

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 205/02
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E.P/M.A No.

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 205/2002

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s). Niranjan Malakar

-Vs-

Respondent(s) N.O.T. Town

Advocate for the Applicant(s) B. Malakar, G.B. Das, R. Das

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

Notes of the Registry	Date	Order of the Tribunal
	28.6.02	Heard learned counsel for the parties.
76.527.872 27.6.2002 21/6/02		Issue notice on the respondents to show cause as to why the application shall not be admitted. Returnable 4 weeks. List on 9.8.02 for Admission
	1m	
8 F-2002	9.8.02	Heard Mr. B. Malakar, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.
Notice prepared and sent to D. Section for issuing of the same to the respondents through Regd. Post with A.P.D.		The application is admitted.
Vide - D.No - 1921 to 1922 Dtd - 4.7.02		Call for the records.
		List on 13.9.2002 for orders.
		<i>CCU Shaha</i>
	mb	Member

29.8.02

13.9.02

R/S. submitted
by the Respondents.

Written statement has been filed. The case may now be listed for hearing on 11.10.02.

The applicant may file rejoinder if any within two weeks.

lm

Vice-Chairman

11.10.02

On the prayer of learned counsel for the parties case is adjourned to 29.11.02 for hearing.

lm

Member

29.11.2002

Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets.

The application is disposed of in terms of the order. No order as to costs.

Vice-Chairman

bb

16/12/2002
Copy of the Judgment
has been sent to
the Office, for issuing
the same to the applicant
as well as to the
S. C. S. C.

th

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 205 of 2002.

29-11-2002.
DATE OF DECISION.....

Sri Niranjan Malakar

APPLICANT(S)

Sri B. Malaskar

ADVOCATE FOR THE APPLICANT(S)

VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A. Deb Roy, Sr.C.G.S.C

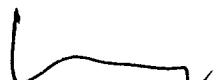
ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MRJUSTICE D.N.CHOPWDHURY, 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



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 205 of 2002.

Date of Order : This the 29th Day of November, 2002.

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

Sri Niranjan Malakar,
Casual Mazdoor,
Central Telegraph Office,
Panbazar, Guwahati.

...Applicant

By Advocate Sri B.Malakar.

- Versus -

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

2. The General Manager (Telecom)
Kamrup, Ulubari,
Guwahati-7.

...Respondents

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

O R D E R

CHOWDHURY J.(V.C)

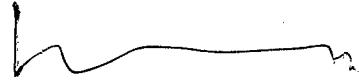
The issue relates to conferment of temporary status. From the pleadings it is apparent that the applicant alongwith 21 others by order dated 30.9.97 were retrenched with effect from 30.9.97. The retrenched employees made applications before the Tribunal for remedial measure. The employees Union also made similar applications before the Tribunal. The present applicant was one of the party in O.A.145/98. By order dated 20.8.98 the Tribunal ordered not to disengage the

applicants and allowed them to continue to work. Those persons were finally re-engaged on the strength of communication dated 29.10.98 issued by the competent authority. There is no dispute that the applicant was also engaged on 18.11.98. Pursuant to the order of the Tribunal the respondents authority constituted a committee to scrutinise the cases in consultation with the records.

2. In the written statement the respondents mentioned that a verification committee verified the matter and did not recommend engagement of the applicant and also for grant of temporary status. As indicated earlier the materials made available clearly disclosed that the applicant who worked earlier was re-engaged. The respondents in its written statement however stated that the 13 months gap from 1.10.97 to 17.11.98 was a break in service. Admittedly the applicants were retrenched by the authority and the Tribunal directed not to disengage even if they were disengaged finally they were engaged. in view of the legal complication, therefore the said retrenchment cannot be treated as break in service in computing the period of engagement. Even the materials referred by the verification committee did not indicate that applicants did not work during the period under consideration. Only it was mentioned that payment particulars were not traceable. For the default of the authority the applicant cannot be penalised.

3. Upon hearing Mr B.Malakar, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C and considering all the aspects of the matter I am of the view that ends of justice will be met if a direction is issued on the respondents to look into matter for considering the case of conferment of temporary status. This order is passed keeping in mind the persons similarly situated already granted temporary status.

The application is accordingly disposed of. There shall, however, be no order as to costs.


(D.N.CHOWDHURY)
VICE CHAIRMAN

g

pg

27
9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

ORIGINAL APPLICATION NO. 265/2002.

Sri Niranjan Malakar ... Applicant.
-vs-
Union of India & Ors. ... Respondents.

I N D E X

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Filed by:

Ratul Das

(R. DAS)
ADVOCATE

2.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

Filed by
Niranjan Malakar
- Applicant

Through - 9
Ratul Das
Advocate

Application under Section 19 of the
Central Administrative Tribunal Act,
1985.

Date of filing: 27-6-2002

Registration No. O.A. 205/02

Signature.

REGISTRAR

1. PARTICULARS OF THE APPLICANT.

- 1) Name: Sri Niranjan Malakar.
- ii) Father's name :
- iii) Designation and: Casual Mazdoor,
office which Central Telegraph Office,
employed. Panbazar, Guwahati.
- iv) Particular for: As at (iii) above.
service of
notice.

2. PARTICULARS OF THE RESPONDENTS:

- i) Name and/or designation of the respondents:

I. The Union of India - Represented
by the Chief General Manager,
Telecom, Assam Circle,
S.R.Bora Lane, Ulubari, Guwahati.

II. The General Manager(Telephone),
Kamrup, Guwahati,
S.R.Bora Lane, Ulubari, Guwahati.

- ii) Office address of the respondents : As above.

- iii) Address for service of notice : As above.

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

Non-consideration of the case of the applicant
for grant of temporary status.

contd... 4/-

N Malakar

4. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the application is within the jurisdiction of this Tribunal.

5. LIMITATION:

The applicant further declares that the application is within the limitation prescribed by Section 21 of the CAT Act, 1985.

6. FACTS OF THE CASE:

i) That the applicant who is an Arts Graduate was engaged as casual mazdoor on 26.2.1992 by the Chief Superintendent, Central Telegraph Office, Guwahati-1. He was posted at the Telecom Centre, Guwahati Railway Station as Farash-cum-Waterman. The appointment was in pursuance of the instruction contained in CGMT's letter No.RRFC-18/RE dated 23.12.92.

ii) That the applicant was regularly performing his duties since the date of engagement and was regularly receiving his salaries as such casual mazdoor. It was on 30.9.97 when an order terminating the engagement of 22 mazdoors was issued. The order issued vide Memo No. STA-S1/CL/96-97/18 dated 30.9.97 reads as follows:-

contd... 5/-

N Malakar

In pursuance of the Vigilance Officer,
 O/O the CGMT, Assam Circle, Guwahati,
 letter No.VIG/Assam/30(0)/10 dated 10.9.97
 and the GM, Telecom, Kamrup Telecom District,
 Guwahati letter No.GM/Kamrup/CON/96-97 dated
 11.9.97, the following casual labourers working
 in CTO/TOS and T/CS of Telegraph activity area
 under GMT/Guwahati are hereby retrenched with
 effect from the afternoon of 30.9.97:

1. Sri Dhaniram Deka
2. Sri Champak Talukdar.
3. Sri Sachin Das.
4. Sri Kulen Das.
5. Sri Subhash Barman.
6. Sri Niranjan Malakar.
7. Sri Sarjo Basfor.
8. Sri Shantu Chakraborty.
9. Sri Kameswar Kardong.
10.
11.
12.
13.
14. Miss Kiran Kalita.
15.
16.
17.
21.
22. Madan Chandra Boro.

contd....6/-

J N Malakar

A copy of the order is annexed hereto
and marked as Annexure-A.

iii) That after getting the retrenchment order one of the retrenched mazdoor Miss Kiran Kalita filed an application u/s 19 of the CAT Act, 1985 which was registered and numbered as OA 230/97. In this application a stay order was passed on 3.10.97 by the Hon'ble Tribunal directing the respondents not to remove the applicant pursuant to the order dated 30.9.97 until further orders already not given effect to.

