

30/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 17/1/01.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....OA.....Pg. 1.....to 2.....

2. Judgment/Order dtd. 6.2.2002.....Pg. 1.....to 2 dismissed

3. Judgment & Order dtd.....Received from H.C/Supreme Court

High Court order w P(c) 498/04 page - 1 to 7
4. O.A.....17/1/01.....Pg. 1.....to 20.....

5. E.P/M.P.....Pg.....to.....

6. R.A/C.P.....Pg.....to.....

✓ 7. W.S.....Pg. 1.....to 5.....

8. Rejoinder.....Pg.....to.....

9. Reply.....Pg.....to.....

10. Any other Papers.....Pg.....to.....

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

office no page - 1

SECTION OFFICER (Judl.)

Sakshi
6.12.17

FORM NO.4
(See Rule 42)

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

ORDER SHEET

original APPLICATION NO17.....OF 2001.

Applicant (S) P.K. Benayee & others

Respondent (S) Union of India & ors

Advocate for Applicants (s) M. Chandra, Mrs. N.D. Gosami, G.N. Chakrabarty

Advocate for Respondent (s) case.

Notes of the Registry

Date

Order of the Tribunal

127.6.01

Application is in form
but not in time Coordination
Petition is filed not filed vide
M. P. No. C F.
for Rs. 50/- deposited vide
IPO/BD No. 667921.00
Dated.....9.5.2001

[Signature]
Dy. Registrar
3/6/01

lm

Heard learned counsel for the parties.

Application is admitted. Call for records. Issue notice on the respondents. List on 1.8.01 for orders.

[Signature]
Vice-Chairman

1.8.01

List on 31.8.01 to enable the respondents to file written statement.

[Signature]
Vice-Chairman

lm
31.8.01

List again on 28.9.2001 enabling the respondents for filing of written statement.

By Order

[Signature]
3/8

List on 23.11.01 for filing of written statement.

[Signature]
Vice-Chairman

lm

Requisites not yet filed.
3/7/01

Steps are received
6/7/01

Notice prepared and sent
to S/L for minor dlu Respondent
No 1405 by Regd ALO vide
DINo 2448/2452 dtd 11/7/07
28.9.01

[Signature]
3/8/07

No. written statement has
been filed. 30.8.01

[Handwritten note]
Steps not taken
3/8/01

No Written Statement
has been filed.

24
27.9.01

23.11.01

Written statement has been filed.
The Pleading are completed. The
case may now be listed for hearing
on 21.12.01 for hearing. The applicant
may file rejoinder if any within 2
weeks.

Vice-Chairman

18.10.2001
Wfs on behalf
of the Respondent has
been submitted. lm

21.12.01

Mr. B.C.Pathak, learned Addl. C.G.S.C.
prays for short adjournment on the ground
~~the grounds~~ that he wants to get some
material. Mr.M.Chanda, learned counsel for
the applicant has no objection. List on
6.2.2002 for hearing.

No rejoinder has
been filed

24
20.12.01

Member

mb

No rejoinder has
been filed

6.2.2002

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

Vice-Chairman

18.2.2002

Copy of the Judgment
has been sent to the
Office for hearing
the case to the applicant
as well as to the
Addl. C.G.S.C. for the
Respondent.

nk m

24
20/2/02

WP(C) No. 4981 of 2004 received from the Honible Gauhati High Court with case record.

The judgment and order (oral) dated 16/07/09 passed by the Honible High Court in WP(C) No. 4981/2004 received from the Registry of the Honible High Court along with the case record of the CAT, Guwahati Bench O.A. No. 171/2001 which the case records was called for.

The WP.(C) was ^{filed} challenge by the petitioner of the original application of the Tribunal, Guwahati Bench against the order dated 6/2/2002 of the Tribunal. The Honible High Court has been pleased to allow the prayer of the petitioner in WP.(C) No. 4981/2004.

The matter may be placed before the Honible Vice-Chairman for kind perusal.

Sumit
24.8.09
DR

S.O. (J)
19/8/09

Dem
19/8/09

Returned
11.9.09

Now ble ve.

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA MIZORAM AND ARUNACHAL PRADESH)

Writ Petition No.4981 of 2004

Petitioner :

Shir Prabir Kumar Banerjee,
S/o Anil Kumar Banerjee,
Temporary Status Mazdoor,
New Telephone Exchange,
Nagaon, Assam.

By Advocates :

Mr. M. Chanda,
Mr. S. Dutta,
Mr. S. K. Ghosh,
Mr. S. Chakraborty,
Mr. S. Nath.

-versus-

Respondents:

1. The Union of India,
Represented by the Secretary to the Ministry of
Telecommunication, Department of
Telecommunication, New Delhi.
2. The Chief General Manager,
Assam Telecom Circle, (BSNL),
Ulubari, Guwahati – 7.
3. The Telecom District Manager,
Nagaon Telecom District, (BSNL),
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons),
Nagaon Sub-Division,
Nagaon, Assam.

5. The Sub-Divisional Engineer (HRD),
O/O Telecom District Manager,
Nagaon, Assam.

By Advocate:

Mr. N. Islam.

B E F O R E

**THE HON'BLE MR. JUSTICE RANJAN GOGOI
THE HON'BLE MR. JUSTICE A. C. UPADHYAY.**

Date of hearing : 16.07.2009

Date of delivery of Judgment : 16.07.2009.

JUDGMENT & ORDER (oral)

Ranjan Gogoi, J.

This writ application is directed against an order dated 6th of February, 2002 passed by the Guwahati Bench of the learned Central Administrative Tribunal in a proceeding registered and numbered as O.A. No.171 of 2001. By the aforesaid order the learned Tribunal has rejected the claim of the writ petitioner for the benefits of revised rate of daily wages for casual workers made with effect from 01.01.1996 by memo dated 5.1.99.

2. The brief facts, which will be necessary to be noticed for the purpose of the present adjudication, are being set out below.

