

30/10/06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

[Signature]
20/11/17

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 206/02
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. N. K. Roy

-Vs-

Respondant(s) H. O. I. Toms

Advocate for the Appleeant(s) M. Chandra, G. N. Chakrabarty, H. D.

Advocate for the Respondat(s) Case

Notes of the Registry

Date

Order of the Tribunal

U.S. a. in
form but
Com's
filed / 10
for Rs. 5 /
vic /
Date 27.6.02
79-577860

8.7.02

Heard Mr. G.N.Chakrabarty, lea
ned counsel for the applicant.

The application is admitted.
Call for the records.

List on 8.8.2002 for orders.

Dy. Strer.

K. Ushar
Member

Vice-Chairman

mb

8.8.02

List again on 5.9.2002 to
enable the Respondents to file writte
statement.

K. Ushar
Member

Vice-Chairman

mb

Steps taken
Notice prepared and
Sent to D. Section
for issuing of the
same to the Respondants No 223,
through Regd. post
with Afd. 1961 & 1962
Vide D. No. 17.7.02

What about Respondent No. 11

No. written statement
has been filed.

5.9.02

List again on 7.10.2002 for
order to enable the Respondents to file
written statement.

30
4.9.02

Member

Vice-Chairman

mb

7.10.02

List on 15.11.02 to enable
the respondents to file written state-
ment as prayed by Mr. A. Deb Roy, Sr.
C.G.S.C.

Member

Vice-Chairman

lm

15.11. Due to urgent sitting at Shillong, the
case is adjourned to 27.11.2002.

No. WLS has been
filed.

27.11.2002

Mr. A. Deb Roy, learned Sr. C.G.S.C.
prayed for some time to file written
statement. Prayer allowed. List the
case on 6.1.2003 for order.

Vice-Chairman

bb

6.1.03

present : The Hon'ble Mr Justice V.S.
Aggarwal, Chairman

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

Reply has still not been filed. Reply
be filed within 3 weeks.

List on 30.1.03 for order.

Member

Chairman

pg

30
29.1.03

No. reply has been
filed.

An Additional Statement
Submitted by The
applicant.

26.5.03

Heard Mr M.Chanda, learned counsel
for the applicant. None appears for the
respondents. It has been stated that Mr
A.Deb Roy, learned Sr.C.G.S.C was appearing
on behalf of the respondents who is absent
today.

Let the matter be posted for hearing
in presence of Mr A.Deb Roy on 11.6.03.
In the meantime the applicant may place
on record any further instruction that he
may receive from the applicant.

Member

Vice-Chairman

pg

11.6.2003

In course of hearing, it was
brought to our notice that the panel
prepared in the year 1999 for filling up
regular posts, even persons shown below
the applicant were appointed from the
same list in Group 'D' posts superseding
the claim of the applicant. No written
statement has so far been filed by the
respondents despite granting of time.
Let the matter come up for hearing on
20.6.03. In the meantime Mr A. Deb Roy,
learned Sr. C.G.S.C., shall obtain
instructions in the matter.

Member

Vice-Chairman

nk

20.6.2003

On the prayer of Mr. A. Deb Roy,
learned Sr. C.G.S.C. for the respondents
the case is adjourned.

List again on 10.7.2003 for
hearing.

Member

Vice-Chairman

mb

No. wks has been
filed.

26.5.03.

No. wks has been
filed.

26.5.03.

No. wks has been
filed.

26.5.03.

30.1.2003

Present : The Hon'ble Mr. Justice D. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra
Administrative Member.

The respondents are yet to file written statement though time granted. Further three weeks time is allowed to the respondents for filing written statement as a last chance.

List again on 21.2.2003 for written statement and further orders.


Member

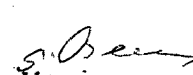

Vice-Chairman

mb

21.2.2003

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S. Biswas,
Administrative Member.

No written statement so far filed. Further four weeks time is allowed to the respondents to file written statement as a last chance. List the matter on 24.3.2003 for further orders and fix the date of hearing.


Member


Vice-Chairman


mb

24.3.2003

Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr. S. Biswas
Administrative Member.

Written statements ~~are~~ yet to be filed. Mr. A. Deb Roy, learned Sr. C.G.S.C. again asked for some time to file written statement. Instead the matter is posted for hearing on 24.5.2003.


Member



Vice-Chairman

bb

No written statement
has been filed.


21.3.03

No. 1013 has been
filed


23.5.03

10.7.2003 Put up again on 11.7.2003.


Vice-Chairman

bb

11.7.2003 Put up again on 25.7.2003 before
the Division Bench.


Vice-Chairman

mb

25.7.03 Present : The Hon'ble Mr Justice D.N.
Chowdhury, Vice-Chairman
The Hon'ble Mr N.D.Dayal, Admn.
Member.


The O.A. is concerned with livelihood of the applicant. It is pending before us since July 2002. Numerous time were granted to the respondents to file written statement or to file the records. Mr A.K. Chowdhury Deb Roy, learned Sr.C.G.S.C expresses his helplessness due to the absence of response from the respondents. Mr Deb Roy stated that he contacted respondent No.3 over phone for giving necessary instruction but up till now no such instruction is received. Mr Deb Roy stated that steps were taken after the interim order passed by this Bench on 14.8.2002 for taking steps for payment of salary etc. The matter came up today also for hearing. Since there is no reply in the absence of any rebuttal the Tribunal can act upon the ex-parte pleadings of the applicant. However, for the ends of justice we allow time expecting some response from respondents.

Heard in part. List it again on 1.8.03 for further hearing. The respondents shall produce the records and submit their written statement on that day.


Member


Vice-Chairman

No written statement
has been filed.


21.7.03.

1.8.2003

Mr. A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents stated that he is expecting to get the records alongwith written statement within short time. The case is already heard in part. However, on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents the case is adjourned and the matter shall be taken up for hearing on 5.8.2003. The respondents may file written statement alongwith the records if they desire.

No written statement
has been filed.

31
4.5.03

Member

Vice-Chairman

mb

5.8.2003

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

27/6/8

6.8.2003

Copy of the judgment
has been sent to the
D/Sec. for issuing
the same to the L/Adv.
for the applicant and
copy of the same
has been handed over
to the L.C.G.S.C. for the
Respondent.

pg

Member

Vice-Chairman.

HS

Received
Subrata 20/8/03
for the applicant.

B

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. **206** of **2002.**

5-8-2003.
DATE OF DECISION

Sri Nawal Kishore Ray

.....APPLICANT(S).

M Sri M.Chanda.

.....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 **MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN**

THE HON'BLE **MR N.D.DAYAL, ADMN. MEMBER.**

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 Ho'ble **Vice-Chairman**



9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 206 of 2002.

Date of Order : This the 5th Day of August, 2003.

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

The Hon'ble Mr N.D.Dayal, Administrative Member.

Shri Nawal Kishore Ray,
Son of Shri Iswar Dhari Ray,
Burnside Compound, Rilbong,
Shillong-13, Meghalaya.

. . . Applicant

By Advocate Sri M.Chanda.