A copy of the order is annexed hereto
and marked as Annexure-B.

iv) That the order of the Tribunal although was not given effect to by the respondent authority maintaining that the termination order was already given effect to, but in case of other 21 persons no action was taken and they continued to work and the present applicant was one of them.

v) That in August, 1998 the other 21 persons were verbally threatened with retrenchment when 12 of them filed an application u/s 19 of the CAT Act, 1985 before this Tribunal which was registered and numbered as OA 112/98. In this application stay order was passed on 29.5.98 not to oust the applicants

contd...7/-

N Malakay

therein. This time also the respondent authority did not issue formal order of retrenchment and the applicants continued to work.

vi) That again in August, 1998, 12 applicants moved the Hon'ble Tribunal filing another application which was registered and numbered OA 145/98. In this application, stay order was passed on 20.8.98 directing the respondent authority not to disengage the applicants and allow them to continue their works. Since then the applicants continued in their respective engagement.

A copy of the stay order is annexed hereto and marked as Annexure-C.

vii) That the stay order having been passed on 29.5.98 in OA 112/98 the applicants were not allowed to resume their duties and when they moved again in OA 145/98 and stay order being passed on 20.8.98, the order passed by the Tribunal was not implemented by the respondent authorities. This OA 145/98 was finally disposed of on 31.8.99 and in the final order it was directed that the applicants will fill individual representation stating their cases and the respondent authorities shall scrutinise and examine their applications in consultation with records and

contd...8/-

N. Malakar

pass reasoned orders. It was further directed that until then the stay orders granted shall continue.

viii) That the applicants in the meantime were allowed to resume their works on 18.11.98 on the basis of legal opinion received from the legal advisor, DOT under Memo No.1130/LA/98 dated 9.10.98. The letter of the re-engagement was issued by the Divisional Engineer/CTO/Guahati vide No. STA-S1/CL/98-99/LOOSE/05 dated 18.11.98.

Copies of the implementation letter, the legal opinion and the reengagement letter are annexed hereto and marked as Annexure-D, D1 and D2 respectively.

ix) That again on 29.6.2001 an order was passed by the respondent authority holding that the applicants did not fulfil the requisite criterion for confirmation of temporary status and as such they were not eligible for the same and accordingly they were disengaged from their respective engagements with effect from 31.7.2001. This order dated 29.6.2001 was again impugned in OA No.273/2001 wherein the Hon'ble Tribunal was pleased to pass an interim order on 25.7.2001 suspending the operation of the order dated 29.6.2001.

contd...9/-

N Malakay

x) That in this OA 273/2001, the respondent authority filed written statement wherein it was contended that the applicants were reengaged on 18.11.98 after a break of about 13 months pursuant to the order dated 29.5.98 passed in OA 112/98. This break period of 13 months could not be condoned as the power of condonation of such break in service was restricted to 12 months as per circular No.269-3/92-STM dated 21.10.92 issued by the Telecom Directorate.

xi) That this original application No.273/2001 was finally heard and allowed vide order dated 7.3.2002 holding inter alia that since the applicants were working under the respondents, their cases be considered sympathetically for grant of temporary status. It is stated herein this connection that it was not the case of the respondents that the applicants did not complete 240 days during their working periods.

A copy of the order is annexed hereto and marked as Annexure-E.

xii) That the applicants despite the so-called break period was working under DE/CTO/Guahati as under:

September, 1997	- 22 days
October, 1997	- 26 days
December, 1997	- 26 days
January, 1998	- 22 days.
	contd....10/-

N. Malakas

March, 1998	- 20 days.
April, 1998	- 20 days.
May, 1998	- 22 days.
June, 1998	- 25 days.

Copies of engagement certificates are annexed hereto and marked as Annexure-F series.

xiii) That from the above it is evident that the break of 13 months which the respondent authority has shown is not true at least in the case of the applicant. As per the legal opinion(Annexure-D1), it can be seen that the order of disengagement was issued without giving 1 month notice or pay in lieu thereof is in violation of Section 25F of the Industrial Disputes Act, 1947. It will have to be presumed that the applicant had completed 240 days in any particular year. The applicant is working under the respondent authority till today.

xiv). That the applicant begs to state that in OA 321/2000 the respondent authority while countering the claim of the applicant in that OA filed written statement and in para-5 of the same it was specifically admitted that 12 casual mazdoor were in continuous engagement on the basis of the order passed by the Hon'ble Tribunal. Now, therefore, the same respondent authorities are forbidden to set up a claim of any break in service for grant of temporary status. The

contd...11/-

J V Malakar

stand taken by the respondent authorities is wholly contradictory and it cannot be a valid ground for non-conferment of temporary status to the applicant. In fact, the applicant is eligible for his absorption as regular mazdoor in view of his long standing working experience under the respondents. ~~Thexxx~~

The applicant craves indulgence of this Hon'ble Tribunal to place the written statement filed by the respondent authority in OA 321/2000 at the time of hearing.

xv) That the applicant begs to state that vide letter No. STA-51/CC/96-97/04 dated 30.10.96 forwarded a list of 22 casual labourers engaged in Telegraph activity area to the TDM/Guahati (Now, GM/Kamrup). In this letter, it was specifically stated that casual labourers under serial No.1 to 6 of Annexure-1 have been engaged to meet up the acute shortage of Group-D staff in CTO/TO and TCs with effect from prior to January, 1993. Now, their engagement have been confirmed with effect from 1.1.93 as per instruction contained vide CGMT/Guwa letter No. PRFC-18/RE dated 28.12.93 and number TTUI-1/3/95-96 dated 18.4.95.

Copy of the said letter together with the list is enclosed hereto and marked as Annexure-F and F1 respectively.

contd...12/-

N Malakai

xvi) That the applicant begs to state that his engagement as a casual mazdoor having been confirmed with effect from 1.1.93 and he having been in continuous engagement since then there can be no reason whatsoever to deny him the conferment of temporary status. It is stated here that persons similarly situated have by now attained the status of regular mazdoors.

xvii) That the applicant asserts that there is no break of 13 months in the engagement of the applicant. Even assuming any artificial break is there that is within the permissible limit of the respondent authority to condone for granting TSM status to the applicant.

7. LEGAL GROUNDS:

i) As per Annexure-F the engagement of the applicant was confirmed prior to 1.1.93 as casual mazdoor. Now, there is no point in ordering his retrenchment and not granting temporary status.

ii) Stay order not to dis-engage the applicant was passed on 29.5.98 and on the basis of that stay order the respondent authority cannot take the plea that his disengagement was given effect to on the face of repeated stay order in OA 145/98 and in OA 273/2001 and more particularly in view of the specific admission

contd....13/-

N. Malakai

13.

in OA 323/200 that the applicant and others were in continuous engagement after 30.9.97.

8. RELIEF SOUGHT:

Under the circumstances the applicant prays:

- i) That he shall be given temporary status in view of his fulfilling the eligibility criteria; and
- ii) His engagement having been confirmed with effect from 1.1.93 his disengagement was illegal and after grant of temporary status the applicant be absorbed as a regular mazdoor along with the similarly situated persons with all service benefit.

9. INTERIM RELIEF:

N I L

10. REMEDIES EXHAUSTED:

The applicant declares that he has availed the remedies available.