The writ petitioner claim that he was engaged as a casual worker under the S.D.E. (Phones), Nagaon Telephone Exchange, on daily wage basis on 16.7.1993. According to the petitioner, the daily wage of casual labour/casual mazdoor in the department was revised with effect from 1.1.1996 by memo dated 5.1.1999. As the petitioner was not granted the benefit of such wage revision he had moved the learned Central Administrative Tribunal by instituting a proceeding registered and numbered as O.A. No.446/99. The said proceeding was disposed of by an order dated 12.1.2000 holding the same to be premature and requiring the petitioner to move the department. The petitioner acted accordingly whereafter an order (undated) was passed rejecting the claim of the petitioner. The petitioner along with two other similarly situated persons put the said order (undated) to challenge by instituting the proceeding in question i.e. O.A. 171/2001, out of which this writ petition has arisen. It may be noticed, at this stage, that earlier to the institution of O.A. No.171/2001 the petitioner along with two others had moved the learned Tribunal by way of another proceeding i.e. O.A. No.140/2000 claiming temporary status. By order dated 27.7.2001 passed in O.A. No. 140/2000 the learned Tribunal held the applicants in that case to be casual

✓

workers and hence entitled to consideration for grant of temporary status. It may also be noticed, at this stage, that it is evident from the materials on record that by order dated 8.3.2004 the petitioner had been granted the status of regular mazdoor by treating him as a casual worker.

3. Notwithstanding the decision of the learned Tribunal dated 27.7.2001 passed in O.A. No.140/2000 the learned Tribunal, on the reasons assigned, had thought it proper to dismiss the Original Application filed by the petitioner claiming revised wages by the impugned order dated 6th of February 2002. Aggrieved, this writ petition has been filed.

4. We have heard Sri S. Dutta, learned counsel for the writ petitioner and Sri N. Islam, learned counsel appearing for the B.S.N.L.

5. The materials on record do not clearly indicate as to whether the initial engagement of the petitioner was as a casual worker or as a contract worker. However, the said question need not detain the court. A reading of the order of the learned Tribunal dated 27.7.2001 passed in O.A. No.140/2000 would clearly go to show that while considering the claim of the petitioner for grant of temporary status the learned Tribunal had occasion to deal with the claims of the parties with regard to the status of the petitioner

i.e. whether he was a casual worker as claimed by him or a contract worker as claimed by the department. The learned Tribunal by the order dated 27.7.2001, after consideration of the rival cases, came to the conclusion that *"it is difficult to accept that the applicants were engaged as Contract Labourers and as not Casual Labourers. The document dated 14.7.1997 clearly indicated that the applicants were allowed to discharge duties as Casual Labourers. In the absence of any other materials it is difficult to accept the contention of the respondents."*

6. We have noticed that the order dated 27.7.2001 passed in O.A. No.140/2000 was placed before the learned Tribunal in the present proceeding. We have also noted the grounds on which the learned Tribunal had thought it proper to hold that the petitioner is not entitled to the benefit of revision of wages for casual worker notwithstanding the earlier order of the Tribunal.

7. It is our considered view that the learned Tribunal has committed an error apparent on the face of the record inasmuch as the declaration of the status of the petitioner as casual worker made by order dated 27.7.2001 in O.A. No.140/2000 cannot be understood to be only for the purpose of grant of temporary status. Any such view would have an incongruous result inasmuch as the petitioner has to be understood to be a casual worker for the

purpose of grant of temporary status but as a contract worker for the purpose of benefit of revision of pay. Such a dual status of the same employee cannot be recognized and accepted in law. The aforesaid order of the learned Tribunal dated 27.7.2001, we are told, has attained finality in law. If that be so, there can be no manner of doubt that the petitioner was entitled to be considered as casual worker also for the purposes of entitlement of the revised wages as introduced by the memo dated 5.1.99 with effect from 01.01.1996.

8. For the aforesaid reasons we are of the view that the order of the learned Tribunal dated 6th of February 2002 passed in O.A. No.171/2001 is not legally tenable. Accordingly, we interfere with the said order and allow the prayers made in the Original Application filed before the learned Tribunal i.e. O.A. No.171/2001.

9. The writ petition, consequently, stands disposed of in terms of the above.

Sd/- A.C.UPADHYAY
JUDGE

Sd/- RANJAN GOGOI
JUDGE

Contd...

BY SPECIAL MESSENGER

URGENT

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
1018
31 JUL 2009
Guwahati Bench गुवाहाटी न्यायपीठ

Memo No. HC XXI-13,471-76-----R.M. Dtd. 29/7/09-----

Copy forwarded for information and necessary action to: -

1. The Union of India, represented by the Secretary to the Ministry of Telecommunication, Department of Telecommunication, New Delhi.
2. The Chief General Manager, Assam Telecom Circle, (BSNL) Ulubari, Guwahati-7.
3. The Telecom District Manager, Nagaon Telecom District, (BSNL) Nagaon, Assam.
4. The Sub- Divisional Engineer (Cons.) Nagaon Sub- Division, Nagaon, Assam.
5. The Sub- Divisional Engineer (HRD) O/o Telecom District Manager, Nagaon, Assam.
6. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati-5 Rajgarh Road, Bhangagarh, Guwahati-781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No.16-3/02-JA/311 Date. 7.5.2009.

Enclo:-

1. O.A.No.171/2001
Part "A" File with
Original Judgment - 3 Sheers.

By order

st

Asstt. Registrar (B)
Gauhati High Court, Guwahati.

Chy
28/7/09.

So (I)
N.S.
31.7.09

12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 171 of 2001

6.2.2002
Date of Decision.....

1. Shri Prabir Kumar Banerjee

2. Shri Siby Sankar Kundu

3. ~~Shri Sambhu Chakraborty~~ Petitioner(S)

Mr M. Chanda, Mrs N.D. Goswami and

~~Mr G.N. Chakraborty~~ Advocate for the
Petitioner(s)

-Versus-

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

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.171 of 2001

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

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

1. Shri Prabir Kumar Banerjee,
A/C Operator (Casual labour),
New Telephone Exchange,
Nagaon, Assam.
2. Shri Sibuj Sankar Kundu,
A/C Operator (Casual labour),
New Telephone Exchange,
Nagaon, Assam.
3. Shri Sambhu Chakraborty,
A/C Operator (Casual labour),
New Telephone Exchange,
Nagaon, Assam.

.....Applicants

By Advocates Mr M. Chanda, Mrs N.D. Goswami and
Mr G.N. Chakrabarty.

- versus -

1. The Union of India,
Ministry of Communication,
Department of Telecom, New Delhi,
(represented by the Secretary,
Telecom Commission, New Delhi).
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
3. The Telecom District Manager,
Nagaon Telecom District,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.),
Nagaon Sub-Division.
Nagaon, Assam.
5. The Sub-Divisional Engineer (HRD),
O/o Telecom District Manager,
Nagaon, Assam.

.....Respondents

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

.....



