

30/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 230/02

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. Bhupen Deka

-Vs-

Respondant(s) W-O, I Jom

Advocate for the Appellant(s) M. Chandra, G.N. Chakraborty

Advocate for the Respondant(s) Case H. Datta

Notes of the Registry	Date	Order of the Tribunal
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24.7.2002

Issue notice on the respondents to show cause as to why the application shall not be admitted.

List the case on 22.8.2002 for admission.

[Signature]
Vice-Chairman

bbj

22.8.02

Put up on 13.9.2002 for further orders.

[Signature]
Member

[Signature]
Vice-Chairman

mb

Steps taken

26-7-2002

Notice prepared & sent to D. Section for issuing of the same to the respondents vide D.O. 2136 to 2137 D.O. 9-8-02.

29.8.02

W/s submitted
by the Respondents.

13.9.02


Written statement has been filed.

The application is admitted, List the
matter for hearing on 4.10.2002.


Vice-Chairman

4.10.2002

List the case on 8.11.2002 for
hearing alongwith O.A.245/2002.


Member

mb

8.11.02

Adjourned on the prayer of
Mr. M.Chanda, learned counsel for the
applicant. List again on 13.12.2002
for hearing.



Vice-Chairman

mb

Written statement
filed by the respondents

13.12.02

On the prayer of Mr. M.Chanda,
learned counsel for the applicant, the
case is adjourned. List on 18.12.2002
for hearing.


Vice-Chairman

mb


27.1.03

An Addition affidavit
has been filed
by the Respondent No.2

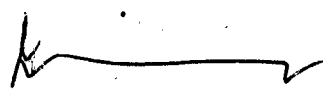
18/12. NO representation
list on 24/1/2003

mb

A. K. Jais
18/12


24.1.2003

Put up again on 28.2.2003 for
hearing to enable the learned counsel
for the applicant to obtain necessary
instructions in the matter.


Vice-Chairman

nkm

Notes of the Registry

Date

Order of the Tribunal

28.2.2003

On the prayer made by Mr. M. Chanda, learned counsel for the applicant, the case is adjourned and listed on 21.3.2003 for hearing.

20.3.03

Rejoinder submitted
by the applicant.

bb

21.3.2003

On the prayer of Mr. M. Chanda, learned counsel for the applicant, the case is adjourned and posted for hearing on 23.5.03.


Vice-Chairman

mb

23.5.2003

On the prayer of Mr. M. Chanda learned counsel for the applicant the case is adjourned. List again on 12.6.2003 for hearing.


Vice-Chairman

mb

12.6.

Single bench did not sit today.
The case is adjourned to 24.6.2003

2/6
14/6

24.6.2003

Pass over on the prayer of Mr. G.N. Chakrabatty, learned counsel for the applicant. Put up again on 25.6.2003 for hearing.


Vice-Chairman

mb

Notes of the Registry

Date

Order of the Tribunal

25.6.2003 List the case on 30.6.2003 again for hearing.

Vice-Chairman

bb

30.6.2003 List the case on 25.7.2003 for further hearing alongwith the connected cases.

Vice-Chairman

bb

25.7.2003 Present : The Hon'ble Mr. N.D. Dayal
Administrative Member.

On the prayer of Mr. M. Chanda, learned counsel for the applicant the case is adjourned. Put up again on 4.8.2003 along with O.A. 245/2002.

Member

mb

4/8/2003. Single bench did not sit today.
The case is adjourned to 12/8/2003.

M/S

10.9.2003

14.8.2003

Copy of the Judgment has been sent to the Ofc. for issuing the same to the applicant as well as to the S.C.S.C. for the Respon.

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

Vice-Chairman

nkm

17/9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXA~~ No. 111 230 of 2002

DATE OF DECISION 14.8.2003

Shri Bhupen Deka

.....APPLICANT(S).

Mr M. Chanda, Mr G.N. Chakraborty and

Mr H. Dutta

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

The Union of India and others

.....RESPONDENT(S)

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

.....ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.230 of 2002

Date of decision: This the 14th day of August 2003

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

Shri Bhupen Deka

S/o Shri Sunanda Ram Deka

Village- Chapon (Dipolang)

P.O.- Lahkarpara,

P.S.- Rangiya (Kaya),

District- Kamrup, Assam.

.....Applicant

By Advocates Mr M. Chanda,
Mr G.N. Chakraborty and Mr H. Dutta.

- versus -

1. The Union of India, represented by the
Secretary,
Government of India,
Ministry of Tourism and Culture,
New Delhi.

2. The Superintending Archaeologist
Archaeological Survey of India,
Guwahati Circle,
Dispur, Guwahati.

.....Respondents


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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The applicant is working as a casual labourer on daily wage basis under the respondents. as per the communication dated 5.5.1995 sent by the Superintending Archaeologist to the Conservation Assistant Grade I, Archaeological Survey of India, Tezpur Sub-Circle, Tezpur. It appears that the applicant was engaged as daily wage Watch and Ward duty at Biswanathghat, Tezpur. The date of duty was to be counted from the actual date of his reporting for duty. It appears that initially the joining



report of the applicant was not accepted by the Conservation Assistant. Therefore, he was not allowed to join. Subsequently, another communication was sent by the Superintending Archaeologist to the Conservation Assistant to allow the applicant to join at Jogighopa in Goalpara District as Casual Watch and Ward duty against the A/R of Ancient Cave at Jogighopa. According to the applicant he was continuously working at Jogighopa on daily wage basis and thereafter he was shifted to Guwahati Circle Office in November 1995 and engaged as casual Chowkidar at Guwahati Circle Office. Thereafter, the applicant was again posted at Dimapur as unskilled casual worker vide order dated 16.7.1997 where the applicant joined on 1.8.1997. At the instance of the applicant he was brought from Dimapur and posted at Surjya Pahar under Goalpara District. The applicant joined at Surjya Pahar on 1.1.1999.

2. In this application the applicant averred that though he was discharging his duty regularly at Surjya Pahar he was not paid his salary for the months of November and December 2001. He alleged that he was also not paid the ad hoc bonus from November 2001 which he was drawing earlier. According to the applicant he moved from pillar to post for payment of his salary which he is yet to get for the months of November and December 2001. The applicant also pleaded that the Site Incharge concerned was willing to pay him salary for the months of November and December provided the applicant took the same in the name of some other person. The applicant also alleged serious irregularities in the matter of paying wages by the Foreman Site Incharge. Hence this application seeking for a direction for payment of wages etc. In addition, the applicant.....

applicant also prayed for granting him temporary status in the light of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1993" and for payment of his salary for the months of November and December 2001. The applicant submitted that he is getting salary regularly save and except November and December 2001.