- Versus -

1. The Union of India,
represented by the Comptroller and
Auditor General of India,
New Delhi.

2. The Accountant General (A&E)
Meghalaya etc.
Shillong-793001.

3. The Sr.Deputy Accountant General (Admn.)
Office of the Accountant General (A&E)
Meghalaya etc.
Shillong-793001.

. . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C)

The controversy raised in this application pertaining to employment of the applicant under the respondents. In this application the applicant pleaded that he was working under the respondents as a casual worker since 1993 and only after the applicant moved this Tribunal for redressal of his grievance for non employment the respondents stopped giving him work from 9.8.2002. The applicant also pleaded that against some posts of Group 'D' peon etc. his name was recommended by the Record Section. He was called for the

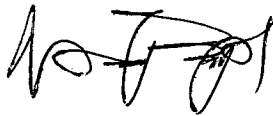
10
Interview by letter dated 12.5.99. He appeared alongwith 50 other candidates with the documents and testimonials as asked for. By letter dated 4.6.1999 he was intimated to the effect that his name was recommended by the Record Section for appointment in a Group D post. The new recruits to be posted to the branch office either at Itanagar or Aizal. However, for administrative reason they may be posted to the main office either at Shillong or Guwahati. Thereafter the applicant was intimated by communication dated 11.6.99 that there was likelihood that he may be offered appointment for the post within a short time. However, since he did not receive any offer of appointment he knocked the door of this Tribunal and contended that persons appeared much below in the select list were also offered appointment.

2. The respondents contested the case and submitted its written statement by denying and disputing the contention of the applicant. At the time of hearing Shri S.A. Bathew, Senior D.A.G (Admn) also attended and he was allowed to participate. Shri Bathew who is also the appointing authority fairly stated that the applicant's name is empanelled and he would have been appointed but for the pendency of this application he could not be appointed. He also stated that the respondents are ready to issue appointment letter, if the applicant does not pursue the application. Mr.M.Chanda, learned counsel appearing on behalf of the applicant however, stated that the applicant was unlawfully deprived from rendering him service and thereby denied him the payment of wages etc. and also his seniority for non appointment in the rank. We are not inclined to go into the issues, we feel that the litigation should come to an end. As the concerned officer fairly stated that appointment would be issued matter be closed at this stage.

3. In the circumstances we accordingly made the following order:

Appointment letter would be issued with utmost expedition and preferably within ten days from today. Thereafter the applicant shall join the post. Regarding other issues, pertaining to seniority, salaries and allowance which were raised here we leave the matter to be amicably resolved between the parties.

The application is accordingly disposed of. No order as to costs.



(N.D.DAYAL)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN

1. 4

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. 206/2002

Sri Nawal Kishore Ray: Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

S. Chakraborty
Advocate

Date

0
12
Filed by the applicant
through Sri G. N.
Chakraborty Advocate
1-9-2002

Ray

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

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

O.A. No. ²⁰⁶...../2002

BETWEEN

1. Shri Nawal Kishore Ray
Son of Shri Iswar Dhari Ray
Burnside Compound, Rilbong,
Shillong-13, Meghalaya

.....Applicant

-AND-

1. The Union of India,
Represented by the Comptroller and
Auditor General of India
New Delhi.
2. The Accountant General (A & E),
Meghalaya etc.
Shillong-793001
3. The Sr. Deputy Accountant General (Admn.)
Office of the Accountant General (A & E)
Meghalaya etc.
Shillong-793001

.....Respondents.

Ray

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is not made against any particular order but against non-appointment of the applicant in a group 'D' post even after his interview and selection, although he has been working as casual labour in the respondent department since March, 1993 and praying for a direction upon the respondents to grant temporary status to the applicant with effect from March, 1993 and to appoint the applicant in a suitable Group 'D' post, as per his selection made in May, 1999.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

The applicant further declares 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 applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant read up to High School level and passed IXth standard. He was initially appointed as casual worker


N.K. Roy

in March, 1993 in Treasury Section of the office of the Accountant General (A&E), Meghalaya etc., Shillong and has been entrusted with the works of a Group 'D' Peon such as distribution of treasury vouchers, files and other works of a Peon throughout. The applicant has been continuing as casual worker under the respondents till now.

4.3 That some posts of Group 'D' (Peon etc.) fell vacant/were created in the year 1999 under the respondents and the name of the applicant was recommended by the record section, office of the A.G. (A & E), Meghalaya etc. for said post. Accordingly the applicant was called for interview and was asked by the Establishment Officer (Meghalaya), office of the A.G. (A & E), Shillong vide letter No. Estt. I (M)/1-15/98-99/669 dated 12.5.1999 to appear before the Interview Board for personal interview on 25.5.99. Accordingly the applicant appeared before the interview board as an in service candidate along with about 50 other candidates with all documents and testimonials as asked for.

Copy of letter dated 12.5.1999 is annexed hereto as Annexure-1.

4.4 That thereafter, vide letter No. Estt1(M)/intention /99/Group-D/904 dated 4.6.1999, the Establishment Officer (Megh), informed the applicant that there is a likelihood of offering appointment to the applicant in a Group 'D' post within next two months and directed him to keep himself in readiness for joining the post with further instruction to him to submit the relevant attestation forms and certificates etc. within 15 days for the purpose. The applicant accordingly submitted on 9.6.99 all documents as asked for, within the stipulated time, and

H.K. Ray

Ray

hopefully kept on waiting for his appointment as committed by the respondents but with no fruitful result as yet.

Copy of letter dated 4.6.99 and documents submitted by the applicant are annexed hereto as Annexure-II and Annexure -III(series) respectively.

- 4.5 That subsequently, the applicant approached the respondents time and again praying for his appointment in a Group 'D' post and eventually submitted one representation on 02.03.01 to the Respondent No.3 praying for consideration of his appointment but unfortunately the same did not materialise till now, thus leading to his utter frustration.

Copy of representation dated 02.03.01 is annexed hereto as **Annexure-IV**.

- 4.6 That the applicant has been rendering services as casual labour under the respondents for years together with all his sincerities and a certificate issued by the Section Officer, Treasury (Megh.) on 13.3.1997 bears ample testimony of the efficiency of the applicant. This apart, the applicant in spite of his being selected in the interview, has not been appointed as prayed for and he has been deprived of his legitimate expectation and bona fide claim for an appointment in a Group 'D' post.

Copy of certificate dated 13.3.1997 is annexed hereto as **Annexure-V**.

- 4.7 That it is stated that the applicant is being engaged in works on every working day with a daily wage @ Rs. 50/ per day but such wage is paid subject to the maximum limit

of 16 to 18 days in a month for all these years which clearly amounts to unfair labour practice.

Further, the applicant has not even been granted the Temporary Status in terms of the 'Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993.'

- 4.8 That the Govt. of India launched number of Schemes for regularisation of casual labourers, including the one launched in the name and style - 'Casual labourers (Grant of Temporary Status and Regularisation) scheme of Government of India, 1993' vide O.M. dated 10.9.1993 issued by the Ministry of Personnel, P.G. and Pensions, D.O.P.T., government of India. The said Scheme provides inter alia as follows :

"4. Temporary Status.

- i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- ii) Such conferment of Temporary Status would be without reference to the creation/availability of regular Group 'D' posts.
- iii) Conferment of Temporary Status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the

Day

recruitment unit/ territorial circle on the basis of availability of work.

- iv) Such casual labourers who acquire Temporary Status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts."

It is needless to state that the applicant has fulfilled all the criteria as laid down in the above mentioned scheme and as such he is entitled to not only the grant of Temporary Status but also for his appointment to a Group 'D' post which have not been considered by the respondents till now.

Copy of the O.M. dated 10.9.1993 is annexed hereto as Annexure-VI.

4.9 That your applicant begs to state that due to non-consideration of his case for appointment to a Group 'D' post even after rendering services as casual labour for more than 9 years by now, he has been deprived of his valuable right and legitimate expectation and as such, finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his rights and interests and praying for a direction upon the respondents to grant Temporary Status to the applicant retrospectively with effect from March, 1993 and to appoint him in a Group 'D' post with immediate effect.