14

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is basically an application for equal pay for equal work. By Memo No.E-5/Rate & Ruling/98-99/25 dated .5.1.1999 sanction was given for revised rate of daily wages of casual Mazdoors (without Temporary Status) with effect from 1.1.1996, which reads as follows:

"Skilled Labour Rate:- (Casual M/D)

1.1.96 to 30.6.96 (DA Nil)	- $\frac{3050+DA \text{ nil}}{30}$	= 102.00 per day
1.7.96 to 31.12.90 (DA 4%)	- $\frac{3050+DA \text{ 122}}{30}$	- <u>106.00 per day</u>
1.1.97 to 30.6.97 (DA 8%)	- $\frac{3050+DA \text{ 244}}{30}$	- <u>110.00 per day</u>
1.7.97 to 31.12.97 (13%)	- $\frac{3050+DA \text{ 397}}{30}$	- 115.00 per day
1.1.98 to 30.6.98 (DA 1%)	- $\frac{3050+DA \text{ 488}}{30}$	- 118.00 per day
1.7.98 to 31.12.98 (DA 22%)	- $\frac{3050+DA \text{ 671}}{30}$	- 124.00 per day
Part time per hour	$\frac{85/-}{8}$	- 10.63 "

The three applicants claim that they are similarly situated and therefore, they are entitled for the benefit of the revised rates. The applicants in this application contended that they were engaged as casual labourers (A/C Operator) under the SDE (Phones), Nagaon Telephone Exchange, on daily wage basis since 1993. The applicants first moved the department by way of an application dated 12.10.1999, which was finally rejected by the respondent authority vide Office Order mentioned in Annexure IV to the application. In the order itself the authority mentioned that the applicants were not similarly situated with those persons cited in the application.

2. Equal pay for equal work is applicable only amongst the equals.

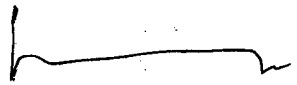
On the basis of the materials on record, more so in view of the disputed facts, it is difficult to hold that these applicants are, in fact, similarly

situated with those persons mentioned in the application and entitled for the benefit of the revised rates.

3. I have heard Mr M. Chanda, learned counsel for the applicants and also Mr B.C. Pathak, learned Addl. C.G.S.C. Mr Chanda referred to the judgment and order passed by the Tribunal in O.A.No.140 of 2000 disposed of on 27.7.2001 and urged that the applicants in the aforementioned judgment were treated as casual labourers by the Tribunal and the respondents were directed to consider the case of those casual labourers for conferment of temporary status.

4. The decision rendered by the Tribunal in the aforementioned O.A. ipso facto does not make the present applicants entitled for the revised rates mentioned in the Memo dated 5.1.1999. As alluded equal pay for equal work will depend on the nature and responsibility of the job.

5. For the aforesaid reasons we do not find any merit in this application and the same is accordingly dismissed. There shall, however, be no order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

केन्द्रीय प्रशासनिक न्यायिकरण
Central Administrative Tribunal

8 JUN 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 171/2001

Shri Prabir Kumar Banerjee : Applicants

& 2 Ors.

-Versus-

Union of India & Others : Respondents

INDEX

Sl. No.	Annexure	Particulars	Page No.
01.	---	Application	1-8
02.	---	Verification	9
03.	I	Letter No.E-5/Rate & Ruling/98-99/25 dtd. 05/13.01.1999	10
04.	II	Order dtd. 12.01.2000 in OA No.446/99	11
05.	III(Series)	Applications dated 12.10.1999 (3 nos.) of the applicants	12-17
06.	IV Series	Office Order dtd. Nil	18 - 20

Date

Filed by

Advocate

Filed by the applicant
through: - G. S. Chakrabarti
Advocate
11.5.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No...../2001

BETWEEN :

1. Shri Prabir Kumar Banerjee,
S/o Anil Kumar Banerjee,
A/C Operator (Casual labour),
New Telephone Exchange,
Nagaon, Assam.

2. Shri Sibn Sankar Kundu,

S/o Late Sailendra Narayan Kundu,

A/C Operator (Casual labour),

New Telephone Exchange,

Nagaon, Assam.

3. Shri Sambhu Chakraborty,

S/o Shri Manmath Chakraborty,

A/C Operator (Casual labour),

New Telephone Exchange,

Nagaon, Assam

.....Applicant

-AND -

1. The Union of India,

Ministry of Communication,

Deptt. Of Telecom, New Delhi,

(represented by the Secretary,

Telecom Commission, New Delhi).

Sibn Sankar Kundu

2. The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati.
3. The Telecom District Manager,
Nagaon Telecom district,
Nagaon, Assam.
4. The Sub-Divisional Engineer (Cons.)
Nagaon Sub-Division,
Nagaon, Assam.
5. The Sub-Divisional Engineer (HRD),
O/o Telecom District Manager,
Nagaon, Assam.

----- Respondents

DETAILS OF THE APPLICATION

1. Particulars of orders against which this application is made.

This application is made against the impugned order dated nil issued by the S.D.E.(HRD), Office of the Telecom district Manager, Nagaon, copy of which has been forwarded to the three applicants Shri Prabir Kumar Banerjee, Shri Sibu Sankar Kundu and Shri Sambhu Chakraborty, AC Operators communicating them the non-acceptance of their claims of arrear wages at the revised rates w.e.f. 01.01.1996 which the applicants are legitimately entitled to get in accordance with the DOT's letter No.269-II/98-STN-II dated 15.09.1998 conveyed by C.G.M.T., Guwahati's letter No.Estt-5/II(Pt-I)/70 dated 21.09.1998.

Sibu Sankar Kundu

2. Jurisdiction of the Tribunal

The applicants declare that the subject matter of his application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant further declare that this application is filed within the limitation prescribed under section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicants beg to state that the grievances and reliefs sought for in the application are common and as such the applicants pray for grant of permission under section 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 for applying jointly.

4.3 That the applicants beg to state that they have been engaged as Casual Workers (A/C Operator) under SDE(Phones), Nagaon Telephone Exchange, Nagaon on daily wages basis since 1993 w.e.f. the dates as shown below :-

<u>Sl. No.</u>	<u>Name</u>	<u>Date of engagements as Casual labourer.</u>
01.	Sri Prabir Kr. Banerjee	16.07.1993
02.	Sri Sibu Sankar Kundu	01.09.1993
03.	Sri Sambhu Chakraborty	16.07.1993

Although the applicants were engaged as Casual Workers, but as a matter of fact, they have been entrusted with the job of Air Conditioner Operators and the payment of daily wages were regulated in terms of the rates prescribed for the Casual Workers although the nature of job entrusted to them were superior to that entrusted to other Casual Workers.