3. Mr A. Deb Roy, learned Sr. C.G.S.S., referring to the written statement submitted that the applicant was given all the salary which he was entitled for. As regards the salary of November and December 2001, the respondents stated that his wages were not paid since he was not engaged during that period by the Supervisory Staff of the site. The learned Sr. C.G.S.C. submitted that the other benefits like ad hoc bonus etc. was paid to him in September 2002.


4. The only controversy that requires adjudication is regarding his salary for November and December 2001. Admittedly, the applicant is working under the respondents since 1995. The applicant made serious allegations against the Site Incharge. The respondent authority, however, relied upon the information furnished by the Site Incharge. The Superintending Archaeologist too filed a written statement and admitted that the salary was not paid to the applicant because of the fact that the applicant was not engaged during the months of November and December 2001. Why the applicant was not engaged by the Supervisory Staff has not been explained. We are not provided anything in writing regarding the said fact save and except a communication sent by the Foreman Site Incharge dated 3.5.2002. The said communication also did not indicate any reason as to why he did not engage the applicant during the months of

November.....

November and December 2001 though the applicant was engaged for other periods including the period of January 2002 onwards. No records are also furnished before us. In the circumstances it is difficult to accept the statement made by the Site Incharge on its face value. I am also not in a position to adjudicate the matter on the basis of the materials available on record.

5. In the circumstances I am of the opinion that ends of justice would be met if a direction is issued to the respondent No.2- Superintending Archaeologist to look into the matter by scrutinising the records and if necessary by making further probe in the matter and pass appropriate order as per law for payment of salary to the applicant for the said two months. The matter is that of salary of a daily wage earner, therefore, it is expected that respondent No.2 shall take appropriate measure to expeditiously resolve the situation and pass appropriate order that he considers just and proper. If the applicant is still aggrieved by the action taken by the respondents, he may take appropriate steps as per law.

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


(D. N. CHOWDHURY)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

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

Title of the case : O.A.No. 230 /2002

Shri Bhupen Deka : Applicant

- versus -

Union of India & Others : Respondents

I N D E X

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03.	I	Copy of letter dated 05.05.1995	- 13 -
04.	II	Copy of letter dated 31.05.1995	- 14 -
05.	III	Copy of Appointment letter dated 28.6.1995	- 15 -
06.	IV	Copy of Joining Report dated 01.07.1995	- 16 -
07.	V	Copy of duty list dated 6.11.1996	- 17 -
08.	VI	Copy of Certificate dated 29.11.1996	- 18 -
09.	VII	Copy of Certificate dated 02.05.1997	- 19 -
10.	VIII	Copy of Order dated 16.7.1997	- 20 -
11.	IX	Copy of Joining Report dated 01.08.1997	- 21 -

Contd/.....

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Sl.	Annexure	Particulars	Page No.
12.	X	Copy of representation dated 23.12.1998	- 22 -
13.	XI	Copy of Joining Report dated 01.01.1999	- 23 -
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15.	XIII	Copy of representation dated 18.1.2002	- 25 -
16.	XIV	Copy of representation dated 28.1.2002	- 26 -
17.	XV	Copy of Certificate dated 04.02.2002	- 27 -
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19.	XVII	Copy of Certificate dated 31.12.2002	- 29 -
20.	XVIII	Copy of O.M. dated 10.9.1993	30 - 33
21.	XIX	Copy of Duty Card dated 21.2.2001	34 - 35

Filed by:-

Asha Das

Date: 23/7/02

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

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

Original Application No. 230 /2002

Between -

Shri Bhupen Deka,
S/o Shri Sunanda Ram Deka,
Village- Chapon (Dipolang),
P.O.- Lahkarpara,
P.S.- Rangiya (Kaya),
District- Kamrup, Assam.

....Applicant

- AND -

1. The Union of India,
Represented by the Secretary,
Government of India,
Ministry of Home Tourism & Culture
New Delhi.

2. The Superintending Archaeologist,
Archaeological Survey of India,
Guwahati Circle, Dispur,
Guwahati - 781005,
Assam.

....Respondents

Shri Bhupen Deka

Filed by
applicant through
Asha Das.
Advocate
23/7/02

DETAILS OF THE APPLICATION

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

This application is not made against any particular order but against non-receipt of salary of the Applicant as casual worker for the month of November, 2001 and onward, and praying for a direction upon the respondents to pay the Salary from November, 2001 till date and bonus etc. to the Applicant and further to grant him the temporary status with effect from July, 1995.

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 was initially appointed as watch and ward duty on daily wage basis under the respondents vide letter No.2/4-W/95-46 dated 05.05.1995 issued by the Respondent No.2 and posted at

Contd/.....

Shri Bhupen Deka

Biswanathghat, Tezpur.

(Copy of the letter dated 05.05.1995 is annexed hereto as Annexure-I).

4.3 That the applicant thereafter reported for duty at Biswanathghat, Tezpur but he was not allowed to work and his joining report was not accepted by the Conservation Assistant, Gr.-I, Tezpur Sub-circledue to non-receipt of any information of his appointment and the applicant was restrained from attending duties vide order No.Tez-1/2-Admn./95-08 dated 31.5.1995 issued by the Conservation Assistant, Gr.-I, Tezpur.

(Copy of the letter dated 31.5.1995 is annexed hereto as Annexure-II).

4.4 That subsequently, the Respondent No.2 issued another letter vide his No.2/5PW-95-150 dated 28.06.1995 engaging the applicant as watch and ward duty on casual basis, posting him at Jogigopa, Goalpara Dist. Accordingly, the applicant joined at Jogigopa on 01.07.1995.

(Copy of appointment letter dated 28.06.1995 and Joining report dated 01.07.1995 are annexed hereto as Annexure-III and IV respectively).

4.5 That the applicant had since been working continuously at Jogigopa on daily wage basis and while doing so, he was shifted to Guwahati Circle Office in November, 1995 and engaged as casual Chowkidar at Guwahati Circle Office thenceforth. He was assigned the duty of Chowkidar as per the Duty list and accordingly formal duty certificates were also issued on 29.11.1996

Contd/.....

Shri Bhupendra

and 02.05.1997 by the Respondent No.2.

(Copy of the duty list dated 6.11.1996 and Certificates dated 29.11.1996 and dated 02.05.1997 are annexed hereto as Annexures-V, VI and VII respectively).

