

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 149/2001

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SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

Original

ORDER SHEET
APPLICATION NO 149 ... OF 2001.

Applicant (s) B.K. Bhattacharjee

Respondent (s) U.O.L. Govt

Advocate for Applicants (s) J.L. Sarkar, S.Deka,

Advocate for Respondent (s) A. Chakravarty
Case

Notes of the Registry | Date

Order of the Tribunal

This application is in form
but not in time Condonation 23.5.01
Petition is filed on filed side
M.P. No. 26503 928
for Rs 50/-
IPO/B
Dated 21.11.2000

Admit. Issue Notice. Call for the
records. Notice returnable by four weeks.

List on 27.6.01 for further
orders.


Vice-Chairman

trd

Requists filed.

NB
24/5/2001

27.6.01

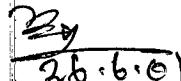
Mr. J.L. Sarkar learned counsel
for the applicant stated that the case
of the applicant is under active consideration.
There is every possibility that
the applicant may obtain relief
departmentally. In view of the matter
it would not be appropriate to proceed with
the present application stands disposed
of. The present proceeding has stands disposed
of. It is leaving open to the applicant
to move this Tribunal if such occasion
arises.

+ discontinued,

Vice-Chairman

⑪ Service report will
still awaited.

lm


26.6.01

27.6.01

Copy of the Order
dtol. 27.6.01 Sent
to S. Section 607
issuing of the Service
to the learned Adv.
for the parties.

Zg
12.7.01

lm

Mr. J. L. Sarkar learned counsel for the applicant stated that the case of the applicant is under active consideration, there is every possibility that the applicant may obtain relief departmentally. In view of the stand taken, it would not be appropriate to proceed with the present application. The present proceeding ~~this~~ stands discontinued, leaving open to the applicant to move this Tribunal if any such occasion arises. The OA is accordingly disposed.

hr
Vice-Chairman

Before the Central Administrative Tribunal

Guwahati Bench : Guwahati

D.A. No. 149/2000.

Sri Bijit Kanti Bhattacharjee

-Versus-

Union of India.

Filed by the Applicant
Plaintiff : Sri Devar
Advocate
Date : 09.07.2000
Bijit Kanti Bhattacharjee

I N D E X

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Filed By Mrs. S. Devar.
Advocate.

Before the Central Administrative Tribunal

Guwahati Bench : Guwahati

O.A. No. . . 149. . . /2000.

1. Sri Bijit Kanti Bhattacharjee
Son of Late Manoj Kanti Bhattacharjee.
Resident of Umpling,
Shillong, Meghalaya.

Applicant

-Versus-

1. Union of India

Through Secretary to the
Govt. of India,
Telecom Department,
New Delhi.

2. Chief General Manager,
N. E. Telecom Circle,
Shillong.

3. Executive Engineer,
Telecom Electrical Division,
Shillong.

• • • Respondents.

Contd . . . 2/-

Details of Application :

1. This application is made for granting temporary status and absorption as regular employee.

2. Jurisdiction :

The applicant declares that cause of action arose within the jurisdiction of this Tribunal.

3. Limitation :

That the present application has been filed within the prescribed period of limitation as per the C.A.T. Act, 1985.

4. Facts of the Case :

4.1. That the applicant is a citizen of India and as such is entitled to the rights and privileges ^{u/a} granted by the Constitution of India.

4.2. That the applicant passed H.S.L.C. Examination from the Meghalaya Board of School Education in 1987. The applicant was appointed verbally as casual labour in the office which is attached to Telecom Electrical Division, Shillong w.e.f. 1.9. 91. The applicant worked in 1991, 1992, 1993, 1994, 1995, 1996 and 1997 he earned temporary status by operation of law but the respondents did not formally grant temporary status to him and he was also not given the benefits to which temporary status employee is entitled.

A copy of the statement of casual labour issued from the office of the Executive Engg. Telecom Electrical Division, Shillong is enclosed as Annexure - A.

4.3. That the applicant begs to state that he was appointed as casual employee in the Telecom Electrical Division, Shillong

Bijit Kanti Bhattacharya

on contract basis. The nature of duties allotted to him was typing, checking of T.A. , Medical Bill etc which was permanent in nature and treated as D.R.M and paid as such.