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

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

18/02

- 5.1 For that, the applicant has been serving under the respondents as Casual Labour since March, 1993 continuously.
- 5.2 For that, the applicant has acquired a valuable right for grant of Temporary Status in terms of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" launched by the Government of India vide O.M. dated 10.9.1993.
- 5.3 For that, the applicant qualified in the interview held for the selection for appointment to group "D" post and the respondents conveyed their intention to appoint the applicant within two months vide their letter dated 4.6.199 (Annexure-II).
- 5.4 For that, the applicant repeatedly approached the respondents for his appointment to Group "D" post and also submitted representation but with no result.
- 5.5 For that, the denial of the grant of Temporary status and appointment to the applicant evenafter engaging him as casual labour for over 9 years by now, amounts to unfair labour practice and opposed to the professed policy of the Government.
- 5.6 For that, the applicant has been discharging his duties as casual labour most efficiently and sincerely.
- 5.7 For that the grant of Temporary Status and regular appointment to Group "D" post is the most legitimate expectation and bonafide claim of the applicant.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other

alternative and efficacious remedy than to file this application.

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the respondents be directed to grant Temporary Status to the applicant retrospectively with effect from March, 1993 in terms of the "Casual labourers (Grant of Temporary Status and regularisation) Scheme of Government of India, 1993."
- 8.2 That the respondents be directed to appoint the applicant in a Group 'D' post as per their letter of intention dated 4.6.1999 immediately.
- 8.3 Costs of the application.

100

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar in granting appointment to the applicant as prayed for.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. : 76577860.
ii) Date of issue : 27.6.2002.
iii) Issued from : G. P. O, Guwahati
iv) Payable at : G. P O, Guwahati.

12. List of enclosures.

As given in the index.

VERIFICATION

I, Sri Nawal Kishore Ray, Son of Sri Iswar Dhari Ray, aged about 26 years, resident of Burnside Compound, Rilbong, Shillong-13 do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 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 15th day of ~~June~~ July 2002.

Nawal

- 11 -
UNDER CERTIFICATE OF POSTING

ANNEXURE - I

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA, ETC., SHILLONG

No. Estt. I(M)/1-15/98-99/667

Dated Shg., the ¹²~~13~~ May '99.

To

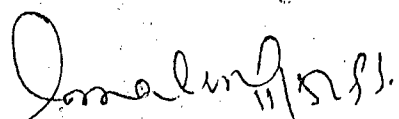
Shri/Smt NEWAL KISHORE ROY
CASUAL LABOURER
% to A.G. (A&E) Megh. etc. Shillong.

Your name has been recommended by the ~~Employment Exchange/Zila Sainik Welfare Office/Rajya Sainik Board, Guwahati/Shillong/Record Section, O/o the A.G. (A&E) Assam, Meghalaya,~~ etc. for the post of Group-D (Peon, etc.). The new recruits would be posted to the Branch Office either at Itanagar or Aizawl. However for administrative reason they are liable to to be posted to the main office either at Shillong or Guwahati on purely temporary basis. You are requested to appear before the Interview Board for personal interview on 25th 5. 99 at 11. AM.

2. You are to report to Establishment-I(M) Section of the O/o the Accountant General (A&E) Meghalaya, etc., Shillong with all the original certificates in support of your Age, Educational Qualifications, Caste/Tribe, Citizenship Certificate, alongwith employment Exchange Registration Card at least one (1) hour before the time fixed for interview.

3. You are also required to bring your recent passport size photograph (three copies) and Specimen Signature both duly attested (stamped with official seal) by a Gazetted Officer/MLA MP/Municipal Councilor/Principal or Head Master of recognised Educational Institution which you will have to produce alongwith your original Certificate before Interview.

*Attested
J. Parvati*


Establishment Officer (Megh).
O/o the A.G. (A&E) Megh, etc.,
SHILLONG.

INSTRUCTIONS TO CANDIDATES

24

- (1) Candidates belonging to SC/ST who are not already in Service will be entitled to single Second Class Railway Fare or Bus Fare chargeable by the Shortest Route from the Railway Station/Bus Station nearest to their normal place of residence or from where they actually perform the Journey whichever is nearer to the place of Interview and back to the same station provided that the Fare of the First 30 (thirty) Kms. in both cases (i.e. rail or Road) is borne by the candidates and the reimbursement will be restricted to the fare in respect of the balance of distance exceeding 30 (thirty) Kms. both ways. No extra charges, in any incurred for reserving seat/sleeping berth in the train will be reimbursed.
- (ii) Such candidates may submit their claims for reimbursement of a Railway/Bus fare duly supported by cash receipt/Tickets Nos. or any other proof of journey.
- (iii) All outside candidates should make their own arrangements for stay etc. at the place of interview.
- (iv) This letter should be produced at the time of interview.

*Alotted
Jaw.
26/10/2011*

[Signature] 11/5/99
Asstt Accounts Officer,
Establishment-I,
O/o the A.G. (A&E) Megh., etc.,
SHILLONG.

REGISTERED POST

OFFICE OF THE ACCOUNTANT GENERAL (AGS), MESHALAYA, ETC.,
SHILLONG-793001
-0000-

No. Estt-1(M)/Intention/99/Group-D/9011 Dated 11-6-99

With reference to his interview for the post of Group-D (Peon / Watchman / Safaiwala) he/she is informed that there is a likelihood that he may be offered appointment for the above mentioned post in the next two months or so for which he may keep himself in readiness for joining the post when the offer of appointment is issued to him.

2. This is not an offer of appointment.

3. He should submit the following documents within 15 days from the date of receipt of this memo.

(i) Certificate of Character in the form enclosed from the Head of Educational Institution last attended or in case such a certificate cannot be obtained a certificate in the same form from a Gazetted Officer (both cases duly attested by a District Magistrate, Sub-Divisional Magistrate or stipendiary First Class Magistrate. This Certificate should have reference to 2 years immediately preceding.

(ii) Attestation form (enclosed) duly completed (if not already furnished).

(iii) A Scheduled Castes/Tribes Certificate in the form enclosed from a District Magistrate, Additional District Magistrate, Collector, Deputy Commissioner, Additional Deputy Commissioner, Deputy Collector, First Class Stipendiary Magistrate, City Magistrate, Sub-Divisional Magistrate, not below the rank of 1st. Class Stipendiary Taluka Magistrate, Executive Magistrate, Extra Assistant Commissioner, Chief Presidency Magistrate, Additional Chief Presidency Magistrate, Presidency Magistrate, Revenue Officer not below the rank of Tehsildar, Sub-Divisional Officer of the area he/she or his/her family normally resides.

(iv) A declaration in the form enclosed indicating whether he/~~her husband~~ has more than one wife living.

(v) No Objection Certificate from his previous employer, if any, if he/she is already in employment.

(vi) Displaced person Certificate from a gazetted officer of the Central Government or from a District Magistrate and/or Eligibility Certificate issued by the Government of India or a Citizenship Certificate as a

A. The New Recruits would be posted to the Branch Office either at Litanagar or Aizawl. However for administrative reason they are liable to be posted to the main office either at Shillong or Guwahati on purely temporary basis.
Contd.....2/.....

AK
7/6

Pls send
Jm
Advocate

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of registration as an Indian Citizen.

~~The place of posting will be at Shillong/Guwahati.~~

On his appointment as Group 'D', he is liable to be placed in training in Home Guard as per the instruction of Government of India.