4.6 That eventually, the applicant was posted at Dimapur, Nagaland as unskilled casual worker vide Office Order No.125/97 dated 16.7.1997 issued by the Respondent No.2 and accordingly the applicant joined at Dimapur on 01.08.1997.

(Copy of the order dated 16.7.1997 and joining report dated 01.08.1997 are annexed hereto as Annexures-VIII and IX respectively).

4.7 That while working at Dimapur as casual worker, the applicant fell sick and had to undergo treatment from the Doctors based at Guwahati for which he was required to visit Guwahati frequently. As such he submitted representation on 23.12.1998 to the Respondent No.2 praying for his posting at Guwahati for facilitating his medical treatment and recovery. The Respondent however considered his prayer to the extent possible and posted him at Surjya Pahar site (Bhalipara) under Goalpara district vide his instructions dated 24.12.1998 (endorsed on the body of the representation). Accordingly the applicant joined at Surjya Pahar on 01.01.1999 vide his joining report dated 1.1.1999. Necessary duty card was also issued eventually to the applicant on 21.2.2001 and the applicant has since been continuing there till now.

(Copy of representation dated 23.12.1998, and joining report dated 01.01.1999 are annexed hereto as Annexures-X and XI respectively).

Shri Bhupen Deka

4.8 That it is stated that although the applicant has been discharging his duties as entrusted with, the respondents stopped paying his salary from November, 2001 and onward and the applicant is now working without salary. The Foreman Site Incharge, Shri D.K. Majumdar however advised the applicant to take his salary in the fake name which he refused to do. The applicant thereafter submitted representations on 12.1.2002 and 18.1.2002 to the Respondent No.2 praying for payment of his salary for November, December 2001. It is pertinent to mention here that besides salary, the applicant was also not paid the adhoc bonus from November, 2001 which he had been drawing earlier. The applicant approached time and again to the Repondent No.2 for payment of his wages and Ad-hoc bonus from November, 2001 but with no result.

(Copy of representation dated 12.1.2002 and dated 18.1.2002 are annexed hereto as Annexures-XII and XIII respectively).

4.9 That having failed to get any response from the respondents, the applicant ultimately submitted one representation on 28.1.2002 to the Hon'ble Labour Commissioner (Central), Guwahati praying for payment of his salary and bonus aforesaid. The Hon'ble Labour Commissioner is also understood to have advised the Respondents vide his letter dated 28.1.2002 for payment of salary to the applicant but with no result.

(Copy of the representation dated 28.1.2002 is annexed hereto as Annexure-XIV).

Contd/.....

Shri Bhupen Deka

4.10 That although the applicant was engaged on works continuously, which he is still attending, the Respondents seized his attendance register with the purpose of restraining the applicant from signing his attendance. However, the authorities of the concerned Gaon Panchayat and the Surjya Pahar Mandir Management Committee have issued certificates certifying the performance of duties of the applicant at Surya Pahar w.e.f. 1999. The Foreman (Camp: Surya Pahar) of Archaeological Survey of India has also issued similar certificate.

(Copy of Certificates dated 4.2.2002, 5.2.2002 and also the Foreman's certificate dated 31.12.2002 are annexed hereto as Annexures-XV, XVI and XVII respectively).

4.11 That it is clearly evident from the certificates issued by the Gaon Panchayat and Mandir Committee (Annexures XV and XVI) that the applicant has been working as casual worker continuously but the respondents have stopped the payment of his wages for no reasons and in a bid to justify their action, the respondents have further removed the attendance sheet of the applicant thus restraining him from signing his attendance. Such actions of the respondents are arbitrary, malafide, unfair and unjust.

4.12 That the applicant begs to state that inspite ^{of} ~~of~~ his rendering services as casual worker from 1995 continuously and without any break, the applicant has not been granted the Temporary Status even, which he is

Contd/.....

Shri Bhupen Deka

entitled to get in terms of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" issued by the Ministry of Personnel, P.G. and Pensions, DOPT, Government of India, vide its O.M. dated 10.9.1993. The said Scheme provides interalia 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 recruitment unit/territorial unit 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."

Contd/.....

Shri Bhupen Deka

It is needless to state that the applicant in the instant case has fulfilled all the criteria as laid down in the above mentioned scheme and as such he is entitled to grant of Temporary Status. The Applicant was also issued the Duty Card on 21.2.2001 by the Respondents.

(Copy of the O.M. dated 10.9.1993 is annexed hereto as Annexure-XVIII and the Duty Card dated 21.2.2001 as Annexure-XIX respectively).

4.13 That your applicant begs to submit that due to non-payment of his salary w.e.f. November, 2001 and onward to till date the applicant has been undergoing extreme financial hardships and further due to non-granting of Temporary Status the applicant is being deprived of genuine service benefits and prospects which he is legitimately entitled to. As such, finding no other ways, the applicant is approaching this Hon'ble Tribunal for protection of his rights and interests and praying for a direction upon the respondents to release his salary for the month of November, 2001 and onward, till date, immediately and to grant him Temporary Status w.e.f. 1995 in terms of the Government Scheme aforesaid.

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

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

5.1 For that, the applicant has been serving under the respondents as casual labourer since July, 1995 continuously.

Contd/.....

Shri Bhuvan Deka

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 the Government of India, 1993" launched by the Government of India vide O.M. dated 10.9.1993.

5.3 For that, the applicant has been serving since 1995 continuously and without any break and this fact has been certified by the concerned Gaon Panchayat and the Mandir Committee of Surjya Pahar.

5.4 For that, his salary cannot be stopped arbitrarily when he is engaged in works by the respondents.

5.5 For that, the applicant submitted representations and made constant approaches for payment of his salary, bonus etc., but with no result.

5.6 For that, the denial of the grant of Temporary Status to the applicant even after engaging him as casual worker for about 7 years by now, amount to unfair labour practice and opposed to the professed policy of the Government.

5.7 For that, the applicant has been discharging his duties as casual worker most efficiently and sincerely.

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.

Contd/.....

Shri Bhupen Dehka

22

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 other Court or any other authority or any 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, the applicant prays for the following reliefs:-

8.1 That the respondents be directed to pay the salary of the applicant for the month of November, 2001 onward till date. ✓

8.2 That the respondents be directed to grant Temporary Status to the applicant in terms of the Government Scheme, 1993 retrospectively w.e.f. July, 1995. ✓

8.3 Costs of application.

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 reliefs:

9.1 That the respondents be directed not to oust the applicant from service till this O.A. is decided by the Hon'ble Tribunal.