11. SUBJECT MATTER NOT PENDING BEFORE ANY OTHER COURT:

That the subject matter regarding which this application has been made is not pending before

contd... 14/-

N Malakai

14.

any Court or any other authority.

12. PARTICULARS OF THE IPO:

- i) Number of IPO : 76 577877
- ii) Name of issuing PO : Guwahati
- iii) PO which payable : Guwahati

13. DETAILED OF INDEX:

An index in duplicate consisting of details of documents to be relied upon is enclosed.

14. LIST OF ENCLOSURES:

- i) Termination order dated 30.10.97;
- ii) Stay order passed in OA 230/97;
- iii) Stay order passed in OA 145/98;
- iv) Letter of implementation of stay order;
- v) Legal opinion;
- vi) Order of reengagement;
- vii) Order passed by the Tribunal in OA 273/2001;
- viii) Working certificates; and
- ix) Letter issued by the CS/CTO to TDM/Kamrup dated 10.10.96.

Verification....15/-

N Malaney

VERIFICATION

I, Sri Niranjan Malakar working as Casual Mazdoor under CTO/Panbazar/Guahati, the applicant above-named do hereby verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6 (i, IV, VII, IX, XI, XIII, XVI, XVII), 8, 9, 10, 11, 12, 13, 14 are true to my knowledge and those made in paragraphs 6 (ii, iii, V, VI, VII, X, XII, XIV, XV) being matters of records are true to my information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

Niranjan Malakar
SIGNATURE

Place : Guahati.

Date : 27/6/07

NO. STA-S1/CL/96-97/10 Dated at Guwahati, the 30-09-97

In pursuance of the Vigilance Officer, O/O the CGMT, Assam Circle, Guwahati letter No. Vig/Assam/30(B)/10 dtd. 10-09-97 and the G.M.Telcom, Kamrup Telecom District, Guwahati letter No. GM/Kamrup/CON/96-97 dtd. 11-9-97, the following Casual Labour working in CTO/ROS & T/Cs of Telegraph Activity Area under G.M.T/Guwahati are hereby retrenched ~~from the department~~ with effect from the afternoon of 30-09-97. 2/9

- ✓1) Sri Dhaniram Deka
- ✓2) " Champak Talukdar
- ✓3) " Sachin Das
- ✓4) " Kulen Das
- ✓5) " Subhash Barman
- ✓6) " Niranjan Malakar ✓
- ✓7) " Sarju Basfore
- ✓8) " Santu Chakraborty
- ✓9) " Kangeswar Kaitong
- ✓10) " Bibali Basfore
- ✓11) " Kiran Ch: Boro
- ✓12) " Bijoy Boro
- ✓13) " Rabin Ch: Boro
- ✓14) Miss Kiran Kalita
- ✓15) Sri Sanjay Saw
- ✓16) Mrs. H. Das
- ✓17) Sri Romani Medhi
- ✓18) " Nayon Jyoti Dutta
- ✓19) " Pankaj Bora
- ✓20) " Kusal Medhi ✓
- ✓21) " Kangeswar Kalita ✓
- ✓22) " Madan Ch: Boro

SS/R
(S. TAID)
Divisional Engineer,
C.T.O. Guwahati-781001.

Copy for information & necessary action to:-

1) The G.M.Telcom, KTB, Ulubari, Guwahati-781007 for information w.r.t. his letter cited above.

2) All I/CS of T.Os & T/Cs.

3) All SDES, CTO, Guwahati.

4) The A.O., CTO, Guwahati.

5) The Chief Manager, Deptt. Canteen, CTO, Guwahati.

6) The Chief SS (Admin.), CTO, Guwahati.

7) The Chief (Acctt.), CTO, Guwahati.

8) O/C

(H.H. Ansari)
Sub-Divisional Engineer (G),
C.T.O. Guwahati-781001.

True copy
Ratul Das
Amorati

O.A. No. 230/1997

ANNEX - B - 17 -

Miss Kiron K. Deka

Applicant(s)

Union of India

Respondent(s)

M/s. D. Malakar

Advocate for the Applicant(s)

M/s. A.K. Choudhury, Addl. C.G.S.C

Advocate for the Respondent(s)

Office Note

Date

Court Orders

3.10.97

Heard Mr B. Malakar, learned counsel for the applicant.

Application is admitted. Mr A.K. Choudhury, learned Addl. C.G.S.C receives notice on behalf of all the respondents. No formal notice need be sent.

List on 7.11.97 for written statement and further orders.

Mr Malakar also prays for an interim order not to remove the applicant from her engagement. On hearing the counsel for the parties I direct the respondents not to remove the applicant pursuant to Annexure-D notice until further orders, if already not given effect to.

Sd/- Vice-Chairman

Memorandum

dt. 8/10/97

Copy to - Chief

1. The General Manager, Assam Telecom Circle, S.R. Bora Road, Jorhat, Guwahati, 781001.

2. The General Manager Guwahati Telephone, Kamrup, Guwahati, 781001, S.R. Bora Road, Jorhat.

RELEASER

True copy
Ranu Deka
Adv

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

D.A. No. 145/1998

Sri Dhaniram Deka & Ors. ...

Applicants.

Versus

Union of India & Ors. ...

Respondents.

- PRESENT -

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN
 THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(A)

For the Applicants : Mr. J. Hussain, Advocate.

For the Respondents: Mr. S. Ali, Sr.C.G.S.C.

20.8.98

Mr I. Hussain, learned counsel appearing on behalf of the applicants prays for an interim order. The grievance of the applicants is that though they have not yet been terminated from their engagements they have not been provided with any work. Heard Mr S.Ali, learned Sr.C.G.S.C for the respondents also. On hearing the counsel for the parties we direct the respondents not to disengage the applicants and allow them to continue their work.

List on 7.9.98 for order.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER(A)

OK

Certified to be true Copy

ग्रामीण निपटानी

24/8/98
 24/8/98

ग्रामीण निपटानी
 राज्यीय निपटानी
 राज्यीय निपटानी
 राज्यीय निपटानी
 राज्यीय निपटानी

24/8/98

Give copy
 Ratul Deka
 Adv

ANNEXURE-D-11st VIII-19-
Department of Telecommunications
Office of the General Manager Telecom
Guwahati - 781007

Court Case.

24

No. GM/T/Court Case/Misc./Handover/98-99/7 Dated 26-10-98.

To

Shri 1. M. C. Pathan (E-1)
Divisional Engineer 2. S. B. Chandra E-11
Guwahati - 781 3. R. N. Sonakar, E-11E
4. D. K. Bora, DE(C)
5. L. L. Jati, M.C.I.
6. S. Tariq, TEC(Plg)
7. R. P. Singhvi, DGM
8. Shri. Datin, DGM

Subject :- Implementation of various CAT orders

as per Legal Opinion No. 1130/LA/98

Dated 9-10-98.

Ref :- CGM's letter No. STES-21/160/6 Dated 16-10-98

Kindly refer to the above mentioned letter and find enclosed herewith the letter and legal opinion received from Sh. O. P. Nahar, Legal Advisor (DO). You are directed to strictly implement the instructions as endorsed by the CGM in the above legal opinion.

Compliance may be sent at the earliest.

30.9.97 Tenc

18.11.98 Re

Engar

Divisional Engineer (Admin)

Office of the General Manager Telecom

Guwahati - 781007.

Guwahati - 781007
10/11/98
10/11/98

True copy
Patel Drs
Adv

D, Ser

20-

Ab. 1130 / LA / 88
C.D. 9.X.88.