6. No extra correspondence on this memo will be entertained.

7. Two copies of Identity Certificates which should be signed by two different Gazetted Officers (enclosed)

[Signature]
Establishment Officer (Megh).
Office Of The A G (A&E)
Meghalaya Etc. Shillong

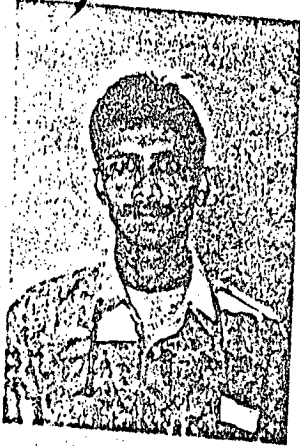
To
Shri/Smt. NEWAL KISHORE Roy
CASUAL LABOURER
Of Sd/- AG (A&E) Megh, etc. Shillong.

*Attested
J. Advocate*

"WARNING"

ATTESTATION FORM

ANNEXURE-I



The furnishing of false information or suppression of any factual information in the Attestation form would be disqualification and is likely to render the candidate unfit for employment under the Govt.

2. If detained, arrested, prosecuted, bound down, fined, convicted, debarred, acquitted etc. subsequent to the completion and submission of this form the details should be communicated immediately to the authorities to whom the attestation form has been sent early, failing which it will be deemed to be a suppression of factual information.

3. If the fact that false information has been furnished or that there has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person, his services would liable to be terminated.

1. Name in full (in block capitals) with aliases, if any (Please indicate if you have added or dropped in any stage, any part of your name or surname).

NAWAL KISHORE
ROY

2. Present address in full (i.e., Village, Thana and District or House Number Lane/Street/Road and town

RIL BONG. 13 inside Compound
SHILLONG-13, Meghalaya.

3. (a) Home address in full i.e. Village, Thana and District, or House Number and Lane/Street/Road & Town and name of the District HQR.

Vill - Milk Kakrahata

P.S. Bidupur Bazar P.O. Bidupur Rly Stn.
Dist - Varanasi, Bihar

(b) If originally a resident of Pakistan the address in that country and the date of migration to Indian Union.

4. Particular places (with periods of residence) where you have resided for more than one year at a time during the preceding five year. In case of stay abroad (including Pakistan) particulars of all places where you have resided for more than one year after attaining the age of 21 years should be given.

C/o T.K. Chakravarty, Rillong, Shillong-13, Meghalaya

Attested
Jm. Advocate

From	To	Residential Address in full i.e. village, name and Distt. or House No. Lane/Street/Road and Town	Name of the District Hqs. of the place mentioned in the preceding column.
17.6.76	28.2.82	Surpali B. hawan, near Pugin Pandol, Rillong	Shillong East Khasi Hills
1-3-82	23-12-91	Shillong - 13 Lalchand Bashi c/o Late Sukdev Roy.	— do —
24-12-91	Till date	c/o T. K. Chakravarty Rillong, Shillong - 13	— do —

		Nationality (by birth and or by domicile)	Place of birth	Occupation (if employed give designation & Official address)	Present postal address (if dead, give last address)	Permanent Home address
1. Father (name in full aliases, if any)	Shri Jswardham Ray	Indian	Behar	Govt Servant in Assam Sectt. Dr	Alive	Behar
2. Mother	Smt. Rajpati Devi	Indian	Behar	Housewife	— do —	— do —
3. Wife/Husband	Smt. Sadita Devi	Indian	Behar	— do —	— do —	— do —
4. Brother(s)	/	/	/	/	/	/
5. Sister(s)	/	/	/	/	/	/

Attested by
Rajwade

8. (a). Information to be furnished with regard to son(s) and or daughter(s) in case they are studying/living in a foreign country.

Name	Nationality (by birth and/or by domicile)	Place of birth	Country in which studying/living with full address	Date from which studying/living in the country mentioned in previous column.
1. Rubi Kumari	Indian	Shillong	Pillong L.P. School	1998

Nationality Indian

- (a) Date of birth (A) 17-6-76
(b) Present Age (B) 23 yrs.
(c) Age at Matriculation (C) - 27 -

8. (a) Place of Birth, District and State in which situated (a) Shillong, East Khasi Hills, Meghalaya.
(b) District and State to which you belong (b) East Khasi Hills, Shillong.
(c) District and State to which your father originally belong (c) Bihar

9. (a) Your Religion Hinduism
(b) Are you a member of Scheduled Caste/Scheduled Tribe? Answer Yes' or 'No' NO

10. Educational qualification showing places of education with years in schools and colleges since 15th year of age.

Name of School/College with full address	Date of entering	Date of leaving	Examination passed
Pillong L.P. School The Mankhame High School Mankhame Shillong-12	1982	1991	Class 13 Read upto class VIII

Distressed
for
Advocate

1.(a) Are you holding or have any time held any appointment under the Central or State Government or a Semi-Government or a Quasi Government body, or an autonomous body, or a public undertaking or a private firm or institution? If so, give full particulars with dates, of employment up-to-date.

Period		Designation, emolument & nature of employment	Full name and address of employer	Reasons for leaving previous service
From	To			
/	/	/	/	/

11. (b) If the previous employment was under the Government of India, a State Government, an undertaking owned or controlled by the Government of India or a State Government and autonomous body/University/Local body.

If you had left service on giving a month's notice under Rule-5 of the Central Civil Services (Temporary Service) rules 1955, or any similar corresponding rules were any disciplinary proceedings framed against you, or had you been called upon to explain your conduct in any matter at the time you gave notice or termination of service or at a subsequent date, before your service actually terminated?

12. I (a) Have you ever been arrested? Yes/No
 (b) Have you ever been prosecuted? Yes/No
 (c) Have you ever been kept under detention? Yes/No
 (d) Have you ever been bound down? Yes/No
 (e) Have you ever been fined by a court of Law? Yes/No
 (f) Have you ever been convicted by a Court of Law for any offence? Yes/No
 (g) Have you ever been debarred from any examination or re-stated by any university or any other educational authority/institution? Yes/No
 (h) Have you ever been debarred/disqualified by any public service commission/staff selection commission for any of its examination/selection? Yes/No
 (i) Is any case pending against you in any Court of Law at the time of filling up this Attestation Form? Yes/No
 (j) Is any case pending against you in any university or any other educational authority/institution at the time of filling up this Attestation form? Yes/No
 (k) Whether discharged/expelled/withdrawn from any training institution under the Government or otherwise? Yes/No

*Attested
Jus
Rao can*

(II) If the answer to any of the above mentioned questions is 'Yes' give full particulars of the case/arrest/detention /fine/conviction/sentence/punishment etc. and or the nature of the case pending in the Court/University/Educational Authority etc. at the time of filling up this form.

NOTE:- (i) Please also see the 'Warning' at the top of the Attestation Form.

(ii) Specific answers to each of the questions should be given by striking out 'Yes' or 'No' as the case may be.

1. Names of two responsible persons (i) Shri P. J. Kedar, Suptd of Customs
of your locality or two Bunside Compound, Pilling, Shillong-17.
references to whom you are known

(ii) T. K. Chakravarty, Pilling, Shillong.

I certify that the foregoing information is correct and complete to the best of my knowledge and belief. I am not aware of any circumstances which might impair my fitness for employment under Government.

Signature of
the Candidate

Hawal K. Ray

Date

14 April June 1999.

Place

Shillong

Attested
for
Signature

.....IDENTITY CERTIFICATE.....