Contd/.....

No Temp Status

Salary

NOV
Dec

Shri Bhuvan Deka

23

9.2 That the respondents be directed to release the salary of the applicant w.e.f. November, 2001 to till date immediately.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.:

- i) I.P.O. : 79 577861 .
- ii) Date of issue : 27.6.02 ,
- iii) Issued from : G.P.O., Guwahati
- iv) Payable at : G.P.O., Guwahati

12. List of enclosures:

As given in the Index.

Shri Bhupendra Deka

24

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

I, Shri Bhupen Deka, S/o Shri Sunanda Ram Deka, aged about 27 (twentyseven) years, resident of Village- Chapon, P.O.- Lahkarpara, District- Kamrup, Assam, do hereby verify that the statements made in paragraphs 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^{23rd}..... day of July, 2002, at Guwahati.

Shri Bhupen Deka

No. 2/4-W/95-46

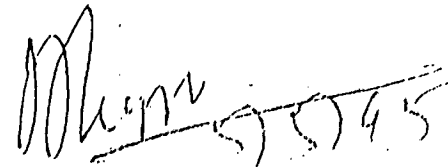
Government of India,
Archaeological Survey of India,
Office of the Superintending Archaeologist,
Guwahati Circle, Dispur, Guwahati-781 005.

Dated, the 5 MAY 1995

To,

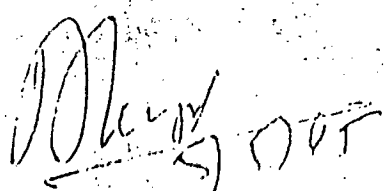
Shri B. Kumar, C.A. Gr. I,
Archaeological Survey of India,
Tezpur Sub-Circle,
Tezpur,

You are hereby informed that Shri Bhupen Deka son of Shri Sunanda Deka village Shapon is engaged as daily wages watch and ward duty against A.R. to Biswanathghat, Tezpur. The date of duty will be counted actually from he reports on duty.


(D. Bhengra)
Superintending Archaeologist,

Copy to:-

1. Shri Bhupen Deka to report to Shri B. Kumar, C.A. Gr. Tezpur for duty.


Superintending Archaeologist,

Attested
M. D. S.
H. W.

14

ANNEXURE-II No

Government of India.
O/O the Archaeological Survey of India,
Sub-Circle, Tezpur-784001

To
Shri Bhupen Seta
Biswa Nath Ghat

Dated Tezpur 15/5/95

Sub Joining Report Regarding

It is for your information that this office has not received any information regarding your appointment in A.S.I. under Sub Circle - Tezpur at Biswanath Ghat till date. Hence your joining report is not accepted by this office and will bear no responsibility on you.

P. Kumar

31/5/95

(P. KUMAR)

Conservation Assistant, Cr.-I
Archaeological Survey of India
Sub-Circle, Tezpur - 784001

Attested
W. S. S.
A. S. S.

2/5PW-95-150

Govt. of India,

Archaeological Survey of India,

Guwahati Circle, Dispur,

Assam.

dated 2.5.56-95

To,

Shri S.N. Handi,

C.A.Gr. I.

Guwahati Circle,

Dispur.

Shri
You are hereby informed that Shri Deben Delka,
S/O Shri *Sundar Debn...* village *Shap...*
..... Dist. Nalbari, has been engaged as casual
watch and duty against the A/R of Ancient Cave at Jogigopa
Dist. Goalpara, from the date actually he joins the
duty.

M...
(D. BHENGRA) 6/9
SUPERINTENDING ARCHAEOLOGIST
HEAD OF OFFICE.

1. Copy to :- *Shri* Shri Deben Delka .
Vill:
Dist. Nalbari.
2. Office copy .

M...
Superintendent Archaeologist.

Attested
Adm.

To

Superintending Archaeologist,
Archaeological Survey of India

Guwahati Circle,

Guwahati — 5

Dated - 01-07-75

Subject - Joining Report Sir

Sir

With reference to your letter

No. 215-W/75-150 dated - 28-6-75 I

beg to state that to day the 1st July 75

I have joined my duty at the

Ancient Cave at Jorjopa, Dist - Goalpara

Yours faithfully

Shri Bhupen Debnath

Copy for information and necessary

action to —

The Conservation Assistant Gr-1 A.S.9 Guwahati
Circle, Guwahati

Yours faithfully

Certified that Shri Bhupen Debnath has joined the
Conservation work at Jorjopa in my presence

M. K. B. (18.1)

Joint Assistant
Surgey Major
Goalpara

Attested
M. K. B.
Adv.

NO. 1/24-ADMn./96-
Archaeological Survey of India,
Government of India,
O/O. The Superintending Archaeologist,
Guwahati Circle, Dispur, Guwahati-781005.

ANNEXURE-V

Dated the.....

DUTY LIST OF CHOWKIDAR FOR WATCH & WARD DUTY W.E.F. 6.11.1996 TO TILL FURTHER ORDER

SL.NO.	NAME & DESIGNATION	DUTY HOURS	WEEKLY OFF.
1.	Shri Bhupen Deka, Casual CHOWKIDAR	2.00 P.M. to 10.00 P.M.	Thrusday.
2.	Shri Tarun Ch. Malakar, Chowkidar	10.00 P.M. to 6.00 A.M.	Wednesday.
3.	Shri Suriya Knt. Das, Mnt/Attendant	6.00 A. M. TO 2.00 P.M.	Saturday.

N.B:(i) Shri Tarun Ch. Malakar, Chowkidar will perform the double duty on all off day of Shri Bhupen Deka, Casual Chowkidar and Shri Suriya Knt. Das, Mnt/Attendant and Shri Suriya Knt. Sas, Mnt/Att. will perform the double duty on all off days of Shri Tarun Ch. Malakar, Chowkidar. Further Shri Bhupen Deka, Casual Chowkidar will perform the double duties on all Gazetted holidays.

(ii) All the Chowkidar/Monument Attendant is hereby instructed to put their signature on the watch & ward handing over/taking over Register before performing their duties, also the Chowkidar on duty should not leave his duty without handing over complete duties to his reliever.

NO. 1/24-ADMn./96-129

Dated, the.....