(21)

Placed below are the Stay Orders using different vocabulary passed by Hon'ble CAT (Gauhati Bench) and these have been handed over personally by Sh.J.M. Mishra, CGM, North-Eastern Circle. The Interim Orders bear 4 type of language i.e. (1) Status quo be maintained; (2) Applicant shall not be removed/ousted from engagement/service; (3) Not to disengage the applicants; and (4) Allow to continue in service.

2. The question has been raised whether these applicants can be allowed to work as casual labourers though they have been removed few weeks before from the date of the Interim Orders.

3. Technically speaking, Stay Order against disengagement or Status quo does not direct to re-engage the casual labourers and in this view of the situation even when re-engagement is not done, such action can be defended. However, there is another side of the picture. The casual labourers are disengaged without giving a notice of one month or pay in lieu thereof as provided under Section 25F Industrial Disputes Act, 1947. It is assumed that these casual labourers have worked more than 240 days in a year and therefore, notice or payment in lieu thereof is a necessity.

4. In case notice or payment in lieu thereof is absent than the action is illegal and the casual labourers have a right to be reinstated with back wages. If such order is given by the CAT after full hearing than DoT will be required to re-engage the persons and to pay money for the interim period even though no work could be taken from the labourers. Hence, it appears appropriate and beneficial to DoT that these labourers may be re-engaged. In case DoT wishes to dispense with their services then proper procedure under Section 25F may be adopted after re-engaging the casual labourers.

8/10/88

(O.P. MISHRA)
LEGAL ADVISER (D.O.T.)
DT: 9.10.88.

Sh.J.M. Mishra
CGM, NE CIRCLE

Some of us
Ranbir Das
Adv

D2
BY HAND
-28-

Govt. of India
Department of Telecommunications
Office of the Divisional Engineer, CTB, Guwahati.

NO. STA-S1/CL/98-99/Loans/05 Dated at Guwahati, Assam
10-11-98

Subject- Re-arrangement of Casual Labours

In accordance with the Legal Advisor (DOT), New Delhi, letter No. 1130/LA/98 dtds 09-10-98, GENT, Annex Circular, Guwahati No. STE 5-21/160/26 dtds. 16-10-98 and GNT, KTD, Guwahati No. GNT/EST-179/98-99 dtds. 10-11-98, the following Casual Labours are engaged for performing casual nature of job w.e.f. 10-11-98 in the unit mentioned against each

Sl. No.	Name	Unit of posting
01.	Sri. Kamalnath Kardong	CTB/Guwahati under SDE (Eloc)
02.	" Bhaniram Deka	Dept. Canteen, CTB, Guwahati
03.	" Kusal Ch. Radhi	- do -
04.	" Bijay Deka	CTB/Guwahati under A.O. of TBA
05.	" Niranjan Halakar	CTB/Guwahati
06.	" Sochin Ch. Deka	- do -
07.	" Chempak Lalukdar	- do -
08.	" Sukhesh Deka	T/C Rly. Station, Guwahati
09.	" Sambu Chakrabarty	T.O. Assam Bazar, Dibrugarh
10.	" Kali Debi Deka	T.O. Dibrati High Court
11.	" Khargoswar Kuliya	T.C. Dibrugarh
12.	" Rabin Ch. Deka	T.O. Assam Bazar, Dibrugarh

S.S.
(B.S./M.D.)
Divisional Engineer,
C.T.B. Guwahati-781001.

Copy to:-

01.	The D.E. (Admin), G.O. the GNT/KTD, Guwahati-781007 W.E.C. his letter No. GNT/Conv-Coco/Hisc/Hazdoon/98-99/T dtds. 20-10-98.	
02.	The S.A.O., CTB, Guwahati.	They are requested to maintain the register for C/L (e) working under them and C/L in advance particular.
03.	The SDE (I/C), CTB, Guwahati.	C/L may be furnished to the S.A.O. & C/L in S.S.(Admin), CTB, Guwahati for every month.
04.	The SDE (Eloc), CTB, Guwahati.	
05.	The SDE (R), CTB, Guwahati.	
06.	The JTB I/C, T.O. R.S.	
07.	The I/C, T.O. Dibrugarh.	
08.	The I/C, T/C GH Rly. Station	
09.	The I/C, GH High Court.	
10.	O/C	

S.S.
(B.S./M.D.)
Divisional Engineer,
C.T.B. Guwahati-781001.

.....
True Copy
Ranbir Das
Adv

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Original Application No. 273 of 2001

Date of decision: This the 7th day of March, 2002.

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

Hon'ble Mr. K.K. Sharma, Member (A).

Sri Kameswar Kardong (146)

S/o Rupeswar Kardong,

Village-Bizubari,

P.O. Gopinath Nagar,

P.S. Paltanbazar,

Guwahati-16.

District-Kamrup, Assam & 9 Ors.

Applicants

By Advocate Mr. A.C. Buragohain and Mr. N. Borah.

-versus-

1. The Union of India (Represented by the Secretary, Department of Telecommunication).
2. The Chairman-cum-Managing Director, Bharat Sanchar Limited, Sanchar Bhawan, New Delhi.

The Chief General Manager, Assam Circle, Telecommunication, Guwahati-7.

The General Manager, Telecommunication, Kamrup Telecom District, Guwahati-7.

5. The Divisional Engineer, Central Telegraph Office, Guwahati-1.

Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (V.C.)

The applicants are ten (10) in number who are similarly situated. Leave was accordingly granted upon them to espouse their cause by a single application. The

True copy
Ratul Das
Adv

applicants earlier also came before this Tribunal for conferment of temporary status in O.A. No. 112 of 1998 through their Union. In the said O.A. an interim order was passed on 29.5.1998 directing the respondents not to remove the members of the Union from service. Pursuant to that interim order dated 29.5.1998 the applicants were engaged and they continued to work till now. The said O.A. was finally disposed of along with others on 31.8.1999 by a common judgment and order by the Tribunal directing the applicants to file representation individually within a period of one month from date of receipt of that order and if such representations are filed, respondents were directed to scrutinize and examine each case in consultation with the records. It appears that their cases were considered and by the impugned order dated 29.6.2001 it was communicated that the applicants did not satisfy the eligibility criteria as laid down in the Scheme for conferment of temporary status. By the said order it was also informed that they were disengaged as casual labourer with effect from 31.7.2001. By interim order dated 25.7.2001 the Tribunal suspended the operation of the impugned order dated 29.6.2001. So the applicants are virtually working under the respondents.

2. The respondents submitted its written statement. In the written statement the respondents took the plea that the applicants were not regularly engaged by the D.E. and they were appointed in contravention of the departmental rules. It was also stated that as per order of the Tribunal dated 29.5.1998 passed in O.A. No. 112/1998 applicants were re-engaged on 18.11.1998 after a break of about thirteen months. According to the respondents break in service

Contd..

exceeding twelve months is not condonable in any circumstances as per the circular No. 269-3/92-STN dated 21.10.1992 issued by the Telecom Directorate, New Delhi.

3. Heard Mr. A.C.Buragohain, learned counsel for the applicants and Mr. A.Deb Roy, learned Sr. C.G.S.C. for the respondents.

4. The respondents though in the impugned order dated 29.6.2001 stated that the applicants could not satisfy the eligibility criteria as laid down in the Scheme but it was nowhere mentioned that the applicants did not complete 240 days of service in any given year. Whatever may be the reasons the applicants have completed 240 days of service during all these years. It was also stated in the written statement that the applicants were disengaged from service on 30.9.1997 but they were re-engaged on 18.11.1998 in view of the order passed by the Tribunal on 29.5.1998 in O.A. No. 112/98. The documents referred to Annexure-A/10 series to the rejoinder also speaks that the applicants rendered their service continuously. In some of the cases payments were made to the applicants through private contractor on the strength of pay order issued by the Accounts Officer, Central Telegraph Office on the basis of a certificate given by the Chief Superintendent, Central Telegraph Office, Guwahati and in some cases by the Sub Divisional Engineer and in some of the cases by the Junior Telecom Officer but pay order was passed by the Divisional Engineer.