4.4. That the applicant begs to state that there are vacancies in the Deptt. of Telecom, and that his service was also against existing works works which were of perennial nature. He has represented by written and also in person before the Depaftmental Authority for formally granting temporary status. But most unfortunately no formal communication granting temporary status has been issued. In this connection, Executive Engineer Telecom Electrical Division, Shillong wrote letter dt. 27.5.98 to the Superintending Engg. for granting temporary status of the applicant with the contention that his service were dispensed with due to sufficient number of regular staff having been posted in the Division in 1997.

Copy of the letter dt. 27.5.98 is enclosed as Annexure - B.

4.5. That the applicant begs to state that as per casual labourers (Grant of temporary status and Regularisation) Scheme he is eligible to be declared as T.S.M. The applicant was discharging his duties efficiently to the satisfaction of his superior officers.

4.6. That the applicant has not been given temporary status although other employees working with him and joining after him also have been granted temporary status. That the applicant has approached the office and has come to know that his service has been dispensed with due to excess number of regular staff,

4.7. That the applicant has worked more than 240 days a year and total service is 7(seven)years. The applicant begs to state

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that this Hon'ble Tribunal has in a number of cases been pleased to pass orders for regularisation of the service of the Casual Workers who has rendered service for more than 240 days and for long period. The Hon'ble Apex Court has also in a number of cases upheld. The cause of regularisation of the service of all those who worked for long period continuously, in Surinder Singh & another - vs - Engineer - in - Chief C.P.W.D and others (1986) I. S.C.C. 639, the Supreme Court held that "The Central Government, the state Government and Public Sector undertakings are expected to function like model and enlightened employees ". In this case the Supreme Court held as under, "We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than Six months".

In Daily rated Casual Labour - vs - Union of India & Ors. (1988) S.C.C. 122, the Hon'ble Supreme Court held.

" The sense of belonging arises only when he feels that he will not be turned out of employment at the whim of the management. It is for that reason that as far as possible security of work should be assured to the employees so that they may contribute to the maximisation of production. It is again for this reason that managements and the Governmental agencies in particular should not allow workers to remain as casual labours or temporary employees for an unreasonable long period of time ".

4.8. That the applicant begs to submit that not granting temporary status/not absorption after such long period of service is arbitrary and not just and fair. This is violative of Articles 14, 16 and 19 of the Constitution.

4.9. That the applicant begs to state that he has also submitted representation to the Superintending Engineer (H/Q) O/O The Chief Engineer (E), East Zone Deptt. of Telecommunication, dt. 14.2.97, and 31.7.98. It is stated that he has also submitted various representation to the Supdt. Engineer and Executive Engineer for granting temporary status/absorption in service. It is stated that the applicant has not received any reply from the respondents and therefore submitted a representation before the Hon'ble Minister of State for Communication, Govt. of India, New Delhi.

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Bijit Kanti Bhattacharya

Copies of the representation to the Supdt. Engineer dt. 31.7.98 and 27.7.98 to the Ex. Engineer dt. 15.4.98 and to the Hon'ble Minister of State dt. 7.9.98 are enclosed as C, D, E, and F respectively.

4.10. That the applicant begs to state that on receipt of the representation the Hon'ble Minister of State for Communication gave a direction to the respondents to consider the case of the applicant, Thereafter the Asstt. Director, Telecom (PR) for Chief General Manager vide letter No. N E P R 99-23 dt. 3rd Feb. 99 directed the Executive Engineer (Electrical) Shillong to submit detail report of the matter immediately. But, till date no action has been done.

The copy of the letter dt. 3.2.99 is enclosed as Annexure - G.

5. Grounds with Legal Provision :

5.1. For that the applicant is entitled to Temporary status under provisions of instruction of Law.

5.2. For that the applicant deserves to be regularised in service for his working against regular vacancy for long period.

5.3. For that the applicant was taken to job of perennial natures and deserves to be regularised in service.

5.4. For that he has worked for more than 240 days in a year and has worked for 7 (seven) years.

5.5. For that non-regularisation of service and non-conferring of temporary status is violative of Act. 14 and 16 of the Constitution of India being arbitrary and whimsical.