Copy forwarded for information and necessary action to:-

336

1. Shri Bhupen Deka, Casual Chowkidar, A.S.I., Guwahati Circle, Guwahati.
2. Shri Tarun Ch. Malakar, Chowkidar, A.S.I., Guwahati Circle, Guwahati.
3. Shri Suriya Knt. Das, Monument Attendant, A.S.I. Guwahati Circle, Guwahati.
4. Administrative Officer, Archaeological Survey of India, Guwahati circle, Guwahati.
5. Office Order Book/Guard file.

(Signature) 6.11.96
SUPERINTENDING ARCHAEOLOGIST I/C.

Attested
Wom
Adv.

অসম চৰকাৰ
প্ৰত্নতাত্ত্বিক সঁচাৰণ
গুৱাহাটী
২০১৭



PHONE
OFFICE OF THE
SUPERINTENDING ARCHAEOLOGICAL SURVEY OF
GUWAHATI CIRCLE
DISPUR, GUWAHATI - 781 005

No. 1/2-ADM/26

Dated the 29 NOV 19

TO WHOM IT MAY CONCERN.

This is to certify that Shri Bhupen Deka
S/O. Shri Sunanda Devi, Village: Sapon (Dipolang)
District: Kamrup (Assam) P.O. Lahakar para P.S. Konya
is working under Archaeological Survey of India,
Guwahati as casual Chowkidar.



Shri Bhupen Deka
Casual Chowkidar
Archaeological Survey of India
Guwahati Circle
Guwahati

SUPERINTENDING ARCHAEOLOGIST I/C
Archaeological Survey of India
Guwahati Circle
Guwahati

Shri Bhupen Deka,
Casual Chowkidar,
Archaeological Survey of India,
Guwahati Circle,
Guwahati.

Attested
nom.
Adv.

GOVERNMENT OF INDIA

माप ६१९६१

कार्यालय:

आधीक्षक पुरातत्वविद

भारतीय पुरातत्व सर्वेक्षण

गुवाहाटी मंडल

दिसपुर.

गुवाहाटी-७८१००५, असम



प्रलकीर्तिमपावृणु

PHONE : 61961

OFFICE OF THE

SUPERINTENDING ARCHAEOLOGIST
ARCHAEOLOGICAL SURVEY OF INDIA

GUWAHATI CIRCLE

DISPUR, GUWAHATI - 781 005, ASSAM

No 2/5-W/97-240

Dated the 2 MAY 1997

TO WHOM IT MAY CONCERN.

This is to certify that Shri Bhupen Deka Son of Shri Sunanda Ram Deka vill. Chapon P.O. Lahkarpura Dist. Kamrup, Assam is working in the Archaeological Survey of India at Jogigopha and some time at Guwahati Circle Office as Unskilled Casual worker since July, 1995.

I wish him all success in his life.

[Signature]
SUPERINTENDING ARCHAEOLOGIST I/C
GUWAHATI CIRCLE

TO

Shri Bhupen Deka
Casual Worker
Archaeological Survey of India
Jogigopha
Goalpara Dist.
Assam.

Attested
nam
Adv

NO. 1/23(B)-ADM/97-
 Government of India
 Archaeological Survey of India
 O/O the Superintending Archaeologist
 Guwahati Circle, Dispur Guwahati-781005.

Dated, the 6 JUL 1997

OFFICE ORDER NO 125/97

Since the works in the Group of monuments at Guwahati has almost been over therefore the following unskilled casual worker have been engaged in the monuments of Dimapur Fort Ruins, Dimapur, Nagaland with effect from 01.08.1997 untill further order.

1. Shri Rupanjan Kalit, Casual worker (Unskilled)
2. Shri Bhupen Deka, Casual worker (Unskilled)

D. K. Majumdar
 SUPERINTENDING ARCHAEOLOGIST
 HEAD OF OFFICE

NO. 1/23(B)-ADM/97-

826

Dated, the 6 JUL 1997

Copy forwarded for information and necessary action to:-

1. Shri Rupanjan Kalita, Casual worker (Unskilled), A.S.I., Guwahati Monuments, Guwahati.
2. Shri Bhupen Deka, Casual Worker (Unskilled), A.S.I., Guwahati Monuments, Guwahati.
3. Shri D. K. Majumdar, Foreman, A.S.I., Incharge, Guwahati and Dimapur Sub-Circle.
4. Works Section, Guwahati Circle, Guwahati.
5. The Dy. Superintending Archaeologist/DDO/CDO, A.S.I., Guwahati Circle Guwahati.
6. The Dy. Suptdg. Archl. Engineer, A.S.I., Guwahati Circle Guwahati.
7. Office Order Book.

Attested
 Adm.
 Adr.

The Superintending Archaeologist, Archaeological Survey of India
Gwahati Circle
Gwahati - 781005

Through The C.A. Circle - 1, Sub-Circle, Dimapur (Nag)
Sub-joining Report

Raf + your no 1/23(3)-ADM/97-836 office order no-125/97
Dated The 16 Jul 1997

Sir

In compliance to your order no referred to above,
I have the honour to report for my duties at the
new place of Casual Worker posting at Dimapur
Nagaland on the P.N. of 1st August 1997.

my present Address is furnished below for
favour of your record.
present Addl

Shree Bhupen Deka

Dimapur

Archaeologist, Archaeological Survey of India -

P.O. - Dimapur

Dimapur Ruins

Dimapur Nagaland

Mr. Babu Kanta Medhi

Monumental Hist.

Dimapur

Nagaland

Yours Faithfully

Shree Bhupen Deka

Dimapur Nagaland

O.P. - Dimapur 7971

Date

1.8.97

Attested
W.M.
A.W.

To

The Superintending Archeologist,
Archeological Survey of India Guwahati Circle,
Dispur, Guwahati- 5

Sub- Joining Report

Dated 1.1.99

Sir,

I have the honour to state that I am joining on 1.1.99 January/99 at Sri Sri Surya
pahar Goalpara as an unskilled casual worker vide office order no:

Dated the 1.1.99 January 99

Therefore your kind and necessary action please.

Yours faithfully

Sd/- illegible

Casual worker

Sri Sri Surya Pahar

Copy to

Sr Monument Attendant Sri B. Baruah
Sri Sri Surya Pahar, Goalpara, Assam

Attested
N. Bar.
A. Bar.

Shri Bhupen Deka.

To,

The Superintendent Archaeologist, Archaeological
Survey of India Calcutta Circle
C. N. B. Road - Ambari - 1

34

Date - 18.01.2022.

