statements and suppressing the material fact of earlier case that he filed in the Hon'ble Tribunal. Hence, the application is liable to be dismissed with cost .

22. That with regard to the statements made in para 8.1 to 8.4 and 9, the respondents state that in view of the facts of the case, the relevant law and the scheme, the applicant is not entitled to any relief whatsoever as prayed for and hence the application is liable to be dismissed as devoid of any merit.

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

Verification.....

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

I, Shri Ganesh Chandra Sarma, presently working as Asst. Director Telecom. (Legal) O/o CGMT, Guwahati, being competent and duly authorised to sign this verification do hereby solemnly affirm and state that the statements made in para 1 to 7, 9 to 22. are true to my knowledge and belief, those made in para 8, being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 20th day of September, 2001 at Guwahati.


Deponent.

Asst. Director Telecom. (Legal)
O/o the C. G. M. Telecom
Circle, Guwahati-781002

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ANNEXURE-R 1 Series

Government of India
Department of Telecommunications
Office of the General Manager Telecom Silchar SSA:Silchar

No.E-20/Scrutiny/CM/2000-2001/03

Dated at Silchar, 26-4-2K

To

Shri... Jayanta Das
S/o... Sibi J. C. Das
Vill... Bakrikawan Pt. 2
P.O.... Kalinagar
Dist.... Hailakandi

Sub:- Call for appearing before scrutinizing committee of records
Of casual Mazdoors.

You are hereby requested to appear before the scrutinizing committee on 04-05-2002 with the following documents /particulars, in original, on the specified date, time and at the specified venue given below:

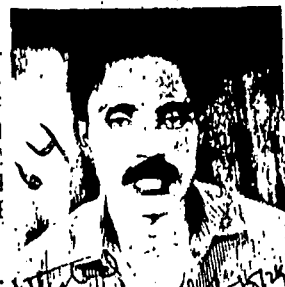
1. Initial engagement particulars as casual mazdoor, appointment order /sponsorship of employment exchange in your possession.
2. All documents i.e. working particulars, payment particulars till last working day, if any, available with you.
3. Age proof certificate.
4. ^{Three} Two copies of recent passport size photographs.

Venue :- Hotel Indraprastha Regency,
Lochan Bairagi Road, Ground floor
Silchar - 788005.

9c

(I. R. PAUL)

Member, Scrutinizing Committee
Divisional Engineer(P&A)
O/o the G.M.Telecom/Silchar
Silchar SSA : Silchar



Accounts Officer
O/o the C...
Silchar - 781001

ation of records of Casual Labourers in Assam Telecom Circle.

Hon'ble CAT Guwahati bench decision dtd. 31-08-99.

1. NAME OF THE APPLICANT CASUAL MAZDOOR : SRI JAYANTA DAS.
2. O/A NO. IF THE LABOURER HAS GONE TO COURT : 289/99
3. FATHER'S NAME AND ADDRESS : Sri. Jitendra Ch. Das
Vill - Barakharwar Purb-1
PO - Kalinagar, PS - Hajo
Dist - Itanagar
4. DATE OF BIRTH : 15-07-71
5. AGE AS ON 01-08-1998 : 27 yrs. - month 17 days
6. DATE OF INITIAL ENGAGEMENT : 04-12-1995
MODE OF SELECTION (THROUGH EMPLOYMENT EXCHANGE OR ANY OTHER METHOD : Engaged locally
7. NATURE OF DUTY PERFORMED : Helper to the line staff for erect & construction of telecom outdoor plants
8. PRESENT STATUS OF THE MAZDOOR : Not in work
9. SPECIMEN SIGNATURE OF THE MAZDOOR : Jayanta Das
10. ENGAGEMENT PARTICULARS FROM THE DATE OF INITIAL ENGAGEMENT (as per attached sheet) TILL 01-08-98 : Separate sheet attached
11. RECOMMENDATION OF THE COMMITTEE WHETHER CASUAL LABOUR SHOULD BE GRANTED TEMPORARY STATUS OR NOT KEEPING IN VIEW GIDE LINE : Not recommended for granting temporary status
12. RECOMMENDATION OF THE SSA HEAD/UNIT : Not recommended
General Manager Telecom
SILCHAR

9/6/2000
802/2202/914

Circle Office member

AO/SSA
(cash) 9/6/2000

9/6/2000
DE (P&A)/SSA/SC

5

A blank sheet of graph paper with a grid pattern. The grid consists of horizontal and vertical lines forming small squares. A diagonal line runs from the bottom-left corner towards the top-right corner, passing through several grid intersections. The paper appears slightly aged or off-white.

(Sankar Das)
SDE(RR/CH)
(Circle Office Member)

[Signature]
 (L.R. Paul)
 D.E. (P&A)
 O/O the GMT/Sc



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ANNEXURE-4
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER TELECOM SILCHAR
SILCHAR SSA :: SILCHAR

No. E-20/TSM Regularisation/SC/05

Dated at Silchar, the 26 - 09-2000

To

Sri Jayanta Das
S/o Sri. Jitendra Ch. Das
Vill. - Bakriharwar Pt. I.
P.O. Kalinagar P.S. Aitgaon
Dist. Hailakandi

Sub: - Grant of Temporary Status Mazdoor.

Ref: - Your case in CAT/Guwahati in OA No. 289/99

With reference to the above, you are hereby intimated that as per the instructions of the Hon'ble CAT/Guwahati in the case in OA No. referred above, your engagement particulars were thoroughly scrutinized and examined by a committee in consultation with the records. The committee was formed in this SSA as per the instructions of CGMT, Assam Circle, Guwahati vide Memo No. East-9/12/PART-1/23 dtd. the 28-03-2000.

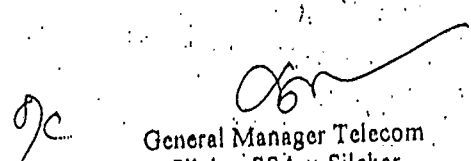
The committee after through scrutiny and examination of records submitted its report to the undersigned.

As per the said committee report, you were not found eligible for conferment of Temporary Status Mazdoor under any scheme or order of DOT, including one time relaxation given by Telecom Commission vide order dt. 12-02-1999, on the basis of your engagement records, as you did not fulfil the minimum eligibility criteria i.e.

- 1) You did not complete 240 days work in Department of Telecom. in any calendar year preceeding 01-08-1998.
- 2) You were not in engagement as on 01-08-1998.

The committee did not recommend your name for conferment of Temporary Status Mazdoor.

Under the circumstances stated above, your request for granting Temporary Status Mazdoor cannot be acceded to and as such your representation stands, disposed of.


General Manager Telecom
Silchar SSA :: Silchar.

General Manager Telecom
SILCHAR