5.6. For that the applicant's service deserves to be regularised and reinstate because he has worked for long period against regular job.

5.7. For that the applicant is entitled to the reliefs under the directive principles of state policy.

6. Details of Remedies Exhausted :

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court/Tribunal :

The applicant further declares that he has not previously filed any application, writ petition or suit before any court or any other Tribunal nor any such application, Writ petition or Suit is pending before any Tribunal or Court.

8. Reliefs Sought for :

Under the facts and circumstances of the case the applicant prays for the following relief :

Bijit Kanti Bhattacharjee

8.1. The applicant should be given temporary status from the date after completion of 240 days and be given the benefits of temporary status with arrears from retrospective effect.

8.2. The service of the applicant should be regularised and reinstate the applicant in his service.

8.3. Any other reliefs the Hon'ble Tribunal may be pleased to grant.

8.4. Cost of the case.

9. Interim Relief Prayed for :

N. 13.

10.

This application has been filed through Advocate.

11. Particulars of Postal Order :

i) I.P.O. No. : 2G 503978

ii) Date of Issue : 21.11.2K.

iii) Issued from : G.P.O. Guwahati.

iv) Payable at : Guwahati ..

VERIFICATION

And I sign this verification on this
.30th day of November, 2000, at Guwahati.

Date :

Place : Guwahati

Bijit Kanti Bhattacharya

Signature

STATEMENT OF CASUAL LABOUR (GRANT OF TEMPORARY STATUS)

Sl. No.	Name of Casual Labour and address	Office to which attached	Employment Exchange Regn. No. & Date	Present Status	Date of Birth	Nationality whether SC/ SC/OSC	Qualification	Actual date of engagement	No. of days Present	Year	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
1.	Shri Bijit Kanti Bhattacharjee, Plot No.5, Umpiling, Rynjah, Shillong-793006.	Telecom. Electrical Division, Shillong.	2810/96 dt.22.11.96	Casual	1-2-73	Indian (General)	H.S.L.C.	1-7-91	93 days 266 days 262 days 264 days 223 days 234 days 192 days	1991 1992 1993 1994 1995 1996 1997	(upto Oct. '97)
2.	Miss Sunita Nongkhlaw, Nongrimma, Arbuthnot Road, Shillong-793011.	Telecom. Electrical Division, Shillong.	W-282/95 dt.16-3-95	Casual	25-10-73	Indian (S.T.)	P.U. Arts.	1-2-94	209 days 223 days 234 days 173 days	1994 1995 1996 1997	(upto Oct. '97)

Executive Engineer(Elect.)
Telecom. Electrical Division,
Barik, Shillong - 793001.

These Casual labourers have been engaged
on temporary basis during the
interim period
continuously.

DEPARTMENT OF TELECOMMUNICATIONS

No:-16(4)97/TED-SHG/ 189

Date: 21/11/97

Copy to: The Superintending Engineer, Telecom. Electrical Circle, Guwahati w.r.t. SE(HQ) O/o CE(E) DOT NE Zone, Guwahati's No. 1(40)94/CE-NEZ/GH/1239 dt. 5-11-97.

Executive Engineer(Elect.)
Telecom. Electrical Division,
Barik, Shillong - 793001.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE EXECUTIVE ENGINEER: :TELECOM ELECTRICAL DIVISION::
SHILLONG 793001

o.16(4)97/TED-SHG/600

Dated Shillong, the 27 May, 1998

To

The Superintending Engineer(HQ)
o/o Chief Engineer (Civil),
D.O.T. Eastern Zone,
Guwahati.

Subject:- Grant of Temporary Status to a Casual Employee -
Case of Shri Bijit Kanti Bhattacharjee -

Enclosed kindly find herewith one representation
dated 15-4-98 and its enclosure submitted by the above named
individual on the above mentioned subject.

The said individual was engaged by this office
casually on a 'no work no pay' basis for the past few years
owing to the extreme shortage of staff in the Division.

As far as could be ascertained from the records
maintained in this office, the said individual was engaged
intermittently since 1992 as and when the exigencies of work
demanded his services. No formal written memorandum was
issued towards his engagement nor was any promise made for
regularising him in the Department.