Certificate to be signed by any one of the following)

1. Gazetted officers of Central or State Government.
2. Members of Parliament or State Legislature belonging to the Constituency where the candidate or his parent/Guardian is originally resident.
3. Sub-Divisional Magistrate/Officer.
4. Tehsildars or Naib/Deputy Tehsildars authorized to exercise Magisterial power.
5. Principal/Head Master of the recognised School/College/Institution where the candidate studies last.
6. Block Development officer.
7. Post Master.
8. Panchayat Inspector.

Certified that, I have known Sri/Smt/-/Kumari
...Nawal Kishore Rai..... Son/Daughter of Sri
.....
.....
.....
for the last 10 yrs. years
months and that to the best of my knowledge and belief
the particulars furnished by him/her are correct.

Date... 4.6.79.....
Place ... Shimla

Signature (A. G. Choudhary) / u/cus.
Designation Block Development Officer
Office of the A. G. (A&E)
and address Shimla, Etc, Chhillong.

TO BE FILLED BY THE OFFICE

1. Name, Designation and Full Address of the Appointing Authority.
2. Post for which the candidate is being considered.

Attested
J. N. Datta
Datta

CERTIFICATE OF CHARACTER

(For Class III Service)

FROM THE HEAD OF THE EDUCATIONAL INSTITUTION LAST ATTENDED

Certified that I have known Shri/Smti/Kumari Nawal Kishor Ray son/daughter of Shri Iswar Phari Ray for the last 18 years — months — days and that to the best of knowledge and belief He/She bears reputable character and has no antecedents which render Him/Her unsuitable for Government Employment.

2. Shri/Smti Nawal Kishor Ray is not related to me.

Place :- Mawkhanu
Date :- —

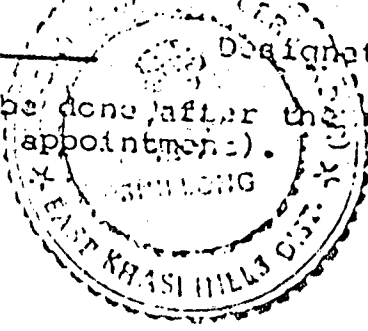
Signature :- [Signature]
Designation HEAD MASTER
MAWKHANU HIGH SCHOOL
Mawkhanu

*(to be attested by District Magistrate or Sub-Divisional Magistrate)

ATTESTED

Place :- SHILLONG
Date :- 30.11.99
Signature :- [Signature]
Designation :- —

**(This should be done after the candidate is finally selected for appointment).



Attested for
[Signature]

A N N E X U R E - III

DECLARATION TO BE OBTAINED FROM NEW ENTRANTS TO GOVERNMENT SERVICE.

I, Shri/Smti/Kumari Nawal Kishore Ray
declared as under.

1. That ~~I am unmarried/a-widower/a-widow.~~
2. That I am married and have only one spouse living.
- 3 ☒ That I have entered into/or contracted a marriage with a person having a spouse living. Application for grant of exemption is enclosed.
- 4 ☒ That I have entered into and contracted a marriage with another person during the life time of my spouse. Application for grant of exemption is enclosed.
- 11) I solemnly affirm that the above declaration is true and I understand that in the event of the declaration being found to be incorrect after my appointment, I shall be liable to be dismissed from service.

Dated :- 4th June '99

Nawal K R Ray
Signature

*Note:- Please delete clause/clauses not applicable.

*Attested for
Advocate*

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To

The Sr. Dy. Accountant General (Admn),
O/o the AG(A&E), Meghalaya, etc., Shillong.

Sub : *Prayer for consideration for appointment in Gr. 'D' Post.*

Sir,

With due respect and humble submission, I beg to lay the following few lines for favour of your kind consideration and sympathetic order.

That Sir, I have been working in your kind Establishment as a Casual labour since March'93. That Sir, I have been working in your Department with earnest faith that my service will be regularised as and when regular vacancy occurs in your Department. I was accordingly interviewed for the post of Gr. 'D' last time and I was offered with letter of intention for appointment vide ELP-1141/Intention/99/Gr.D/9011 dated 1.6.99. That Sir, the attestation forms duly filled in with the requisite certificate has submitted to your office within the stipulated time. But Sir, the faith of my appointment is still in dark.

Under the circumstances stated above, I fervently pray before your goodself to be kind enough to look into the matter personally and consider my appointment at the earliest and for this act of your kindness, I shall remain ever grateful to you.

Yours faithfully,

Dated : the 2nd March'2001
Place : Shillong

N.K. Ray
543/01
(NAWAL KISHOR RAY)

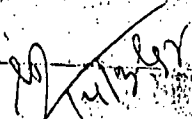
*Attested for
Advocate*

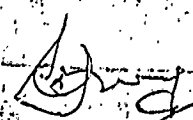
[Signature]

TO WHOM IT MAY CONCERN

This is to certify that Shri Nawell Kishore Rai son of Shri Iswar Dhariray has been deployed as a casual labour in Treasury (Megh) section since 1993. He is a disciplined and hard worker. The services rendered by him in connection with the works of distribution of treasury vouchers etc. has been found to be very efficient.

I wish him success.


Sr. Accounts Officer,
Treasury (Megh) Office of the A.G. (A&E)
Meghalaya Etc, Shillong.

 13/3/97
(H. R. Nongrum)
Section Officer
Treasury (Megh)

*Noted
for
service*

Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training

New Delhi, the 10th Sept. 1993

OFFICE MEMORANDUM

Subject: Grant of temporary status and regularisation of Casual workers - Formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb 1990 in the case of Shri Raj Kamal & Others Vs. UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government offices were issued vide this Department's O.M. No. 49014/2/86-Estt(C) dated 7.6.80. The policy has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 6.2.90 in the writ petition filed by Shri Raj Kamal and others vs. Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7.6.88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by a scheme as appended.

Ministry of Finance etc. are requested to bring the scheme the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines containing O.M. dated 7.6.88. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities taking prompt and suitable action.

Sd/-
(Y.G. Parande)
Director

Ministries/Departments/Offices of the Government of India as per the standard list.

- to:
- (1) All attached and subordinate offices of the Government of India
 - (i) Ministry of Personnel, PG and Pensions
 - (ii) Ministry of Home Affairs
 - (2) All officers and sections in the MHA and Ministry of Personnel, PG and Pensions.

Sd/-
(Y.G. Parande)
Director

*Attested for
Sd/-
Sd/-*

New Delhi, the 10th Sept. 1993

OFFICE MEMORANDUM

Grant of temporary status and regularization of casual workers - Formulation of a scheme in pursuance of the CAT, Principal Bench, New Delhi, judgement dated 16th Feb 1990 in the case of Shri Raj Kamal & others Vs. UOI.

Guidelines in the matter of recruitment of persons on a casual basis in Central Government offices were issued by Department's O.M. No. 49014/2/86-Estt(C) dated 7.6.80. It has further been reviewed in the light of the judgement of the CAT, Principal Bench, New Delhi delivered on 16th Feb 1990 in the writ petition filed by Shri Raj Kamal and others against the Government of India and it has been decided that while the guidelines contained in O.M. dated 7.6.80 may continue to be followed, the grant of temporary status to the casual workers, who are presently employed and have rendered one year continuous service in Central Government offices other than Ministry of Telecom, Posts and Railways may be regulated by scheme as appended.

Ministry of Finance etc. are requested to bring the scheme under notice of appointing authorities under their administrative control and ensure that recruitment of casual workers is done in accordance with the guidelines containing O.M. dated 7.6.80. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

Sd/-
(Y.C. Paranda)
Director

Ministries/Departments/Offices of the Government of India as per the standard list.

- y. to:
- (1) All attached and subordinate offices of
(i) Ministry of Personnel, PG and Pensions
(ii) Ministry of Home Affairs
 - (2) All officers and sections in the MHA and
Ministry of Personnel, PG and Pensions.