5. For all the facts and circumstances stated above, we are of the view that the applicants are working under the respondents and accordingly respondents are directed to

Contd...

-25-
32

-4-

consider the case of the applicants sympathetically for grant of temporary status as per law. Before concluding Mr. A. Deb Roy, Sr.C.G.S.C. submitted that the applicant no. 8 - Sri Sachin Das (153) is no longer alive and he has expired on 11.4.2001. Mr. A.C.Puragohain, learned counsel for the applicant submitted that his name was wrongly shown in the application. He did not sign in the Vakalatnama, so the name of the applicant no.8 may be deleted.

6. The application is allowed to the extent indicated above. There shall, however be no order as to costs.

Sd/- Vice-Chairman
Sd/- Member (A)

Certified to be true Copy
अस्तित्व संतुष्टिकृ

29/3/02
Section Officer (S)
अस्तित्व संतुष्टिकृ (संस्कृत लिखा)
Central Administrative Tribunal
भारतीय न्यायालय
High Court, Guwahati
प्राप्ति अधिकारी, अस्तित्व संतुष्टिकृ
29/3/02
K. V. (Signature)

Sept. 17, 1907. Total Hours. 10

1878
1879
1880
1881
1882

June 2001
Ratna Saha
Sinha

Attendance of Sri N. Mukundan working as Head of
Divisional Engineer C.I.D.O, Gurudhali in all offices working
at 10-16 duty.

Date	Duty	Hours	Signature
12/1/98	Sunday		
12/2	10-16	6	
12/3	10-16	6	
12/4	10-16	6	
12/5	10-16	6	
12/6	Saturday		
12/7	Sunday		
12/8	10-16	6	
12/9	10-16	6	
12/10	10-16	6	
12/11	10-16	6	
12/12	10-16	6	
12/13	Saturday		
12/14	Sunday		
12/15	10-16	6	
12/16	10-16	6	
12/17	10-16	6	
12/18	10-16	6	
12/19	10-16	6	
12/20	Sunday		
12/21	10-16	6	
12/22	10-16	6	
12/23	10-16	6	
12/24	10-16	6	
12/25	10-16	6	
12/26	10-16	6	
12/27	10-16	6	
12/28	Saturday		
12/29	Saturday		

June 20th 1909
Patient Reg
A. S. L.

1. Attendance of Sri N. Matalkar working as Peon and C.O. Cumulative in all office work of 10-17 MARCH, 1998.

Month of March '98.

05

1/3/98 OFF

22/3/98

11/3/98

12/3/98

2/3/98

10-17

7

- 28 -

3/3/98

10-17

7

4/3/98

10-17

7

5/3/98

10-17

7

6/3/98

10-17

7

7/3/98 OFF

8/3/98 OFF

9/3/98

10-17

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10/3/98

10-17

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11/3/98

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7

12/3/98

10-17

7

13/3/98

10-17

7

14/3/98 OFF

15/3/98 OFF

16/3/98

10-17

7

17/3/98

10-17

7

18/3/98

10-17

7

19/3/98

10-17

7

20/3/98

10-17

7

21/3/98 OFF

22/3/98 OFF

10-17

X

23/3/98

10-17

7

24/3/98

10-17

7

25/3/98

10-17

7

26/3/98

10-17

7

27/3/98

10-17

7

28/3/98 OFF

29/3/98 OFF

10-17

7

30/3/98

10-17

7

31/3/98

10-17

7

True copy
Patel Dev
Jain

11/3/98
Accounts Officer
General Telegraph Office
Mumbai - 781001

Orderance of Smt. Malakhan Chanting as loco. Officer
D. E. C. O. Guwahati in all office work 16-17 Duty.

Month of April 98.

-29-

36

Date	Duty	1898	1899
1/1/98	10-13	7	
2/1	10-13	1	
3/1	10-13	7	
4/1	10-13		
5/1	10-13		
6/1	10-13		
7/1	10-13		
8/1	10-13		
9/1	10-13		
10/1	10-13		
11/1	10-13		
12/1	10-13		
13/1	10-13		
14/1	10-13		
15/1	10-13		
16/1	10-13		
17/1	10-13		
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21/1	10-13		
22/1	10-13		
23/1	10-13		
24/1	10-13		
25/1	10-13		
26/1	10-13		
27/1	10-13		
28/1	10-13		
29/1	10-13		
30/1	10-13		
31/1	10-13		

22-5-2-6-1
Archana Dass
Central Telegraph Office
Darrang - 781001

Copy Recd

Signature of Smt. K. V. Malakar working as
P. & T. O. Superintendent in all offices from 1.1.78

as his duty.

-30-

Month of May 78.

Explanatory

Date

Date

1/5/78

10-17

2/5/78

10-17

3/5/78

10-17

4/5/78

10-17

5/5/78

10-17

6/5/78

10-17

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25/5/78

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27/5/78

10-17

28/5/78

10-17

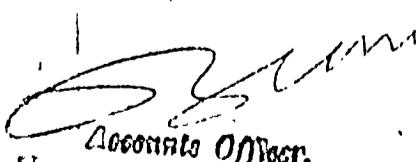
29/5/78

10-17

30/5/78

10-17

True Copy
Patel Dev


Accounts Officer,
Central Telegraph Office,
Gorakhpur-281001

On 11th July 1977, the PCCW (Under S.B.S.)
C.T.O. (Nawabganj) issued a Work Order No. 10-18 dated

July 11th 1977

88

Work

Date	Work Order No.	Time	Signature
1.11.77	10-18	8	
2.11		8	
3.11	10-18	8	
4.11	10-18	8	
5.11	10-18	8	
6.11	10-18	8	
7.11	10-18	8	
8.11	10-18	8	
9.11		8	
10.11	10-18	8	
11.11	10-18	8	
12.11	10-18	8	
13.11	10-18	8	
14.11	10-18	8	
15.11	10-18	8	
16.11		8	
17.11	10-18	8	
18.11	10-18	8	
19.11	10-18	8	
20.11	10-18	8	
21.11	10-18	8	
22.11	10-18	8	
23		8	
24	10-18	8	
25	10-18	8	
26	10-18	8	
27	10-18	8	
28	10-18	8	
29	10-18	8	
30	10-18	8	

June 1977
Patel Dev
A.D.

Sub-Div. Engineer (C)
C.T.O. Bijnor-783028

Mr. Nitinji Malihani (BPM) Work on Pern Under S.D.L (in
C.I.O. (Nehruvian in all office Work on 10-18 duty
Travelling and Work 10-18 duty
10-18 duty 10-18 duty 10-18 duty 10-18 duty

<u>Date</u>	<u>Work</u>	<u>Hours</u>	<u>Blk</u>
1/12/91		10-18	8
2/12		10-18	8
3/12		10-18	8
4/12		10-18	8
5/12		10-18	8
6/12		10-18	8
7/12		10-18	8
8/12		10-18	8
9/12		10-18	8
10/12		10-18	8
11/12		10-18	8
12/12		10-18	8
13/12		10-18	8
14/12		Surcharge	X
15/12		10-18	8
16/12		10-18	8
17/12		10-18	8
18/12		10-18	8
19/12		10-18	8
20/12		10-18	8
21/12		Sunday	X
22/12		10-18	8
23/12		10-18	8
24/12		10-18	8
25/12		10-18	8
26/12		10-18	8
27/12		10-18	8
28/12		Sunday	X
29/12		10-18	8
30/12		10-18	8
31/12		10-18	8
		26 days	2011 10/12/91