Consequent on the sufficient number of regular
staff having been posted in the Division in 1997, his services
were dispensed with.

The case is sent herewith for favour of your
perusal and order, please.

Enclo: 2 (Two) Nos.

(A. K. AGARWAL)
Executive Engineer
Telecom. Electrical Division
Shillong-793001

D.V.
25/5/98

To

The Superintending Engineer [H/Q]
O/o The Chief Engineer [C]
East Zone, DoT,
N.E.Zone, Mitra Building,
Assram Road, Ulubari,
Guwahati - 781 007
[ASSAM]

Subject : In the matter of granting of temporary status to a casual employee.

Ref : Original submission of Bijit Kanti Bhattacharjee before the Superintending Engineer [H/Q], East Zone, DoT, Guwahati - 7 on 24th September '97 followed by further submission in December '97.

Sir,

I beg most respectfully to approach you with the following humble prayer in the earnest hope that it will meet with your kind consideration.

I laid before your honour for considering my prayer in the matter of granting me temporary status by regularising my service under casual labourers [grant of temporary & regularisation] schemes vide my original representation referred to above copy of which is now appended hereto for your ready reference. It is my misfortune, that I have not yet received any reply from your end inspite of my best service rendered under the Executive Engineer [E], Telecom Electrical Division, Barik, Shillong -703 001 during the period from 1-7-91 to 31-8-97 [with only a gap of 103 days from 01-01-92 to 12-04-92] with perfection and satisfaction of my office master, which is evident from the certificate issued by the Executive Engineer [Electrical], Telecom Electrical Division, Shillong, the copy of which is also here by enclosed in this context for your kind perusal.

It is a matter of great shock for me only when I was sacked verbally on 31-08-97 by the said authority without assigning any reason what so ever and thus thrown me out of my job at a time when I was looking eagerly for my regularisation.

Here is a brief resume of my qualification, experiences [in Telecom department] and other important particulars of candidature which I hope will give your high office a profile of my eligibility for my regularisation as well as approval of temporary status for which I pray once again most humbly and sincerely to your benevolency.

contd. p/2

Received.

1/1
PROGRESSIVE ENGINEERS
ASSAM PROFESSIONAL ENGINEERS
11-12-1998

SK
7/12/98.

1. Name : Bijit Kanti Bhattacharjee.
2. Present address : Plot No. 5, Umpling, Rynjah, Shillong - 793 006, Meghalay.
3. Educational Qualification : HSLC [Passed]
4. Office experiences : Worked as Casual Labourer [under Grant of Temporary and Regularisation Scheme] in the office of the Executive Engineer (E), Telecom Electrical Division, Shillong since 01-07-91.
5. No of days engaged in work.

<u>Days</u>	<u>Year</u>
93 days	1991
266 days	1992
262 days	1993
264 days	1994
223 days	1995
234 days	1996
192 days	1997 [upto October 1997]

6. Employment Exchange Registration No. & Date : 2810/96
dt. 22.11.97.

6.(A) Date of Birth : 01-02-1973

7. Nationality : Indian

8. Category : General

9. Nature of duties in which engaged :

- (a) : Typing work
- (b) : Receipt & Despatch of official letters / documents etc.

10. Present status : Presently thrown out of my engagement verbally.

11. Financial condition of family :

In acute hardships being unemployed.

12. Any other member of the family employed :

: Nil

13. No. of family members dependent on me :

- (a) : Younger brother- still in School
- (b) : Mother -ailing & bedridden being old & infirm.

14. Present condition of the family - In great distress.

contd. p/3

In consideration of my above background as well as CAT's [Kannakulam Bench] Judgment of 1995, I pray to your kind authority to be pleased to review the whole matter in the interest of equity and natural justice and thus by extending benefit of engagement to the poor and wretched petitioner conferring at the same time 'Temporary Status' and thus to save the petitioner [along with his family members] from utter helplessness, and starvation and for which act of your graciousness the entire family including the humble petitioner would remain ever indebted to you.

In fine, I beg to assure you of perfect satisfaction as I did earlier by careful and conscientious discharge of my duties if you would very kindly favour me with your kind selection on approval as prayed for.