Sd/-
(Y.C. Paranda)
Director

*Advised
Law
Advocate*

APPENDIX

(1) Department of Personnel & Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993".
2. This scheme will come into force w.e.f. 1.9.1993.
3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of these orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own scheme.
4. Temporary status

- 1) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
- ii) Such conferment of temporary status would be without reference to the creation/availability of regular Group 'D' posts.

- iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
- iv) Such casual labourers who acquire temporary status will not however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.

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

- i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and CCA.
- ii) Benefits of increments at the same rate as applicable to a Group D employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
- iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternity leave, will not be admissible. They will be allowed

Attested
for
Signature

to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.

iv) Maternity leave to lady casual labourers as admissible to regular Group D employees will be allowed.

v) 50% of the service rendered under Temporary Status would be counted for the purpose of retirement benefits after their regularisation.

vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Group D employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance/Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. servants of their Department.

vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.

7. Despite conferment of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Group D posts

(i). Two out of every three vacancies in Group D cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from amongst casual workers with temporary status. However, regular Group D staff rendered surplus for any reason will have prior claim for absorption against existing / future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or

Missed In Advokat

7 Sep.

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320 P02

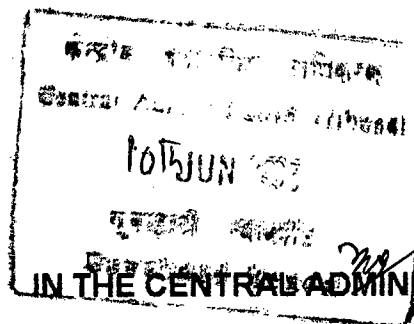
320 P05

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or lack of minimum qualification will not be a requisite qualification. They would be allowed a relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.
10. In future, the guidelines as contained in this Department's O.M. dated 7.6.88 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.
11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

Attested
for
signature



GUWAHATI BENCH

Filed by the Applicant -
Through:
Subrata Nath
Advocate
10/6/03

In the matter of

O.A. No. 206 of 2002

Sri Nawal Kishore Ray

-VS-

Union of India & Ors.

-And-

In the matter of:

An Additional statement submitted by the
applicant in support of the contention raised in the
abovementioned Original Application.

The applicant above named most humbly and respectfully begs to state as under :

1. That it is stated that during the pendency of this application the respondents did not comply with the interim order passed by this Hon'ble Tribunal on 14.08.2002 in M.P. No. 102/2002. But the respondents acted upon the panel prepared way back in the year 1999 for filling up regular Group post available under the administrative control of Respondent NO.2. In this connection it is stated that as many as 8 (eight) persons were appointed

who were recruited as casual worker along with the applicant and empanelled for regular appointment in the existing Group D post for process of selection. Be it stated that even those persons who are much below in the select list also now appointed in the regular Group D post except the present applicant. It is stated that the following persons appointed from the same panel of 1999 where name of the applicant was placed comparatively in a higher position than the following personnel. The detail particular of personnel is given below :

1. Sri Monoj Kumar Roy
2. Sri F. Nongklal
3. Sri Robin
4. Sri Krishna
5. Sri Santu Deka

In this connection it is stated that the applicant could not collect the name of other casual labours whose services have been regularised during the pendency of the aforesaid Original Application. Therefore the said action of the respondents is highly discriminatory and the same is violation of Article 14 and 16 of the Constitution of India.

2. That this additional statement is made bona fide.

VERIFICATION

I, Sri Nawal Kishore Ray, Son of Sri Iswar Dhari Ray, aged about 27 years, resident of Burnside Compound, Rilbong, Shillong-13, do hereby verify that the statements made in Paragraph 1 and 2 of this additional affidavit are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the _____ day of June, 2003.

Nawal Kishore Ray

Ray

Filed by

42
V 5/8/03
(A. DEB ROY)

Sr. C. & A.

C. A. T., Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
(BENCH AT GUWAHATI)**

IN THE MATTER OF :

O.A. No. 206/2002

Shri Nawal Kishore Roy

APPLICANT

-VERSUS-

1. The Union of India & Others Represented by the C&AG
2. The Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong.
3. The Sr. Dy. Accountant General (Admn), O/o the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong.

-And-

IN THE MATTER OF :

Written statement submitted by the Respondent No. 1 to 3

Written Statements

The humble Respondents submit their written statements as follows :-

1. That with regard to the Paragraphs 1, 2, 3 and 4.1 the Respondents have no comments to offer.
2. That, with regard to the statements made in Paragraph 4.2 of the application, the Respondents submit that for casual and intermittent nature of work the applicant was engaged to work as a casual labourer on a day to day basis depending on availability of work from 8 / 1993 onwards. The applicant could not be entrusted Group D Peon duties as the duties of the latter are regular in nature.

3. That as regards statement made in Paragraph 4.3 of the application, the respondent submit that in 1999 an advertisement was issued in leading newspapers calling for applications to fill up some vacant Group D posts. Names of candidates were also called for from the Employment Exchange and Zilla Sainik Board. The applicant along with other candidates were interviewed for these vacant posts of Group D.
4. That as regards statement made in Paragraph 4.4 of the application, the respondents submit that on the basis of the results of the interview conducted as mentioned immediately above, an intention of appointment was issued to the applicant and in this letter it was specifically mentioned in Paragraph 2 (Marked as Annexure "A") that the letter did not constitute an offer of appointment. Along with this letter as was the normal procedure forms were sent to the applicant requesting the applicant to fill up the same and resubmit them to the respondents.
5. That as regard statement made in Paragraph 4.5 of the application, the respondents submit that no action was taken to fill up the vacant posts of Group D by persons who were interviewed in 1999 due to administrative reasons.
6. That as regards statement made in Paragraph 4.6 of the application, the respondents submit that though the applicant and other were listed for consideration for appointment as Group D based on the results of the interviews but appointments were not offered to anyone because of the reasons explained in paragraph 4 above.
7. That as regards statement made in Paragraph 4.7 of the application, the respondents submit that the applicant was paid wages as per the rates prescribed by the Government of Meghalaya.

8. That as regards statement made in Paragraph 4.8 of the application, the respondents submit that grant of temporary status to casual labourers was a one time action permitted by the Government of India and covered only those casual employees who were working as on 10.09.1993 and had completed one year of continuous service with 206 days in the case of offices observing a 5 days week. The applicant had been engaged as a Casual labourer in 8 / 1993 and had not completed one year of continuous service with 206 days in the case of offices observing a 5 days week. The applicant was thus not qualified to be granted temporary status (Marked as Annexure "B"). In support reference may be made to Supreme Court judgement in Union of India -Vrs.- Mohan Pal & Other 4 Supreme Court Cases 573 (2002) (Marked as Annexure "C").
9. That as regards statement made in Paragraph 4.9 of the application, the respondents have nothing further to state except what has been stated in paragraph 3,4 and 5 above.
10. That as regards statement made in Paragraph 4.10 of application, the respondents submit that they have no comments to offer.
11. That as regards statement made in Paragraph 5, 6, 7, 8 and 9 of the application, the respondents submit that they have no further comments to offer except for what has been brought forth in the paragraphs above of this affidavit in opposition to the Application.
12. That with regard to the statement made in Paragraph 8.1 of the application, the respondents submit that the applicant's prayer for granting him temporary status is to be set aside since the grant of temporary status was a one time decision of the Government and the applicant was not considered for the same as he did not fulfill the conditions for grant of temporary status.