Through The Foreman A.B.T.,
in Charge Shri Shri Surya palay, Coal para
side

সিদ্ধান্ত :-

দুইজন অশাখি পুনর-আবাসন ।

অন্যদিক

অসমান পুনর-নিবাসন এই দুই জনের মধ্যে
উল্লেখ ২০০ বছর দুইজন নোপোষিত এই
উল্লেখ এবং কার্টন-এই পাথরে । অতঃপর এই
অন্যদিক দুইজন আর আতি আন কালে দি উল্লেখ
করে যেন । এই বিমলক অত্রাহতক এই কোণে
অশাখি নোপোষিত পুনর-বস্তু ভূমিতে বসে
ইলো । এই আর অত্রাহতক উল্লেখ বিমলক
অনুসরণ ।

বিনীত

আপোষিত-একান্ত বিমলক ।

স্বী-উপেন দেকা ।

(কলকাতা ওকালত)

স্বী-দুই পাঠক

(নোপোষিত পাঠক)

Attested
HOM,
ASH.

The Honorable Commissioner
Assistant Labour Commissioner (Central)
Rajgarh Road Chandmari, Guwahati - 3

Date - 28.01.2022

विद्युत्

ଦୁର୍ଗାମା କେନ୍ଦ୍ରରେ କର୍ତ୍ତବ୍ୟ ଓ ଅନ୍ୟତ କଥା ଦୁର୍ଗାମା କାବେ ଗୋପାଳ

३११२५

[illegible]

ਅਧਿਆਪਕ ਸਾਹਿਬ ਸਿੰਘ /

21. 12. 1957

ଡାକ୍ତରୀୟ ମୁଦ୍ରାପତ୍ର ଦିଆଯିବ । ବିଦ୍ୟାବାସ
 କେନ୍ଦ୍ରରେ ଉପସ୍ଥାପିତ ।

श्री-श्री-गुरुदेव-गुरुदेव

Copy sent 10/3/21

155 34 (305) 674072-374072 21/2/17 11/2/17 11/2/17 23/2/17

10/3/80 21/31 28 625

Attested
non
advi.

শ্রীশ্রী সূর্য্যসাহস মহাপীঠস্থান পাবিচালনা সমিতি

দশভুজা দেবস্থান গাঁও

ANNEXURE - XV

পোঃ ডাঃ- ভূয়াপাড়া, জিলা - গোয়ালপাড়া (ডাঙ্গা)

ଅନ୍ତିମ ମହ - ୮୭୯-୩୩୮୦/୮୩

પ્રસંગ :

1971/2 8... 8/2/27 02721...

২০০৪ খ্রিঃ ১০ মাস ২৫ তারিখ ১১:২৫ (১১-১০-০৪) ২০০৪ খ্রিঃ ১০ মাস
 ১০ তারিখ অক্টোবর ২০০৪ খ্রিঃ ১০ মাস ১০ তারিখ - ১০ মাস ১০ তারিখ
 অক্টোবর ২০০৪ খ্রিঃ ১০ মাস ১০ তারিখ - ১০ মাস ১০ তারিখ
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 ১০ মাস ১০ তারিখ - ১০ মাস ১০ তারিখ

50/25 (15/25 3. m/3)

2/10/22 5/2

အိမ်ထောင်ရေးနှင့် မိသားစုရေးရာများ

SECRET, RELATION

Attended
noon
Adm

u

This is to certify that Shri Bhupen Deka
S/o Shri Sunanda Ram Deka is working under
me as casual Labour and posted at Surjya
Parkar (Bhalipara), Dist- Goalpara (Assam)

Signature
31.12.2000
Foreman.

Archaeological Survey of India

L. dalpur Sub. Circle

Radhakishorepur, Talpara Sour

Camp- Surjya Parkar

Dist Goalpara

To,

S. B. I.

Mornai. Dist Goalpara

Attested
M.D.S.
R.D.V.

30-27-20

Annexure ~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ ~~137~~ 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APPENDIX

Department of Personnel & Training, Casual Labourers
(Grant of Temporary Status and Regularisation) Scheme

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 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

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 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

Attached
Memo
Adv.

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

- (1). 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

Attested
N.S.M.
A.S.R.

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15/02 C D I ACB CHL



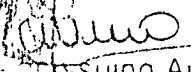
or lack of minimum qualification will not be a requisite qualification. They would be allowed a relaxation equivalent to the period for which they have worked continuously as casual labourer.

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
W.D.
Adv.

DUTY CARD	
	 प्रतनका निमपायण
	Archaeological Survey of INDIA
	Name Shm <u>BHUPEN DEKA</u>
	Designation <u>Casual worker</u>
	Date of issue : <u>21.2.2001</u>
	 Signature of Issuing Authority

Attested
u/s
Adv.

1. The person to whom this pass is issued will be responsible for its safe custody.
2. The card must be surrendered in the event of discharge from the service.
3. In case of loss, the fact should be reported immediately.

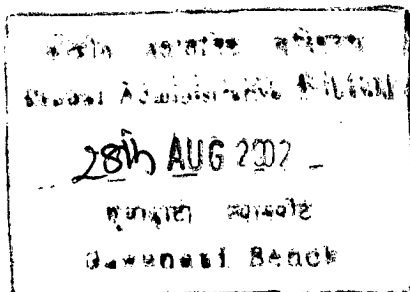
Residence Address Village: Chapon
P.S. Kaya P.O. Ahkarpara
Dist: Kamrup (Assam)

Attested
W.D.M.
Ash.

36-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH :: GUWAHATI.



O.A. 230 OF 2002

Shri Bhupen Deka.

-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 - 1 to 3 & 4.1 to 4.3 of O.A., the respondents beg to offer no comments.
2. That with regard to para - 4.4 to 4.7 of O.A. the respondents beg to state that the applicant was engaged as casual labourer for cleaning, sweeping and watch and ward of the site against Annual Maintenance. The engagement is made purely on daily wages basis subject to availability of work and fund.
3. That with regard to para - 4.8 of O.A., the respondents beg to state that it is baseless to say that the wages of Sri Bhupen Deka from November 2001 onwards have not been paid till date. Actually Sri Deka was not engaged for work during the month of November 2001 and December 2001 by the Supervisory Staff of the site. However, his wages for the month of January 2002, February 2002 and March 2002 have been paid vide receipt dated 25.6.02 (Annexure - I, II & III).

contd...F/2

3/5/02

Filed by
28/8/02
(A. DEB ROY)
Sr. C. G. S. C.
C. A. T., Guwahati Bench 49

The claim of bonus for 2000-2001 is being looked into and the payment will be made subject to fulfilment of conditions laid down in the relevant rulings.