True copy
Ratneshwar
Date

Sub-Divt. Encl. (1)
C. T. O. Amritsar-782958

Ori Kloss's Maternal (BPM) Work in recent weeks			
CITOL moahuki in all cases work out until July			
July 11th to Aug 11th 1933			
1. 10. 9. 11	10. 13	8	33
2. 10	10. 18	8	
3. 10	10 - 18	8	
4. 10	10 - 18	8	
5. 10	10 - 18	8	
6. 10	10 - 18	8	
7. 10	10 - 18	8	
8. 10	10 - 18	8	
9. 10	10 - 18	8	
10. 10	10 - 18	8	
11. 10	10 - 18	8	
12. 10	Absent	AbSENT	
13. 10	10 - 18	8	
14. 10	10 - 18	8	
15. 10	10 - 18	8	
16. 10	10 - 18	8	
17. 10	10 - 18	8	
18. 10	10 - 18	8	
19. 10	10 - 18	8	
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22. 10	10 - 18	8	
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26. 10	10 - 18	8	
27. 10	10 - 18	8	
28. 10	10 - 18	8	
29. 10	10 - 18	8	
30. 10	10 - 18	8	
31. 10	10 - 18	8	
	26 Aug	26/7 1933	

Give copy
Patrice Day
Star

Attendance of Vinayak Malakar C/L for 11.
Aug 1997 (C/F 197).

-34-

	Decy	July
1. 9. 97	10-17	10-17
2. 9. 97	10-17	10-17
3. 9. 97	10-17	10-17
4. 9. 97	10-17	10-17
5. 9. 97	10-17	10-17
6. 9. 97 SAT		
7. 9. 97 SUN		
8. 9. 97	10-17	10-17
9. 9. 97	10-17	10-17
10. 9. 97	10-17	10-17
11. 9. 97	10-17	10-17
12. 9. 97	10-17	10-17
13. 9. 97 SAT		
14. 9. 97 SUN		
15. 9. 97	10-17	10-17
16. 9. 97	10-17	10-17
17. 9. 97	10-17	10-17
18. 9. 97	10-17	10-17
19. 9. 97	10-17	10-17
20. 9. 97 SAT		
21. 9. 97 SUN		
22. 9. 97	10-17	10-17
23. 9. 97	10-17	10-17
24. 9. 97	10-17	10-17
25. 9. 97	10-17	10-17
26. 9. 97	10-17	10-17
27. 9. 97 SAT		
28. 9. 97 SUN		
29. 9. 97	10-17	10-17
30. 9. 97	10-17	<u>10-17</u> 22 days (Twentytwo) days $22 \times 07 = 154$ hrs.

One copy sent
Rajesh

3099

Department of Telecommunications,
 Office of the Chief Superintendent, C.T.O. Guwahati.
 No. STA-51/CL/96-97/04 Dated at Guwahati, the 10.10.96.

To,
 The Telecom District Manager,
 (P & A Sections), Kamrup Telecom District,
 Ulubari, Guwahati-781007.

(For attn. of Sri M.C. Baruah, D.E. (P&A) Pl.)

Sub: Engagement of Casual Labour.

Ref.: Your letter No.TDM/SST-179/96-97/45 dtd. 25.9.96.

A list of Casual Labours engaged in the Telegraph Activity Area under Kamrup SSA is furnished below under enclosed Annexure-I.

In view of the acute shortage of group D staff as furnished below, only 22 Casual Labours have been engaged to run the smooth functioning of works of different units of Telegraph activity area under Kamrup SSA (CTO & T.O. & 7 T/Cs.)

i) T/Man(O/D) & (I/D), Gatekeeper & RM (Engg.)	= 19
ix shortage as per sanctioned strength.	
ii) T/Man(O/D) & (I/D) in T.O. Ulubari as per	= 5
Justification but not yet sanctioned.	
iii) RM(TFC) as per CGMT/Guwahati letter No.TTUI- 1/3/95-96 dtd. 18.4.95 (Copy enclosed) for 7 Telecom Centre viz, Dispur, Gh.Riy. Station, Borjhar, etc. Kiphilipara, Panbazar, & Gauhati High court & T.O.s viz) Maligaon, Noonmati & Ulubari.	= 19
	<hr/>
	Total = 43
iv) Anticipated vacancy after training & posting of Group-D staff as phone Mechanic.	= 64

All the 43 posts of Group D staff are lying vacant in this Telegraph activity area under Kamrup SSA.

In this connection, it may be stated that the Casual Mazdoors under Sl. No. 1 to 6 of Annexure-I have been engaged to meet up the acute shortage of Gp.-D staff in CTO/TOM & TCs prior to January '93. Now, their engagement have been confirmed w.e.f. 01-01-93 as per instructions contained vide CGMT/Guwahati letter No. RREC-10/RE dtd. 23.12.95 and No. TTUI-1/3/95-96 dtd. 18.4.95 (Copies enclosed).

Casual Mazdoors under Sl. No. 7 to 22 of Annexure-I have been engaged as per instructions of CGMT/Guwahati letter cited above to meet up the requirement of work load due to a paucity of Gp.-D staff.

Apart from the above vacancies, another 64 posts against Group-D are likely to be vacant after appointment of qualified staff for phone Mechanics.

Certified that the minimum Casual Mazdoors engaged in CTO/TOM & TCs of this Telegraph activity area under Kamrup SSA essential for smooth functioning of works of the units.

Enclo: 1) Annexure-I.

Chief Superintendent,
 C.T.O. Guwahati - 1.

Done this
2nd Oct 1996

Govt. of India,
Department of Telecommunications,
Office of the Chief Superintendent, CTO, Guwahati

ANNEXURE-I

List of Casual Mazdoors/Labours engaged in Telegraph activity area of Kamrup SSA.

Sl. No.	Name of the Casual Labour	Community	Date of birth	Date of Engagement	Engaged by	Place of Engagement	Engaged against	Remarks
1	2	3	4	5	6	7	8	9
1.	Sri Dhaniram Deka	OC	24-9-67	01-01-90	C.S. CTO, GH	T/C Panbazar	Farash-cum-W/Man	Engaged as per
2.	" Champak Talukdar	OC	01-3-71	01-05-90	- do -	T/C Noonmati	- do -	instructions of the
3.	" Sachin Das	SC	30-4-61	01-02-91	- do -	T.C. Maligaon	Night Guard	CGMT/GH letter No.
4.	" Kulen Das	SC	01-3-72	01-07-91	- do -	T/C Dispur	- do -	RRFC-18/RE dtd.
5.	" Subhash Barman	OC	28-2-67	11-11-91	- do -	T/C Rly. Stn.	- do -	23.12.92 & No.TTUI-1/
6.	" Miranjan Malakar	SC	01-11-71	26-02-92	- do -	A/C Rly. Stn.	Farash-cum-W/Man	3/95-96 dtd.
7.	" Sukhi Sarju Basfore	SC	01-7-63	21-05-93	- do -	T.O. Noonmati	Safaiwala	18/4/95.
8.	" Santu Chakraborty	OC	01-5-73	01-11-93	- do -	T/C Kahilipara	W/Man-cum-Farash	- do -
9.	" Kaneswar Kardong	ST	01-10-69	05-11-93	SDE(E) I/D	CTO Guwahati	Electrical Labour	- do -
10.	" Birbal Basfore	SC	08-11-75	01-12-93	C.S., CTO, GH	T.O. Ulubari	Safaiwala	- do -
11.	" Kiron Ch. Boro	ST	29-9-73	01-04-94	- do -	T/C Kahilipara	Night Guard	- do -
12.	" Bijoy Boro	ST	25-8-71	15-07-94	- do -	T.O. Assam Sachivalaya	Farash-cum-W/Man	- do -
13.	" Rabin Ch. Boro	ST	31-10-72	03-06-95	- do -	T/C Dispur	- do -	- do -
14.	Smt. Kiran Kalita	OC	24-7-70	16-7-95	- do -	T.O. Maligaon	- do -	- do -
15.	Sri Sanjay Shaw	OC	10-2-78	01-03-96	- do -	T/C GH High Court	- do -	- do -
16.	" Ramoni Medhi	OC	24-2-73	01-08-96	- do -	T/C Borjhar Arr/Ter.-	- do -	- do -
17.	" Nayan Jyoti Dutta	OC	01-01-75	13-08-96	- do -	T/C Borjhar Dep/Ter.-	- do -	- do -
18.	Ms. Musfika Sultana	OC	10-12-75	26-08-96	SDE(G), CTO	C.T.O. Guwahati	As peon of SDE(G)	- do -
19.	Sri Jagat Ch. Brahma	ST	01-01-69	28-08-96	O.S., CTO/GH	T.O. Maligaon	Delivery of Telegram & Tel. Bills.	
20.	" Mohan Kr. Brahma	ST	23-9-77	03-10-96	- do -	T.O. Noonmati	- do -	- do -
21.	" Pradip Bhuyan	OC	31-12-77	07-10-96	- do -	T.O. Ulubari	- do -	- do -
22.	" Pankaj Bora	OC	01-01-77	05-08-96	- do -	T.O. Assam Sachivalaya.	- do -	- do -