13. That as regards statement made in Paragraph 8.2 of the application, the respondents submit that the applicant's prayer for appointing him to the post of Group D on the strength of letter of intention dated 4.6.1999 is also to be set aside as because this letter was only an intention of appointment and not an offer of appointment. The applicant's prayer for appointing him to the post of Group D by virtue of possessing the letter of intention sent to him by the office is not valid as the entire exercise in connection with the Group D recruitment in 1999 was put off due to administrative reasons and the applicant was not the only candidate affected by the same.

VERIFICATION

I Shri S.A. Bathew, Sr. Dy. Accountant General (Admn), O/o The Accountant General(A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong do hereby solemnly declare that the statements made above in the Written Statements are true to my knowledge, belief and information and I sign the Verification on the ----- at Shillong.

DEPONENT

Identified by

ADVOCATE

Solemnly affirmed and sworn before me this day the _____ 2003 by the deponent above-named on being identified by Shri _____, Advocate, Shillong.

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5. Accordingly, the appeal is allowed, impugned order passed by the High Court is set aside and the matter is remitted to that Court for disposal of the appeal in accordance with law after giving opportunity of hearing to the parties.

(2002) 4 Supreme Court Cases 573

(BEFORE D.P. MOHAPATRA AND K.G. BALAKRISHNAN, JJ.)

Civil Appeal No. 3168 of 2002

UNION OF INDIA AND ANOTHER

Appellants;

Versus

MOHAN PAL AND OTHERS

Respondents.

With

Civil Appeals Nos. 3182, 3179, 3176-78, 3169 of 2002, 3181 of 2002 and 3170-71 of 2002

LT. GOVERNOR (ADMN.) AND OTHERS

Appellants;

Versus

SADANANADAN BHASKAR AND OTHERS

Respondents.

Civil Appeals No. 3168 of 2002[†] with Nos. 3182, 3179, 3176-78, 3169 of 2002, 3181 of 2002 and 3170-71 of 2002 with Nos. 3172-75 of 2002 and 3180 of 2002, decided on April 29, 2002

- A. Labour Law — Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 — Cls. 4 and 3 — Nature of the scheme — Held, is a one-time programme applicable to casual labourers who were in employment on the date of commencement of the Scheme and had also rendered continuous service for the prescribed period — It does not postulate giving temporary status to all casual workers as and when they complete continuous service for the period prescribed in cl. 4 — Casual employee or labour

- B. Labour Law — Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993 — Cl. 7 — Power under, to dispense with the services of a casual labourer who had been granted temporary status — Scope and mode of exercise of — Cl. 7, held, certainly empowers the employer to terminate the services of such persons — However, that power cannot be exercised merely on his whims and fancies — If there is sufficient work and other casual labourers are still to be employed for that work, the casual labourers who have acquired temporary status should not be removed from service under para 7 — Of course, the power under para 7 can be exercised in case of a serious misconduct or violation of service rules — Termination of service — Casual or temporary — Power to terminate — Manner of exercise of

[†] From the Judgment and Order dated 22-9-1999 of the Delhi High Court in CW No. 963 of 1998

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The Department of Personnel and Training of the Government of India formulated a scheme for the grant of "temporary" status and regularisation of the services of casual labourers working in its various departments. The Scheme came into effect from 1-9-1993 and was applicable to casual labourers in employment of the ministries/departments and offices specified in clause 3 thereof. The Scheme envisaged conferring of "temporary" status on all casual labourers who had worked for the prescribed minimum number of days. One of the questions arising in the instant appeals was whether the conferment of temporary status was a one-time programme as per the Scheme or was an ongoing scheme requiring the casual labourers to be given "temporary" status as and when they completed the prescribed minimum of the days of work. Another question that arose was whether the services of casual labourers who had been given "temporary" status could be dispensed with as per clause 7 as if they were regular casual labourers.

Held :

Clause 4 of the Scheme is very clear that the conferment of "temporary" status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Clause 4 does not envisage it as an ongoing scheme. In order to acquire "temporary" status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at least one year which means that he should have been engaged for a period of at least 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4, it does not appear to be a general guideline to be applied for the purpose of giving "temporary" status to all the casual workers, as and when they complete one year's continuous service. (Para 6)

Clause 7 of the Scheme certainly gives the employer the right to terminate the services of casual labourers who have been given "temporary" status. However, having regard to the general scheme of 1993, it has to be held that the casual labourers who acquire "temporary" status cannot be removed merely on the whims and fancies of the employer. If there is sufficient work and other casual labourers are still to be employed by the employer for carrying out the work, the casual labourers who have acquired "temporary" status shall not be removed from service as per clause 7 of the Scheme. However, if there is serious misconduct or violation of service rules, it would be open to the employer to dispense with the services of a casual labourer who had acquired the "temporary" status. (Para 9)

T. Rajakili v. Union of India, WP (CT) No. 86 of 1999 (Cal) (DB), approved

H-M/25690/CL

Advocates who appeared in this case :

Mukul Rohatgi, Additional Solicitor-General and B.A. Mohanti, Senior Advocate (S. Wasim A. Qadri, C. Radhakrishnan, Ajay Sharma, B.V. Balaram Das, Ms Rekha Pandey, Ms Varuna Bhandari, D.S. Mahra, T.C. Sharma, P. Parameswaran, Ms Kavita Wadia, Ms Pratibha M. Singh, Maninder Singh, Ashok K. Srivastava, B.K. Prasad, C.S. Ashri, Vijay Kumar, Yatinder Sharma, Prashant Kumar, Ajay Majithia, Y.P. Dhingra, K.B. Sounder Rajan, R.K. Gupta, K.K. Gupta, Ms K. Sarada Devi and Ms Rani Chhabra, Advocates, with them) for the appearing parties.

Chronological list of cases cited

on page(s) h

1. WP (CT) No. 86 of 1999 (Cal) (DB), *T. Rajakili v. Union of India*

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The Judgment of the Court was delivered by

K.G. BALAKRISHNAN, J.— Leave granted.

- a 2. In all these appeals, common questions of law arise for consideration and hence they are being disposed of by a common judgment. In one set of appeals, the Union of India is the appellant and in another set of appeals, the Lt. Governor (Andaman and Nicobar Islands) is the appellant. The matter relates to the grant of "temporary" status to the casual workers in some of the departments of the appellants. The Department of Personnel and Training of the Government of India formulated a scheme for the grant of "temporary" status and regularisation of the services of casual labourers working in the various departments under the Government of India. The Scheme came into effect from 1-9-1993. Clause 3 of the Scheme stated that it would apply to all casual labourers in employment of the ministries/departments of the Government of India and their attached and subordinating offices, and that this Scheme may not apply to the Railways and Telecommunications Departments. The Scheme envisaged conferring of "temporary" status on all casual labourers who had worked for at least 240 days in a year (206 days in the case of offices observing 5 days a week). The main features of the Scheme are as follows:
 - d 1. Conferment of "temporary" status on casual labourers would not involve any change in their duties and responsibilities and the engagement will be on daily rates of pay on need basis.
 - e 2. The casual labourers who acquire "temporary" status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.
 - f 3. The wages and wage rate will be fixed at the minimum of the pay scale for a corresponding regular Group 'D' official including DA, HRA and any other welfare measures.
 - g 4. Benefits of increments at the same rate applicable to a Group 'D' employee would be taken into account for calculating pro rata basis and the leave entitlement would also be on a pro rata basis viz. one day for every 10 days of work.
 - h 5. Maternity leave to lady casual labourers would be permissible on a par with Group 'D' employees.
 6. It is also made clear that 50% of the service rendered under the "temporary" status would be counted for the purpose of retirement benefits after regularisation.
 7. After rendering three years' continuous service after conferment of "temporary" status, the casual labourers would be treated on a par with temporary Group 'D' employees for the purpose of contribution to general provident fund, and they would also be eligible for the grant of festival advance, flood advance on the same conditions as are applicable to temporary Group 'D' employees.