4. That with regard to para - 4.9 of O.A., the respondents beg to state that the facts already stated above in the para - 4.8.
5. That with regard to para 4.10 of O.A., the respondents beg to state that the payment of wages to the labourers made on the basis of the presents of the incumbent maintained by the Supervisory staff.
6. That with regard to para - 4.11 of O.A., the respondents beg to state that the facts already stated above in para - 4.8 & 4.10.
7. That with regard to para -4.12 of O.A., the respondents beg to state that the applicant himself admitted that he was engaged as casual labourer on 1.7.95. Hence his claim for conferment of Temporary status does not arise in terms of the provisions contained in O.M. No-52015/2/90 -Estt(C) dated 10.3.93 issued by the Department of Personal and Training, Govt. of India. The gist of the same ~~circulation~~ circulated by the Director (Administration) Archaeological Survey of India, New Delhi vide his letter No- F.33/12/95 -Adm.II dated 10.3.98 (Annexure -IV)

In accordance with decision of the CAT Principal Bench, New Delhi in the case of Sri Raj Kamal & Others Vrs. Union Of India and Ors, the scheme for grant of temporary status is a one time affair and is applicable in respect of these casual employees who were in service on the date of the notification of the scheme, i.e. 10.9.93 and had rendered one year of continuous service with 240 days or 205 days of services, as the case may be

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on that date.

8. That with regard to para - 4.13 of O.A., the respondents beg to state that the facts already stated above in para - 4.8 & 4.12.

9. That with regard to para - 4.14 of O.A., the respondents beg to offer no comments.

10. That with regard to para - 5.1 of O.A., the respondents beg to state that the engagement of the applicant is made time to time.

11. That with regard to para - 5.2 to 5.5 of O.A. the respondents beg to state that the facts already stated above in para 4.8 & 4.12.

12. That with regard to para - 5.7,6 & 7 of O.A., the respondents beg to offer no comments.

13. That with regard to para - 8 of O.A., the respondents beg to state that the payment of wages of Shri Deka has already been made.

14. That with regard to para - 8.2 of O.A., the respondents beg to state that the temporary status can not be conferred on the applicant in accordance with the provisions contained in O.M. No-52015/2/90-ESTT(C) dated 10.3.93 issued by the Department of Personnel & Training.

contd....P/4

15. That with regard to para - 8.3 to 8.4 of O.A.,

The respondents beg to offer no comments.

16; That with regard to para - 9.1 of O.A., the

respondents beg to offer no comments.

17. That ~~with~~ regard to para - 9.2 of O.A., the

respondents beg to state that wages of Shri Deka
has been paid for the period he has worked.

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

-5 -

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

I, Shri Syed Jamal Hasan presently
worked as Superintending Archaeologist be duly
authorised and competent to sign this verification
do, hereby solemnly affirm and declare that the
statements made in para 1 to 17
are true to my knowledge and belief, these made in
para (3) 7, 14 & 17
being matter of record, are true to my information
derived therefrom and the rest are my humble submission
before this Hon'ble Tribunal, I have not suppressed
any material facts.

And I sign this verification on this 26 th day
of AUGUST, 2002.

4
Declarant. 26/8/2002

Syed Jamal Hasan
Superintending Archaeologist
ARCHAEOLOGICAL SURVEY OF INDIA
Gumrah Circle

(41)

24/1/03 52

Filed by
(A. DESROY)
Sr. C. S. J. C.
C. A. T., Guwahati Bench

केन्द्रीय प्रशासनिक न्यायाधिकरण
Central Administrative Tribunal
24 JAN 2003
गुवाहाटी न्यायाधीश
GUWAHATI BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. NO.230 OF 2002

Sri Bhupen Deka

....

Applicant

Versus

Union of India and others

....

Respondents

Additional Affidavit by Respondent No. 2

I, Syed Jamal Hasan, Superintending Archaeologist, Archaeological Survey of India, Guwahati Circle, Guwahati, the Respondent No.2 herein, do hereby solemnly affirm and state as under.

1. I am 2nd Respondent herein and as such well conversant with the facts of the case. I am competent and authorized to swear in this affidavit on behalf of the Respondent No. 1.

2. I state that the Applicant herein as filed the present O.A. before of this Hon'ble Tribunal for grant of 'temporary' status in terms of the Casual Labour (Grant of Temporary Status and Regularization) Scheme 1993 issued by the Department of Personnel and Training issued vide Office Memorandum No.51016/2/90 dated 10.9.1993.

3. I submit that the Hon'ble Supreme Court of India in its Judgement dated 29.4.2002 in C.A. No.3168 of 2002 titled Union of India and Ors. Versus Mohan Pal and Others, has clearly held that the said Scheme is not 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 should have also rendered a continuous service

2 ✓ (42) 5

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 in case of offices observing 5 days' week. While commenting upon Clause 4 of said Scheme the Hon'ble Supreme Court of India has categorically stated that from Clause 4 of this 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.

4. I submit that as per his own showing the Applicant herein was employed vide Order No. 2/5/W-95-150 dated 28.6.1995 and as such was not entitled to benefit of grant of 'temporary' status under the Casual Labour (Grant of Temporary Status and Regularization) Scheme 1993.

5. I state that in the light of the Judgement of the Hon'ble Supreme Court of India dated 29th April, 2002 in C.A. No.3168 of 2002 (Copy enclosed herewith for ready reference) it is humbly prayed that O.A. does not call for any interference by this Hon'ble Tribunal and deserves to be dismissed.

I state that what is stated herein above is true and correct.

DEPONENT

VERIFICATION:

I the above named deponent do hereby verify that the contents of Para 1 to 6 of the above affidavit are true and correct based on the knowledge derived from the record of the case and nothing material has been concealed there from.

Verified on this 15th day of January. 2003.

DEPONENT

[Signature]
15/1/03

Syed Jamal Hasan
Superintending Archaeologist
ARCHAEOLOGICAL SURVEY OF INDIA
Guwahati Circle

MOHAN PAL, ETC. ETC.

VS

Respondents

CORAM: D.P. MOHAPATRA AND K.G. BALAKRISHNAN, JJ.

SERVICES — CASUAL LABOUR — Grant of 'temporary status' to — Department of Personnel and Training of the Government of India formulated scheme for grant of 'temporary status' to casual labourers working in various departments of Government of India — Scheme came into effect in 1993 — Whether the conferment of 'temporary' status was an ongoing Scheme to be followed by the Department and hence 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) — Disposing the appeals, Held,

A. 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. (Para 6).

B. 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 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. (Para 6).