Sd/- Illegible 30/10/96

NO. STA-51/CL/96-97/04

Dated at Guwahati, the 30-10-96

Chief Superintendent
C.T.O., Guwahati-1

True copy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

সেন্ট্রাল অ্যামিনিস্ট্রেটিভ ট্রিভুনাল
Central Administrative Tribunal
GUWAHATI BENCH :: GUWAHATI

28th AUG 2002

Guwahati Bench

O.A. NO. 205 OF 2002

Shri Niranjan Malakar.

File No. 28/8/02
A. DEB HOY
S. C. C. S.C.
C. A. T. Guwahati Bench

- vs -

Union of India & Ors.

- And -

In the matter of ::

Written statement submitted by the
respondents.

The respondents beg to submit written statement
as follows ::

1. That with regard to para - 6(i) the respondents beg to state that the applicant and 21 other person were irregularly engaged by Chief Supdt. CTO, Guwahati without authority and jurisdiction and in defiance of the ban on engagement of casual labourer. No selection procedure was adopted for the engagement. Such irregular engagement does not have force of legal sanction and no lawful claim can accrue out of it.

2. That with regard to para - 6(ii) of OA the respondents beg to state that as the unlawfully engagement of casual labourers by CS, CTO came to the notice of vigilance cell, instruction was issued for immediate dis-engagement of the unjustified casual labourers. Accordingly the order dated 30.09.97 disengaged the casual labourers w.e.f. an A/N of 30.09.97. The engagement came to an end on 30.09.97.

3. That with regard to para - 6(iii) of O.A., the respondents beg to state that the stay order dtd.03.10.97 passed by Hon'ble Tribunal in OA No- 230/98 does not apply to the present applicant, as he was not a party to that OA. Even otherwise the interim order dated 29.05.98 passed by the Hon'ble Tribunal in OA- 112/98 is that the applicant shall not be removed from the service. The applicant who was one of the party in OA-112/98 was not in service after 30.09.97 and the retrenchment had been completed before the issuance of the interim order.

4. That with regard to para - 6(iv) of the O.A., the respondents beg to state that all the casual labourers mentioned in the retrenchment order dtd.30.09.97 including the present applicant was retrenched on the A/N of 30.09.97 They were not on engagement w.e.f. 01.10.97.

5. That with regard to para - 6(v) of O.A; the respondents beg to state that as submitted in above para the applicant and other casual labourers were retrenched on and w.e.f. 30.09.97 and they were not on job in August 1998. Since they had been retrenched in 9/97 there was no necessity for issuance of any fresh retrenchment order.

6. That with regard to para - 6(vi) of O.A., the respondents beg to state that the interim order ~~xxx~~ dated 20.08.98 passed in OA No.145/98 is not implemented in respect of those who were not currently engagement as on the date of filling of the OA.

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7. That with regard to para - 6(vii) of O.A. the respondents beg to state that as the applicant not in engagement the interim order was not implementable. At the relevant time, the applicant was not under the threat of disengagement. Rather he has been retrenched nearly one year back and was out of job since then.

8. That with regard to para - 6.(viii) of O.A., the respondents beg to state that the applicant was again engaged as casual labourer on and from 18.11.98. This is a fresh engagement and cannot be counted as a continuation of earlier engagement which ended on 30.09.97.

9. That with regard to para - 6(ix) of O.A., the respondents beg to state that the engagement of casual labourer is on day to day requirement basis. The engagement flows from the need of labourer for performance of unskilled Gr.DI duty which is occasional and/or intermittent in nature. When the specific job for which a casual labourer was engaged comes to an end there is no justification for continued engagement of labourer. The applicant was ought to be disengaged w.e.f. 31.07.2001. However, in compliance of the order dated 25.07.2001 passed in the OA No.273/01, the proposed disengagement was kept on hold and the applicant was allowed to continue as a temporary measure.

10. That with regard to para - 6(x) The respondents beg to state that the time gap between disengagement on 30.09.97 and fresh engagement on 18.11.98 being 13 months, the same cannot be treated as a continuous engagement for the purpose of counting the length of casual service. The intervening period is not condonable in any circumstances.

11. That with regard to para - 6(xi) of O.A., the respondents beg to state that ~~the~~ the OA No-273/2001 was contested by filing written statement. After hearing both sides, the Hon'ble Tribunal was pleased to pass the judgement and order dated 07.03.2002 directing the respondent department to consider the case of the applicant sympathetically.

12. That with regard to para -6(xii) of OA, the respondents that as already submitted and also admitted by the applicant, he ~~was~~ was retrenched on 30.09.97 and engaged afresh on 18.11.98. During the intervening period, the applicant was not engaged for any work. The respondents beg to deny the averment made in para 6(xii) of the OA. The copy of the engagement certificate submitted by the applicant are false and fabricated. The such engagement certificates can be issued only by the in charge of the Telecom Centre Gueahati Railway station. These officers were working in other section. The totality of the certificates submitted by the applicant are false and fabricated.

13. That with regard to para - 6(xiii) of OA, the respondents beg to state that this was a gap of nearly 13 months from ~~01.10.97~~ 01.10.97 to 17.11.98 during which period the applicant was not engaged for any work. This constitute a break. The break is not condonable in any circumstances.

14. That with regard to para - 6(xiv) of OA, the respondents beg to state that the applicant was removed from ~~casual~~ casual service on 30.09.97 and thereafter he was not engaged for any work until 18.11.98. The period from 01.10.97 to 17.11.98 during which the applicant remained out of engagement constitute an uncondonable break. The present engagement from 18.11.98 is not a continuation of earlier engagement which came to an end on 30.09.97.

15. That with regard to para - 6(xv) of O.A., the respondents beg to state that the Chief Supdt.C.T.O. has no authority or jurisdiction to engage casual labourer. There is no sanctioned post of farash Cum Woman in Telegraph office of Telecom Centre. All civil post including Gr. 'D' post is governed by statutory requirement rules. Engagement of casual labourer is not an appointment to any post which is governed by statutory requirement Rules.

16. That with regard to para - 6(xvi) of O.A., the respondents beg to state that there is no such concept of confirmation of casual labourer. A casual labourer is not a casual labourer unless and until absorbed in the department after observing the due process of absorption.