4.4 That the Telecommunication Department, vide its letter No.269-II/98-STN-II dated 15.09.1998, conveyed vide CGMT, Guwahati's letter No.Estt-5/II(Pt-I)/70 dated

Sibu Sankar Kundu

21.09.1998, circulated under Accounts Officer's (Cash) No.E-5/Rate & Ruling/98-99/25 dated 05.01.1999 revised and enhanced the wages of the Casual Workers w.e.f. 01.01.1996.

Copy of A.O.'s letter No.E-5/Rate & Ruling/98-99/25 dated 05/13-01/1999 is annexed hereto as Annexure-I

4.5 That being highly aggrieved at the non-payment of higher wages i.e. wages at par with other Casual Workers and non-consideration of their applications, the applicants approached the Hon'ble Central Administrative Tribunal and the Hon'ble Central Administrative Tribunal by its order dated 12.01.2000 in OA No.446/99 directed the respondents to consider the applications of the applicants, pending with them and to communicate a speaking order within two months.

Copy of the order dated 12.01.2000 in OA No.446/99 is annexed hereto as Annexure-II and copy of the applications of the applicants are annexed hereto which are collectively marked as Annexure-III (Series).

4.6 That pursuant to the order of the Hon'ble Tribunal aforesaid, the respondent No.5 has issued an impugned office order dated nil, copy of which was forwarded to all the three applicants whereby the applicants were denied the benefit of the higher wages applicable to the Casual Workers on a fabricated plea that the applicants were engaged on implied contract basis and had no relevance with other casual workers under illustrations who were granted the higher wages. The respondent No.5 further attempted in his letter to discriminate the applicants against other similarly circumstanced casual workers on the plea of departmental rates of wages etc. denying the principle of equal pay for equal work.

Copy of the three office orders dated nil are annexed hereto which are collectively marked as Annexure-IV.

4.7 It is stated that although they have rendered their services as A/C operators with effect from 16.7.93 till 31.8.98. However in the month of Sept. 1998 they have been forced to work on contract basis, as the A/C operators in the month of September 1998 under threat of terminate their services. The applicants in the compelling circumstances finding no other

Sikm Sankar Kumar.

alternative have accepted the job of A/C operators on contract basis in the said Telephone Exchange and thereafter discharging their duties of A/c operators on contract basis and the said process of payment is till continuing under threat of the respondents till filing of this application.

4.8 That your applicants beg to state that since their engagements as casual worker to other casual workers working in the same establishment and suddenly from 01.01.1996 only, discriminatory treatment was meted to the applicants and they were deprived of the higher revised wages for no reason at all.

It is relevant to mention here, that it is a gross injustice to deny the minimum rate of revised wages to the applicants which were granted to other casual workers, more so when the job entrusted to the applicants (Air Conditioner Operator) was of superior standard and entitled higher responsibilities than that entrusted to other casual workers. Under all prudence, where the applicants ought to have been paid wages even higher than that of other casual workers in view of the superior type of job entrusted to them, paradoxically they have now been paid an wage less than that of the similarly situated casual workers which is not only violative of Article 14 and 16 of the Constitution of India but also amounts to unfair labour practice.

Therefore, the Hon'ble Tribunal be pleased to direct the respondents to pay the arrear wages w.e.f. 01.01.1996 to the applicants in accordance with letter dated 05/13.01.1999 with immediate effect and further be pleased to direct the respondents to continue to pay wages to the applicants at the revised rate.

4.9 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

Sibu Sanjay Kumar

- 5.1. For that non-payment of wages at the revised rates to the applicants is violative of Article 14 and 16 of the Constitution of India.
- 5.2. For that the applicants are entitled to revised rate of daily wages w.e.f. 01.01.1996 in accordance with the letter dated 05/13.01.1999 issued by the Deptt. of Telecommunication.
- 5.3. For that respondents have paid arrear wages in the revised rate to similarly situated casual workers working under the respondents.
- 5.4. For that non-payment of revised daily wages is highly discriminatory and the same is violative of doctrine of equal pay for equal work and also amounts to unfair labour practice.
- 5.5. For that the applicants are entitled to get their wages at the revised rate even for the works presently being performed i.e. the job of A/C Operators.

6. Details of remedies exhausted:

The applicants declare that they have availed of all remedies available within their reach, as would be revealed from Paragraphs 4 above and they have no other alternative and other efficacious remedy left, than to file this application.

7. Matters not previously filed or pending with any other court:

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

8. Reliefs sought for :

Under the facts and circumstances of the case the applicant prays that your Lordships be pleased to grant the following reliefs:-

Sd/- Sankar Kumar.

8.1 That the respondents be directed to pay wages at the revised rate with effect from 01.01.1996 in accordance with the letter No.269-II/98-STN-II dated 15.09.1998, circulated under letter No.E-5/Rate and ruling/98-99/25 dated 05/13.01.1999 of the Deptt. of Telecommunication.

8.2 The impugned office orders dated nil (Annexure-IV) be set aside and quashed.

8.3 That the Hon'ble Tribunal be pleased to declare that the applicants are entitled to revised rate of wages in terms of prayer no.1 for the current works of A/C Operators also.

8.4 Cost of the application.

8.5 Any other relief or reliefs to which the applicants are entitled to, under the facts and circumstances of the case as may be deemed fit and proper by the Hon'ble Tribunal.

9. Interim order prayed for.

9.1 Pending disposal of this application, an observation be made that pendency of this application shall not be a bar for the respondents to pay the arrears to the applicants at the revised rate w.e.f. 01.01.1996, more so in view of the section 19(4) of the Administrative Tribunals Act. The applicants also pray that the instant application be disposed of expeditiously.

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

i.	I.P.O. No.	:	66 792 / 00
ii.	Date of Issue	:	9/5/2004
iii.	Issued from	:	G.P.O., Guwahati.
iv.	Payable at	:	G.P.O., Guwahati

Siban Barakar Kundu

VERIFICATION

I, Shri Prabir Kumar Banerjee, S/o Shri Anil Kumar Banerjee, working as A/C Operator (casual labour basis), New Telephone Exchange, Assam, Nagaon, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 11 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 7th/~~11th~~ day of ^{May}~~April~~, 2001.