While looking forward I remain Sir, most obediently,

Date : 31-7-98

Yours faithfully,

Bijit Kanti Bhattacharjee

[Bijit Kanti Bhattacharjee] 31/7/98
Plot No. 5, Umpling
Shillong - 793 006,
Meghalaya.

Copy for favour of information forwarded to :

Executive Engineer [E],
Telecom Electrical Division,
Temple Road, Barik,
Shillong - 793 001

Bijit Kanti Bhattacharjee

[Bijit Kanti Bhattacharjee] 31/7/98
Plot No. 5, Umpling
Shillong - 793 006,
Meghalaya.

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✓ The Supdt. Engineer(H.Q).
 O/O the Chief Engineer(Civil)
 Dept. of Telecommunications.
 Mitra Bldg. Ulubari.
Guwahati-7.

Sub:- Grant of temporary status to a casual employee.

Sir,

In inviting a reference to my representation dated 24 th September, 1997, dt. 20.12.97 and letter dt. 15.4.98 on the subject stated above I beg to state that though I have been eagerly looking forward to know the fate of my representation I have not favoured with a reply thereto as yet.

I fervently pray that you would be kind enough to look into my prayer sympathetically and save me and my family from utter distress.

Yours faithfully

Bijit Kanti Bhattacharjee
 (Bijit Kanti Bhattacharjee)
 Plot No. 5 Umpling.
 Shillong.

Copy for favour of kind perusal, information and consideration forwarded to the Executive Engineer(E), Telecom Electrical Division, Temple Road, Barik, Shillong. 793001. with reference to my last submission dated 15th April '98.

In this connection my original prayer dated 14th Feb. '97 followed by my reminders there to dt. 24th Sept. '97, Dec. '97 may also kindly be referred to.

Yours faithfully

Bijit Kanti Bhattacharjee
 (Bijit Kanti Bhattacharjee)
 Plot No. 5 Umpling.
 Shillong.

Dated:- 27th July '98.
Shillong.

p/c.

Received

27/7/98

*O/O, Executive Engineer (E)
 Telecom Electrical Division
 Barik, Shillong 793001*

To,

The Executive Engineer (E)
Telecom Electrical Division,
Temple Road, Barik,
Shillong - 793 001

Sub : Grant of temporary status to a casual employee.

Sir,

In inviting a reference to my representation dated 24th September, 1997 on the subject stated above I beg to state that though I have been eagerly looking forward to know the fate of my representation I have not favoured with a reply thereto as yet.

I fervently pray that you would be kind enough to look into my prayer sympathetically and save me and my family from utter distress.

Dated:

The 15th April, 1998
Shillong.

Your's faithfully

Dijit Kanti Bhattacharjee
(Dijit Kanti Bhattacharjee)

Enclo : Letter no. 24/9/97.

Recd.
B.M.
23/4.

Despatched : 23/4
To the Executive Engineer
Telecom Electrical Division
Barik, Shillong - 793 001.

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER N.E.TELECOM CIRCLE
SHILLONG- 793 001

No: NE/PR 99-23

Dated at Shillong the 3rd February 1999

To,

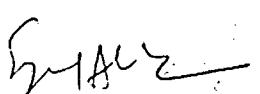
The E.E(Electrical)
Subra Building, Barik
Shillong-1

Sub:- Humble representation before the Hon'ble Minister Shri Kabindra Purkayastha, MOS(C), New Delhi in the matter of granting of temporary status to Shri Bijit Kanti Bhattacharjee, Ex Casual labourer, Telecom Electrical Division, Shillong by regularisation of his past Services consisting of 1534 days covering from the year 1991 to 1997.

A copy of letter No. N.I. dated 7.9.98 received from Shri Bijit Kanti Bhattacharjee, Shillong addressed to Shri Kabindra Purkayastha, Hon'ble MOS(C), New Delhi alongwith its enclosure on the above subject is forwarded herewith for your kind information, necessary action and submission of detailed report in the matter immediately within 3(three) days time to the undersigned for onward transmission to Directorate please

THIS MAY BE TREATED AS MOST URGENT PLEASE.

Enclo - As above


(S.A. Ali)
Asstt. Director Telecom (PR)
for Chief General Manager
N.E. Telecom Circle, Shillong