17. That with regard to para - 6(xvii) of O.A., the respondents beg to state that there was been an uncondonable break of more than 13 months from 01.10.97 to 17.11.98. As a result of the break the casual service rendered up to 30.09.97 cannot be counted for the purpose eligibility for grant of temporary status. (Verification committee's report enclosed)

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

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

I, Shri Shankar Chandra Das presently working as a Ass'tt. Director Telecom (Legal) be duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 3, 5 to 10, 12, 14 and 15 are true to my knowledge and belief, these made in para 2, 4, 7, 11, 13, 16 and 17 being matter of records, are true my information derived therefrom and rest are my humble submission before this Hon'ble Tribunal, I have not suppressed any material facts.

And I sign this verification on this 23rd th day
of August , 2002.

Shankar Chandra Das

संकार चन्द्र दास (संग.)
Assistant Director Telecom (Legal)
Declarant (संकार चन्द्र दास),
On the Chief General Manager Telecom,
Assam Telecom Circle, Gauhati-7

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BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)
O/o the General Manager, Kamrup District,
Ulubari :: Guwahati-7.

NO:- GMT/ENG/CL-1/2001-2002 / 42

Dated at Guwahati the 12-03-2002

Sub:- Verification committee's report

A verification committee was constituted to examine and scrutinise the engagement particulars of the casual labourers in consultation with records. The same committee has been revived by GM/KTD/GH vide his office letter No:- GMT/ EST-179/ TSM/ 2000- 2001/ 187 dated 4-01-2002 to examine and scrutinise the working paticulars of the Casual Labourers claimed to have worked under the jurisdiction of Kamrup SSA.

The Committee consists of the following members:-

- (1) Sri M.C. Patow. Divisional Engineer (ADMIN)
- (2) Sri N.K. Das. Chief Accounts officer (Finance)
- (3) Sri S.C.Das ADT (Legal), Circle Office / Guwahati.

The committee has started functioning & reverified various records relating to the payment particulars in respect of the Applicants of OA NO: 273/2001 (Sri Kaineswar Kardong & Others). The committee after careful examination of the records found that the applicants in OA No 273/01 had completed 240 days or more in any calendar year prior to August 1998 but they were not in engagement on 01-08-1998. The findings of the committee in respect of each applicant of above OA are furnished in separate sheet.

Considering the above facts and circumstances of the case, and the guidelines of the "Grant of Temporary status and Regularisation Scheme , 1989" of the DEPTT & other related letters issued from DOT/ND No:- 269-13/99-STN-II dated 1-9-1999 & 269-20/2000-STN-II dated 4-9-2000, the committee does not find any reason to grant them temporary status.

The committee, therefore does not recommend the applicants of the above case to grant temporary status

ADT (Legal)
Circle Office

C.A.O. (Finance)
O/o the GMT/KTD/GH

D. E. (ADMN)
O/o the GMT/KTD/GH

Copy to:- The GM/ Telecom/Kamrup Telecom District for information please.

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

Hirayam Mukherjee

YEAR	MONTH	NO OF DAYS	MODE OF PAYMENT By MEMBER BUDGET C.I.D. PARLIAMENTARY EXCUSED MEMBERS	AMOUNT	ENGAGED BY WHOM	BILLING PASSING AUTHORITY	NAME OF A.O. WHO HAS PAID
1972	Feb						
	March						
	April						
	May						
	June						
	July						
	Aug						
	Sept						
	Oct						
	Nov						
	Dec						
1973	Jan						
	Feb						
	March						
	April						
	May						
	June						
	July						
	Aug						
	Sept						
	Oct						
	Nov						
	Dec						
1974	Jan	23	2.0. 2. - 2.9.6.	920	C.S.C.D	C.S.C.D	
	Feb	21	2.7. - 2.5.94	1108	—do—	—do—	
	March	27	1.21. - 9.4.94	1287	—do—	—do—	
	April	16	31. - 3.5.94	816	—do—	—do—	
	May	15.75	4.6. - 3.6.94	777	—do—	—do—	
	June	16.5	1.30. - 6.7.94	842	—do—	—do—	
	July	22.25	- 2.8.94	999	—for	—do—	
	Aug						
	Sept						
	Oct						
	Nov						
	Dec						
1975	Jan						
	Feb						

SIGNATURE OF THE COMMITTEE MEMBERS

~~do~~
A.Z.T (Legal).
circle office.

W.K.C.I.
C.A.O.
of the G.M.(K).

h.e.P.M.
D.E. (Admn).
of the G.M.(K).

B/31

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

YEAR	MONTH	NO. OF DAYS	MODE OF PAYMENT (e.g. MGR, BOL, ETC) 17 PARTICULARS IN VOUCHER NOS	AMOUNT	ENGAGED BY WHOM	BILLING/ PASSING AUTHORITY	NAME OF A. O. WHO HAS PAID
1995	Mar	-	---	-	-	-	-
	Apr	15	37- 4595	844	C E CIO	C E CIO	-
	May	13	- 9.5.95	709	- do -	- do -	-
	June	-	-	-	-	-	-
	July	22	173 9.8.95	1181	- do -	- do -	-
	Aug	16	497 9.9.95	943	- do -	- do -	-
	Sept	17.25	27 5.10.95	811	- do -	- do -	-
	Oct	15	20.2 10.11.95	855	- do -	- do -	-
	Nov	15.0	8.2 5.12.95	824	- do -	- do -	-
	Dec	15.5	2 3.1.96	890	- do -	- do -	-
1996	Jan	20.5	39 2.2.96	1153	- do -	- do -	-
	Feb	13.5	5 1.3.96	844	- do -	- do -	-
	Mar	19.5	22.2-12.4.96	1209	- do -	- do -	-
	April	22.5	- 2.5.96	1314	- do -	- do -	-
	May	21.75	- 3.6.96	1349	- do -	- do -	-
	June	25.5	9.1 4.7.96	1759	- do -	- do -	-
	July	27	- 1.8.96	1614	- do -	- do -	-
	Aug	20.25	- 1.9.96	1054	- do -	- do -	-
	Sept	28	6.2 4.10.96	1792	- do -	- do -	-
	Oct	21	5.6.1-5.11.96	1984	- do -	- do -	-
	Nov	30	3.6.1-4.12.96	1920	- do -	- do -	-
	Dec	27	11.1-8.1.97	1728	- do -	- do -	-
1997	Jan	25.5	- 4.2.97	1632	- do -	- do -	-
	Feb	24	- 4.3.97	1536	- do -	- do -	-
	Mar	28	- 2.4.97	1792	- do -	- do -	-
	Apr	30	- 5.5.97	1920	- do -	- do -	-
	May	26	7.4.10.5.97	1661	- do -	- do -	-
	June	25	- 21.7.97	1600	- do -	- do -	-
	July	29	- 5.8.97	1728	- do -	- do -	-
	Aug	17.5	- 4.9.97	1120	- do -	- do -	-
	Sept	17.25	- 3.10.97	1232	- do -	- do -	-
	Oct						
	Nov	22.3					
1998	Jan		1) Retrenched on 30.9.97 under DE 677 Letter No. SIIA-57/CE/98 97/18 DT 30.9.97				
	Feb		2) Relengaged on 18.11.98 under DE 270 letter SIIA-57/CE/98 99/LOU5 105 dt 18.11.98				
	Mar						
	Apr						
	May						
	June						
	July						
	Aug						

SIGNATURE OF THE COMMITTEE MEMBERS

A. S. T. (Legal)
circle office.N. K. S.
CAO.
to the GM (K).T. K. Patel
D.E. (Admin).
to the GM (K).