Sibu Sankar Konon
SIGNATURE

Annexure-I

Department of Telecommunications
Office of the Telecom. District Manager
Nagaon-782001

No. E-5/Rate & Ruling/98-99/25

Dated 5th/13th January/99

In pursuance of DOT ND No. 269-11/98-STN-II dated 15.9.98 conveyed vide CGMT Assam Guwahati letter No. Estt -5/II (Pt-I)/70 dated 21.9.98 revised rate in/r/o daily wages for casual Mazdoors (without Temporary status) w.e.f 1.1.1996 as given below :-

Skilled Labour Rate :- (Casual M/D)

1.1.96 to 30.6.96 (DA Nil)	= $\frac{3050 + \text{DA nil}}{30}$	= 102.00 per day
1.7.96 to 31.12.90 (DA 4%)	= $\frac{3050 + \text{DA } 122}{30}$	= 106.00 per day
1.1.97 to 30.6.97 (DA 8%)	= $\frac{3050 + \text{DA } 244}{30}$	= 110.00 per day
1.7.97 to 31.12.97 (13 %)	= $\frac{3050 + \text{DA } 397}{30}$	= 115.00 per day
1.1.98 to 30.6.98 (DA 1%)	= $\frac{3050 + \text{DA } 488}{30}$	= 118.00 per day
1.7.98 to 31.12.98 DA 22%)	= $\frac{3050 + \text{DA } 671}{30}$	= 124.00 per day
Part time per hour	$\frac{85/-}{8}$	= 10.63

Sd- Illegible

Accounts Officer(Cash)
O/o the TDA/Nagaon

No. E-5/Rate & Ruling/98-99/25 dated 5.1.99, copy forwarded to :

1. The SDE(External) Nagaon.
2. The SDOT (GX) NGG.
3. The SDE(GX) Marigaon.
4. The SDE(GX) Diphoo
5. The SDE (Plg.) Ngg.
6. The SDE (HRD) Ngg.
7. The SDE(CON) Ngg.

Sd- Illegible

Accounts Officer(Cash)
O/o the TDA/Nagaon

certified to be true copy
Sujitkumar
Adv.

Sibin Gankar Kumer.

Annexure-IICENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORDER SHEET

APPLICATION NO. 446/99

Applicant(s) : Prabir Kumar Banerjee

Respondent(s): Union of India and Ors.

Advocate for Applicant(s) ; Mr. M. Chanda

Advocate for the Respondent(s) : C.G.S.C.

12.1.200 Present : Hon'ble Mr. G.L.Sanglyine, Administrative Member.

Permission is granted to the applicants to join in this application under the provisions of Rule 4 (5) (a) of the Central Administrative Tribunal (Proedure) Rules, 1987.

Heard Mr. M. Chanda, learned counsel for the applicants and Mr. B.C. Pathak, learned Addl. C.G.S.C.

I find that the application is premature because the Annexure-2 series representations have not been disposed of by the respondents. In the circumstances the application is disposed of with direction to the respondents to consider the Annexure-2 series representations and communicate a speaking order within two months from the date of receipt of this order after considering the case of the applicants individually.

The application is disposed of. No costs.

SD/- MEMBER

certified to be true copy
Sujit Ghosh
Adv.

Sibu Gankar Kumar

Annexure-III(Series)

To

The Telecom District Manager
Department of Telecommunication
Nagaon

(Through Sub-Divisional Engineer(Construction))

Dated at Nagaon 12.10.1999

Sub : Prayer for immediate payment of arrear wages at the revised rates with effect from 1.1.1996 in pursuance of D.O.T. letter No. 269-II/98-STN-II dated 15.9.98 conveyed vide C.G.M.T. Guwahati letter No. Estt-5/II(PT-I)/70 dated 21.9.1998.

Respected Sir,

Most humbly and respectfully I beg to state that the wages of the casual workers serving in the department of Telecommunication has been revised with effect from 1.1.96 in pursuance of DOT New Delhi letter No. 269-II/98-STN-II dated 15.9.98 conveyed vide CGMT, Assam Guwahati, letter No. Estt-5/II(PT-I)/70 dated 21.9.98. Accordingly arrear wages has already been paid in terms of the aforesaid letter to some of the casual workers namely;

- 1 Sri Sher Shah Ali
- 2 Sri Upen Nath
- 3 Sri Nitul Neo
- 4 Mrs Anima Sarma
- 5 Sri Bipur Sarma
- 6 Sri Manu Mallick

The payment of arrear wages has been paid to the above named casual workers in the Month of January, 1999 to serial Nos. 1 to 5 and in the month of April, 1999 to serial Nos. 1 to 6 in exclusion of the undersigned. It is stated that I have been working in your establishment particularly in the Nagaon Telephone Exchange since 16.7.1993 and I have been entrusted with the job of Air conditioned Operator. It is pertinent to mention here that since my engagement on casual basis I am serving without any break. My service is also required even on every Saturday and Sundays on shifting basis and I am required to discharge my duties at least for 8 hours in a day shift including night shift duty on rotation basis.

It is also pertinent to mention here that I have rendered my service as AC Operator with effect from 16.7.1993 till 31 August, 1998. However, in the month of September, 1998 I have been forced to work on contract basis as A.C. Operator. Due to compelling circumstances

*certified to be true
by the undersigned
Pdr.*

Annexure-III(Series)(Contd.)

finding no other alternative I have accepted the job of AC Operator on contract basis in the said Telephone Exchange and still working as such.

It is relevant to mention here that since my engagement as casual worker with effect from 16.7.93 as A.C. Operator I have been paid wages at the rate made to other similar casual workers but with effect from 1.1.1996 the undersigned has been paid lump sum amount of Rs. 1700/- per month. The payment of wages to other casual workers working in the same department have been revised to a higher rate and arrear payment is made in pursuance of DOT New Delhi letter No. 269-II/98-STN-II dated 15.9.98 conveyed vide CGMT, Guwahati letter No. Estt-5/II(PT-II)/70 dated 21.9.98 but the undersigned has been excluded from the benefit of revised higher rate of daily wages. The aforesaid action is violative of doctrine of equal pay for equal work and the same is also violative of Article 14 of the Constitution of India. Similarly the action is also amount to unfair labour practice. It is categorically stated that although I have entrusted with the job of AC Operator but I have been treated as casual worker for the purpose of payment of wages although my quality of work is much superior than the quality of works rendered/discharged by other ordinary casual worker. But most surprisingly I have been denied the benefit of revised higher rate of wages granted to other casual workers in pursuance to the letters of the Director of Telecommunication referred above. It is now appeared that as a result of granting of revised higher rate of wages to other workers with effect from 1.1.1996 I am drawing less pay than the similarly situated casual workers named above.