8. They would be entitled to productivity-linked bonus/ad hoc bonus only at the rates applicable to casual labourers.

3. It was also made clear that apart from these benefits, that may accrue to the employees on conferment of "temporary" status, the casual workers working in the Industrial Establishment may be entitled to any additional benefits that may be admissible to them under the provisions of the Industrial Disputes Act. Clause 7 specifically states that despite the conferment of "temporary" status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing and the casual labourer with "temporary" status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work. While filling up the vacancies in Group 'D' posts, some preference is given to the casual labourers who have been conferred "temporary" status. Two out of every three vacancies in Group 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant Recruitment Rules and in accordance with the instructions issued by the Department of Personnel and Training, from amongst casual workers with "temporary" status.

4. In these appeals, the question that arises for consideration is whether the conferment of "temporary" status is a one-time programme as per the Scheme or this is an ongoing scheme to be followed by the Department and whether the casual labourers are to be given "temporary" status as and when they complete 240 days of work in a year (206 days for the offices observing 5 days a week). Another question that came up for consideration is whether the services of casual labourers who had been given "temporary" status could be dispensed with as per clause 7 as if they were regular casual labourers.

5. The first question is to be decided on the basis of the interpretation of clause 4 of the Scheme. As already noticed, the Scheme came into effect from 1-9-1993. Clause 4(1) of the Scheme reads as follows:

"temporary status.—(1) 'temporary' status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days' week)."

(emphasis supplied)

6. Clause 4 of the Scheme is very clear that the conferment of "temporary" status is to be given to the casual labourers who were in employment as on the date of commencement of the Scheme. Some of the Central Administrative Tribunals took the view that this is an ongoing scheme and as and when casual labourers complete 240 days of work in a year or 206 days (in case of offices observing 5 days a week), they are entitled to get "temporary" status. We do not think that clause 4 of the Scheme envisages it as an ongoing scheme. In order to acquire "temporary" status, the casual labourer should have been in employment as on the date of commencement of the Scheme and he should have also rendered a continuous service of at

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- a least one year which means that he should have been engaged for a period of at least 240 days in a year or 206 days in case of offices observing 5 days a week. From clause 4 of the Scheme, it does not appear to be a general guideline to be applied for the purpose of giving "temporary" status to all the casual workers, as and when they complete one year's continuous service. Of course, it is up to the Union Government to formulate any scheme as and when it is found necessary that the casual labourers are to be given "temporary" status and later they are to be absorbed in Group 'D' posts.
- b 7. The second question that arises for consideration is whether the casual labourers who have been given "temporary" status can be removed from service by giving notice as per clause 7 of the Scheme. It is true that by conferment of "temporary" status, the casual labourers acquire certain rights. Their daily rates of wages will be on the pro rata basis of salary and allowances payable to the employees working under the Group 'D' posts.
- c They are also eligible for casual and other kinds of leave. On completion of 3 years' continuous service after conferment of "temporary" status, they would be admitted to the general provident fund. They are entitled to get festival advance and flood advance and other welfare measures applicable to the Group 'D' employees. Clause 7 of the Scheme makes it clear that despite the conferment of "temporary" status, the services of a casual labourer may be dispensed with by giving one month notice in writing. This clause would
- d certainly give the employer the right to terminate the services of casual labourers who have been given "temporary" status.
- e 8. The Division Bench of the Calcutta High Court in *T. Rajakali v. Union of India*¹ held that clause 7 must be read in a manner in which it does not render it unconstitutional. The employers cannot at their whim dispense with the services of the casual labourers who have acquired "temporary" status. The entire object of the 1993 Scheme was to regularise all casual workers. To allow such uncanalised power of termination would also defeat the object of the Scheme. Dispensing with the services of a casual labourer under clause 7 in our view, could be for misconduct etc.
- f 9. Having regard to the general scheme of 1993, we are also of the view that the casual labourers who acquire "temporary" status cannot be removed merely on the whims and fancies of the employer. If there is sufficient work and other casual labourers are still to be employed by the employer for carrying out the work, the casual labourers who have acquired "temporary" status shall not be removed from service as per clause 7 of the Scheme. If there is serious misconduct or violation of service rules, it would be open to the employer to dispense with the services of a casual labourer who had
- g acquired the "temporary" status.
- h 10. In Civil Appeals Nos. 3170-71, 3172-73, 3174-75 and 3180 of 2002 arising out of SLPs (Civil) Nos. 6738-39, 6740-41, 6742-43 of 2000 and 970 of 2001, the Division Bench of the High Court of Calcutta held that the termination of the services of the employees was not legal and was based on various extraneous grounds. We do not propose to interfere with the same.

¹ WP (CT) No. 86 of 1999 (Cal) (DB).

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11. In Civil Appeals Nos. 3168, 3182, 3179, 3176-78 and 3169 of 2002 arising out of SLPs (Civil) Nos. 2224 of 2000, 13024, 1563 of 2001, 17174-76 and 2151 of 2000, the respondents have been given "temporary" status, even though, they did not specifically fulfil the condition in clause 4 of the Scheme. Some of them were engaged by the Department even after the commencement of the Scheme. But these casual labourers had also rendered service for more than one year and they were not given "temporary" status pursuant to the directions issued by the Court. We do not propose to interfere with the same at this distance of time. However, we make it clear that the Scheme of 1-9-1993 is not an ongoing scheme and the "temporary" status can be conferred on the casual labourers under that Scheme only on fulfilling the conditions incorporated in clause 4 of the Scheme, namely, they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year i.e. at least 240 days in a year or 206 days (in case of offices having 5 days a week). We also make it clear that those who have already been given "temporary" status on the assumption that it is an ongoing scheme shall not be stripped of the "temporary" status pursuant to our decision.

12. The appeals are disposed of accordingly.

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(BEFORE S.P. BHARUCHA, C.J. AND SYED SHAH MOHAMMED QUADRI,
R.C. LAHOTI, N. SANTOSH HEGDE, DORAISWAMY RAJU,
RUMA PAL AND ARLITT PASAYAT, JJ.)

P. RAMACHANDRA RAO

Appellant;

Versus

STATE OF KARNATAKA

Respondent.

Criminal Appeals No. 535 of 2000† with Nos. 536-42 of 2000,
decided on April 16, 2002

A. Constitution of India — Arts. 21, 32, 141 and 142 — Right to speedy trial — Held, per majority, Supreme Court cannot fix any time-limit as bar beyond which criminal proceedings or trial cannot continue, thereby entitling the accused to be acquitted on ground of delay — Prescription of such limitation period would amount to judicial legislation which is not permissible — Directions prescribing such time-limit by 2- or 3-Judge Benches of Supreme Court in *Common Cause I*, (1996) 4 SCC 33, *Common Cause II*, (1996) 6 SCC 775, *Raj Deo Sharma I*, (1998) 7 SCC 597 and *Raj Deo Sharma II*, (1999) 7 SCC 604 cases run counter to the Constitution Bench decision in *A.R. Antulay*, (1992) 1 SCC 225 and hence deleted — But directions given in the aforesaid cases in respect of enlargement of accused on bail, being not subject-matter of the present case, not deleted —

† From the Judgment and Order dated 13-10-1999 of the Karnataka High Court in CrI. A. No. 693 of 1999