It is stated that with effect from 1.1.1996 the undersigned has been paid a lump sum amount of Rs.1700/- per month whereas due to revision of rate of wages as stated above the undersigned incurs loss of Rs. 64/- per day with effect from 1.1.1996. Therefore denial of the minimum pay scale as prescribed by the Directorate of Telecommunication vide their letters dated 15.9/98 and 21.9.98.

Under the facts and circumstances stated above, I would like to inform you that although I was forced to continue to work as A.C. Operator on contract basis even then I am entitled to receive wages at the minimum pay scale by the Directorate of telecommunication as mentioned in the letter bearing No. E-5/Rate & Ruling/ 98-99 dated 5.1.99/13.1.99 (Copy enclosed).

I would further like to request you to kindly pay my arrear wages at the higher revised rates with effect from 1.1.96 which already been paid to other similarly situated casual workers with immediate effect.

An early action in this regard is highly desired.

Encls :

Yours faithfully,

Sd/- Illegible
(PRABIR KUMAR BANERJEE)

Advance copy to C.G.M.T. Assam, Circle, Guwahati for necessary action.

Sibu Sankar Kumar

To

The Telecom District Manager
Department of Telecommunication
Nagaon

(Through Sub-Divisional Engineer(Construction))

Dated at Nagaon 12.10.1999

Sub : Prayer for immediate payment of arrear wages at the revised rates with effect from 1.1.1996 in pursuance of D.O.T. letter No. 269-II/98-STN-II dated 15.9.98 conveyed vide C.G.M.T. Guwahati letter No. Estt-5/II(PT-I)/70 dated 21.9.1998.

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It is also pertinent to mention here that I have rendered my service as AC Operator with effect from 16.7.1993 till 31 August, 1998. However, in the month of September, 1998 I have been forced to work on contract basis as A.C. Operator. Due to compelling circumstances finding no other alternative I have accepted the job of AC Operator on contract basis in the said Telephone Exchange and still working as such.

It is relevant to mention here that since my engagement as casual worker with effect from 16.7.93 as A.C. Operator I have been paid wages at the rate made to other similar casual

Gibu Sarker Kundu.

workers but with effect from 1.1.1996 the undersigned has been paid lump sum amount of Rs. 1700/- per month. The payment of wages to other casual workers working in the same department have been revised to a higher rate and arrear payment is made in pursuance of DOT New Delhi letter No. 269-II/98-STN-II dated 15.9.98 conveyed vide CGMT, Guwahati letter No. Estt-5/II(PT-II)/70 dated 21.9.98 but the undersigned has been excluded from the benefit of revised higher rate of daily wages. The aforesaid action is violative of doctrine of equal pay for equal work and the same is also violative of Article 14 of the Constitution of India. Similarly the action is also amount to unfair labour practice. It is categorically stated that although I have entrusted with the job of AC Operator but I have been treated as casual worker for the purpose of payment of wages although my quality of work is much superior than the quality of works rendered/discharged by other ordinary casual worker. But most surprisingly I have been denied the benefit of revised higher rate of wages granted to other casual workers in pursuance to the letters of the Director of Telecommunication referred above. It is now appeared that as a result of granting of revised higher rate of wages to other workers with effect from 1.1.1996 I am drawing less pay than the similarly situated casual workers named above.

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Under the facts and circumstances stated above, I would like to inform you that although I was forced to continue to work as A.C. Operator on contract basis even then I am entitled to receive wages at the minimum pay scale by the Directorate of telecommunication as mentioned in the letter bearing No. E-5/Rate & Ruling/ 98-99 dated 5.1.99/13.1.99 (Copy enclosed).

I would further like to request you to kindly pay my arrear wages at the higher revised rates with effect from 1.1.96 which already been paid to other similarly situated casual workers with immediate effect.

An early action in this regard is highly desired.

Enclo:

Yours faithfully,

Sd/- Illegible
(SIBU SANKAR KUNDU)

Advance copy to C.G.M.T. Assam, Circle, Guwahati for necessary action.

Sibu Sankar Kundu.

To

The Telecom District Manager
Department of Telecommunication
Nagaon

(Through Sub-Divisional Engineer(Construction))

Dated at Nagaon 12.10.1999

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Sibu Sankar Kuaru.

Annexure-III(Series)(Contd.)

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I would further like to request you to kindly pay my arrear wages at the higher revised rates with effect from 1.1.96 which already been paid to other similarly situated casual workers with immediate effect.

An early action in this regard is highly desired.

Enclo :

Yours faithfully,

Sd/- Illegible
(SHAMBHU CHAKRABORTY)

Advance copy to C.G.M.T. Assam, Circle, Guwahati for necessary action.

Sikha Sankar Kunder

Annexure-IV

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON, ASSAM

OFFICE ORDER

Sub : O.A. No. 446/99 in the court of CAT Guwahati filed by Sri Prabir Kumar Banerjee and others.

In pursuance of Hon'ble CAT Guwahati order in case No. 446/99 the following order is hereby communicated.

The engagement of Sri Prabir Kumar Banerjee since the very beginning (16.7.1993) was on implies contract basis because four workers including Sri Prabir was on implied contract basis because four workers including Sri Prabir Kumar Banerjee had been receiving a consolidated amount of Rs.6600/- (Rupees six thousand six hundred) only w.e.f. 01-01-96 considering rise in price of essential commodities. In fact the amount of wages paid to Sri Prabir Kumar Banerjee was not at all on departmental rate.

Sri Prabir Kumar Banerjee has drawn a comparison of his wage with those of S/Sri Shersah Ali 2) Upen Nath, 3) Nitul Neog 4) Mrs Anima Sarma 5) bipul Sarma and 6) Manu Mallick.

The persons cited above at Sl. No.1, 2, 6 were engaged on departmental work mainly for driving departmental vehicles and were paid on departmental rates for certain periods for which arrear wage were paid. Afterwards the above persons are no longer working on departmental rates.

The persons they have cited under Sl. No.3, 4 and 5 are the cases pertaining to compassionate ground. Pending appointment/approval from the CGMT/Guwahati they were engaged on departmental rates for certain period for which arrear wages were paid. Sl. No.4 is undergoing training for appointment on compassionate ground.

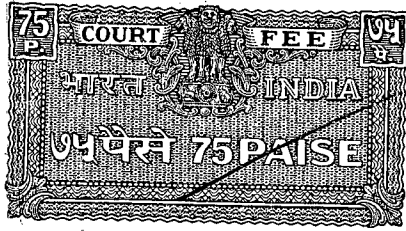
From the above fact, it can be seen that the case of Sri Prabir Kumar Banerjee does not have any relevance with the persons at Sl. No.1 to 6 and hence his claim to pay the arrears at the revised rate w.e.f. 01-01-1996 is not at all acceptable.

Sd/-
S.D.E.(HRD)
O/O the TDM Nagaon

Copy to :- 1) Sri Prabir Kumar Banerjee, Nagaon.
2) The CGMT/Guwahati for kind information.

Sd/-
S.D.E.(HRD)
O/O the TDM Nagaon

*certified to be true copy
Sujitkumar
Adv.*



35

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : AT GUWAHATI

Case No. 171/2001

Sri Prabir Kumar Banerjee Applicant
Petitioner
8 2 001

--- VS ---

Union of India & ors.

Respondent
Opposite Party

① Sibin Gargal K. Gargal
② Prabir K. Banerjee
③ Sambhu Chakraborty

Know all men by these presents that the above named
applicant do hereby nominate, constitute and

appoint Mr. M. Chanda, Mrs. N. D. Goswami, Mr. G. N. Chakraborty Advocate(s) and
such of under mentioned Advocate(s) as shall accept this Vakalatnama to be my true and
lawful Advocate(s) to appear and act for me and for that purpose to do all acts whatsoever
in that connection including depositing or drawing money, filing in or taking out papers,
deeds of composition etc. for me and on my behalf and I agree to ratify and confirm all
intends and purposes. In case of nonpayment of the stipulated fee in full, no Advocate(s)
shall be bound to appear or act on my behalf.

In witness whereof I hereunto set my hands on this the 11th day of
May 1992 001

Sri J. L. Sarkar
Sri A. Dasgupta
✓ Sri M. Chanda

Sri B. K. Sharma
Sri B. Banerjee
Sri S. Dutta

Sri. S. Sarma
✓ Mrs N. D. Goswami
Mrs S. Deka
Mr G. N. Chakraborty

Received from the
executant, satisfied
and accepted

Advocate

Mr. _____
Senior Advocate, will lead me/us in this case.

Advocate

And Accepted
Manik Chandra
Advocate

Nanda Devi
Goswami

And accepted
J. Banerjee

From:

G. N. Chakrabarty
Advocate

To

Adeb Ray
Sr. C. G. S. C.
CAT, Guwahati.

Ref :- Probate for Demejee
- V.S.
V. O : I . & ors

Respected Sir,

Please find enclosed
here with a copy of the
O.P. which to file
today before this Hon'ble
Tribunal.

Received copy
of 11/5
Sr. C. G. S. C.

Yours faithfully
G. N. Chakrabarty
(G. N. Chakrabarty)
Advocate

-19-

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELECOM DISTRICT MANAGER
NAGAON ASSAM
OFFICE ORDER

Sub=O.A No.446/99 in the court of CAT Guwahati filed by
Sri Sambhu Chakraborty and others.

In pursuance of Hon'ble CAT Guwahati order in case No.446/99 the following order is hereby communicated.

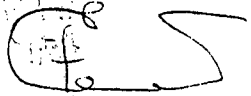
The engagement of Sri Sambhu Chakraborty since the very beginning (16-7-1993) was on implied contract basis because four workers including Sri Sambhu Chakraborty had been receiving a consolidated amount of Rs 6000/- (Rs Sixthousand) only lumpsum per month as their wages which was increased to Rs 6600/- (Rs. Sixthousand sixhundred) only w.e.f 01-01-96 considering rise in price of essential commodities. In fact the amount of wages paid to Sri Sambhu Chakraborty was not at all on departmental rate.

Sri Sambhu Chakraborty has drawn a comparison of his wage with those of S/Sri Shersah Ali 2) Upen Nath. 3) Nitul Neog. 4) Mrs Anima Sarma, 5) Bipul Sarma and 6) Manu Mallick.

The persons cited above at Sl No. 1,2,6 were engaged on departmental work mainly for driving departmental vehicles and were paid on departmental rates for certain periods for which arrear wage were paid. Afterwards the above persons are no longer working on departmental rates.

The persons they have cited under Sl No.3,4 and 5 are the cases pertaining to compassionate ground. Pending appointment/approval from the CGMT/Guwahati they were engaged on departmental rates for certain period for which arrear wages were paid. Sl No.3 and 5 subsequently absorbed on compassionate ground in the department and Sl No.4 is undergoing training for appointment on compassionate ground.

From the above fact, it can be seen that the case of Sri Sambhu Chakraborty does not have any relevance with the persons at Sl No. 1 to 6 and hence his claim to pay the arrears at the revised rate w.e.f 01-01-1996 is not at all acceptable.


S.D.F. (HRD)
O O the TDM Nagaon.

✓
Copy for-1) Sri Sambhu Chakraborty Nagaon
2) The CGMT/Guwahati for kind information.

S.D.F. (HRD)
O O the TDM Nagaon.

-20-

ANNEXURE-4/

38

GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATION
OFFICE OF THE TELL COM DISTRICT MANAGER
NAGALON ASSAM
OFFICE ORDER

Sub: O.A No. 17/99 in the court of CAT Guwahati filed by
Sri Sibn Sankar Kundu and others.

In pursuance of Hon'ble CAT Guwahati order in case No.446/99 the following order is hereby communicated.

The engagement of Sri Sibn Sankar Kundu since the very beginning (16-7-1993) was on implied contract basis because four workers including Sri Sibn Sankar Kundu had been receiving a consolidated amount of Rs 6000/- (Rs Six thousand) only lumpsum per month as their wages which was increased to Rs 6600/- (Rs. Six thousand six hundred) only w.e.f 01-01-96 considering rise in price of essential commodities. In fact the amount of wages paid to Sri Sibn Sankar Kundu was not at all on departmental rate.

Sri Sibn Sankar Kundu has drawn a comparison of his wage with those of 1) Sri Shersah Ali 2) Dipu Singh 3) Nitul Neog 4) Mrs Anima Sarma, 5) Bipul Sarma and 6) Manu Mallick.

The persons cited above at SI No. 1,2,6 were engaged on departmental work mainly for driving departmental vehicles and were paid on departmental rates for certain periods for which arrear wage were paid. Afterwards the above persons are no longer working on departmental rates.

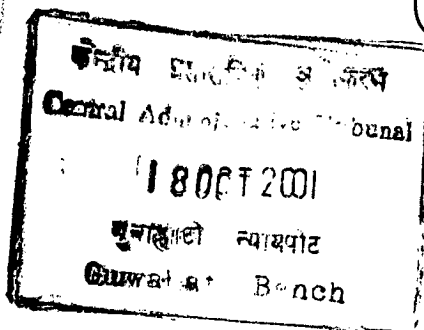
The persons they have cited under SI No.3,4 and 5 are the cases pertaining to compassionate ground. Pending appointment approval from the CGMT/Guwahati they were engaged on departmental rates for certain period for which arrear wages were paid. SI No.3 and 5 subsequently absorbed on compassionate ground in the department and SI No.4 is undergoing training for appointment on compassionate ground.

From the above fact, it can be seen that the case of Sri Sibn Sankar Kundu does not have any relevance with the persons at SI No. 1 to 6 and hence his claim to pay the arrears at the revised rate w.e.f 01-01-1996 is not at all acceptable.

Sd/-
S.D.E. (H.R.D.)
O O the TDM Nagaoon.

Copy to:- 1) Sri Sibn Sankar Kundu Nagaoon
2) The CGMT, Guwahati for kind information.

Sd/-
S.D.E. (H.R.D.)
O O the TDM Nagaoon.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. No. 171 OF 2001.

Shri P. Banerjee & Ors.

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the respondents

The written statements of the above noted respondents
are as follows :

1. That with regard to paras 1, 2, 3, 4.1 and 4.2,
the respondents beg to offer no comments.
2. That with regard to para 4.3, the respondents beg
to state that it has had been clarified that the applicants
were engaged as A.C. (operator) purely on temporary basis on
verbal contract only and paid a fixed amount of Rs. 6000/-
for four workers. So, the term "Central Workers (A.C Operator)
on daily wages basis since 1993 is not applicable and that's
why not acceptable.
3. That with regard to para 4.4, the respondents beg
to state that the Revised wages were announced and paid to
eligible Casual Mazdoors who were engaged under normal procedure
only.

-2-

4. That with regard to para 4.5, the respondents beg to state that the question of payment of higher wages to the applicants does not arise at all since their mode of engagement differ from other Casual Workers. In the O.A. No. 446/99 the applicants claimed . Their wages at par with six casual workers namely (1). S/Sri Sher Shah Ali (2) Sri Upen Nath (3) Sri Nitual Neog (4) Mrs. Anima Sarma (5) Sri Bipul Sarma and (6) Sri Monu Mallick. The casual workers at serial No.1 had been worked as Motor driver of departmental vehicle put into maximum. No of days each year with fixed duty and earned arrears of wages for some time only. During 1998 his engagement was also terminated. Sl. No. 2 and Sl. No. 6 both were working as casual Motor driver with fixed duty but on lump sum payment. Although their job was of more superior and of arduous nature, their engagements were also terminated without paying any higher wages due to their engagement of verbal contract basis. The engagement of the rest three casual workers was on compassionate ground only and so beyond the purview of this case.

5. That with regard to para 4.6, the respondents beg to state that the applicants were working on verbal or implied contract having no fixed duty hours. Because three workers only can never be engaged to handle or operate a system round the clock for years together. Such engagement with fixed or normal duty hours round the clock is not only contrary to labour Rules but ^{also} ~~was~~ hazardous to health of the workers. Moreover, generally duties are allotted to normally

in the shifts of 07-15, 10-18, 14-21, 20-02 and 02-08 to man the system which are required to run for 24 hours during which only one employee is brought once only. It is thus obvious that to operate the A.C.(package type) units for 24 hours with fixed duty by three workers ~~unit~~ only without any break or weekly OFF for consequentially for years together is nothing but next to impossible and such type of duty without any weekly OFF nowhere exists in this department. As a result the applicants had just put themselves in their duty in such a way to keep the A/C units on on-condition simply spreading their time round the clock in absence of any fixed duty. Employees enjoying such light and spreading over duty can not be termed as daily rented workers who are required to put on 8 hours duty per day. Therefore, demand for higher wages can not be ~~max~~ condeded to.

6. That with regard para 4.7, the respondents beg to state that the para no. 4.5, 4.6 clearly state that the applicants made of payment and spreading over like duty (not fixed duty) are of simple proof of their engagement on contract basis right from their initial engagement. Therefore, the working like " under threat terminate their services have no relevance in this context. The said contract with the applicants of this O.A. came to an end w.e.f. July 1998 when the department entered into a fresh contract with M/S Sundarsana-Cooling Firm to run the A/C units. As such, the applicants contention that the said process of payment is continuing under threats of the respondents till filling of this application is far from being true, hence not acceptable.

7. That with regard to para 4.8, the respondents beg to state that most of the works of this department are of superior and of arduous nature (such cable jointing, M/W antenna fitting, vehicle driving and A/C operating). Inspite of such important nature of quality of works those casual workers not engaged as per the stipulated norms are liable to terminate. As such question of discrimination does not arise, nor does such action amounts to violation of any Article of the Constitution of India, since the guidelines are framed within the frame work of the Constitution.

Therefore, the demand for payment of arrear to the applicants is hereby outright rejected.

8. That with regard to para 4.9 and 5, the respondents beg to offer no comments.

9. That with regard to para 5.1, the respondents beg to submit the comments what have already made against the foregoing paragraph 5.1 above.

10. That with regard to para 5.2, 5.3 and 5.4 the respondents beg to state that the contents of these para are not agreed.

11. That with regard to para 5.5, the respondents beg to state that the applicants have no existence in this department since July/1998.

12. That with regard to para 6 and 7, the respondents beg to offer no comments.

-5 -

13. That with regard to paras 8.1 to 8.4, the respondents beg to state that the contents of these paras not agreed since the eligibility criteria for engagement as casual workers deserving arrear not fulfilled at all.

14. That with regard to para 8.5 and 9.1, the respondents beg to state that the contents of these paras not acceptable.

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

I, Sri Ganesh Chandra Sarma, Asst. Director Telecom. (Legal), being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this 15th day of October, 2001 at Guwahati.

Ganesh C. Sarma,
Declarant.

সহায়ক নির্দেশক দূরসংসার (বিজি)
Assistant Director Telecom (Legal)
কার্যালয়, মধ্য বঙ্গ প্রবন্ধক দূরসংসার,
O/o The Chief General Manager, Telecom,
অসম দূরসংসার পরিদপ্তর, গুৱাহাটী-৭
Assam Telecom Circle, Guwahati