C. 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. (Para 11).

SERVICES — CASUAL LABOUR — Dismissal of casual labourers who have acquired 'temporary status' — Department of Personnel and Training of the Government of India formulated scheme for grant of 'temporary status' to casual labourers working in various departments of Government of India — Scheme came into effect in 1993

Judgment dated April 29, 2002 in C.A. No. 3168 of 2002 (Arising out of SLP (C) No. 2224/2000) with C.A. No. 3182, 3179, 3176-3178 & 3169 of 2002, 3181/2002 (arising out of SLP (C) No. 13024/2001, SLP (C) No. 1563/2001, SLP (C) No. 17174-17176/2000, SLP (C) No. 2151/2000, SLP (C) 326/2001 And C.A. Nos. 3170-71 of 2002 (Arising out of SLP (C) Nos. 6738-6739/2000) (Lt. Governor (Admin) & Ors. vs. Sadananadan Bhaskar & Ors., etc. etc.) With C.A. Nos. 3172-3173 & 3174-3175 of 2002 and 3180/2002 of 2002 (Arising out of SLP (C) Nos. 6740-41/2000 and 6742-43/2000 and 970/2001).

— Whether the services of casual labourers who had been given 'temporary' status could be dispensed with as per clause 7 of the 1993 Scheme as if they were regular casual labourers — Held,

D. Clause 7 of the Scheme makes it clear that despite the conferment of 'temporary' status, the services of casual labourer may be dispensed with by giving one month notice in writing. This clause would certainly give the employer the right to terminate the services of casual labourers who have been given 'temporary' status. (Para 7).

E. 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 acquired the 'temporary' status. (Para 9).

Approved: T. Rajakill & Ors. vs Union of India & Ors. etc. etc. [W.P. (CT) No. 86/99].

K.J. Balakrishnan, J.— Leave granted.

2. In all these appeals, common questions of law arise for consideration and hence 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, Lt. Governor (Andaman & Nicobar Island) is the appellant. The matter relates to the grant of 'temporary' status to the casual workers working in some of the departments of the appellants. The Department of Personnel & 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/Department of Government of India and their attached and subordinating offices, and that this Scheme may not apply to 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:-

- (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.
- (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.
- (3) The wages and wage rate will be fixed at the minimum of the pay scale for a corresponding regular Group 'D' official including D.A., H.R.A. and any other welfare measures.
- (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 days of work.

- (5) Maternity leave to lady casual labourer would be permissible on 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 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' post, 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 is this 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)."

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 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 '1.1' posts.

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. They are also eligible for the 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 casual labourer may be dispensed with by giving one month notice in writing. This clause would certainly give the employer the right to terminate the

services of casual labourers who have been given 'temporary' status.

8. The Division Bench of Calcutta High Court in *Writ Petition (CT) No. 86/99 (T. Rajakili & Ors. Vs. Union of India & Ors., etc. etc.)* held that Clause 7 must be read in a manner in which it does not render it unconstitutional. The employers cannot at their whims dispense with the services of the casual labourers who have acquired 'temporary' status. The entire object of 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 mis-conduct etc.

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 acquired the 'temporary' status.

10. In Civil Appeals Nos. 3170-71, 3172-73, 3174-75 & 3180/2002 arising out of SLP(Civil) No. 6738-6739/2000, SLP(Civil) Nos. 6740-41 and 6742-43/2000 and SLP(Civil) No. 970/200, 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.

11. In Civil Appeals Nos. 3168, 3182, 3179, 3176-78, 3169 of 2002 arising out of SLP(Civil) No. 2224/2000, SLP(Civil) No.

13024/2001, SLP (Civil) No. 1563/2001, SLP (Civil) No. 17174-17176/2000, SLP (Civil) No. 2151/2000, 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.

202(4) SCALE

AM NARAYAN SHARMA

VS

SHAKUNTALA GAUR

220

Appellant

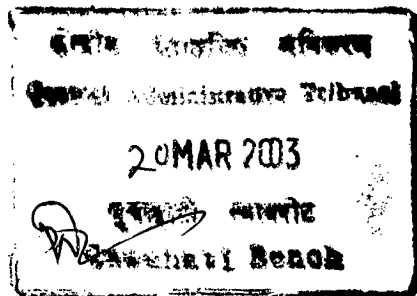
Respondent

CORAM: D.P. MOHAPATRA AND BRIJESH KUMAR, JJ.

25 RENT CONTROL — UTTAR PRADESH URBAN BUILDINGS (REGULATION OF LETTING, RENT AND EVICTION) ACT, 1972 — SECTION 16 & 18 — Allotment/release order passed under Section 16 — Scope of revision under Section 18 — Held, Order passed under Section 16 can be interfered in exercise of revisional jurisdiction under Section 18 of the Act in cases where the District Magistrate had exercised jurisdiction not vested or has failed to exercise the jurisdiction or has exercised it illegally or with irregularity — Allowing the appeal, Held,

30 A: It is clear that a person is entitled to make an application under sub-section (1)(a) of Section 16 for allotment in respect of a building which has or is about to fall vacant. Under clause (1)(b) the landlord is entitled to move an application for release of the accommodation Sub-s.(7) of Section 16 provides that every order passed under Section 16 shall be final subject to any order passed under Section 18 of the Act. The order passed under Section 16 can be interfered with in exercise of revisional jurisdiction under Section 18 of the Act in cases where the District Magistrate had exercised jurisdiction not vested or has failed to exercise the jurisdiction or has exercised it illegally or with irregularity. Under sub-s.(2) of Section 18, the revisional authority is entitled to confirm or rescind or remand the case to the District Magistrate for re-hearing. (Para 10).

40 RENT CONTROL — UTTAR PRADESH URBAN BUILDINGS (REGULATION OF



(49)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

In the Matter of :

O. A. No. 230 of 2002

Sri Bhupen Deka

Vs.

Union of India & Ors.

-And-

In the matter of :

Rejoinder submitted by the
applicant in reply to the written
statement filed by the Respondents.

The applicant above named -

Most Respectfully begs to state as under:

1. That your applicant with regard to the statement made in paragraphs 2 and 3 by the respondents in their written statement, the applicant begs to state that the applicant was engaged as casual worker way back in the month of May 1995 and he was always entrusted with regular nature of work on daily wages basis. The applicant was also engaged for watch and ward duty, since November, 1995. The applicant was engaged in the Guwahati Circle office and other particulars of work

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Filed by the applicant
through advocate
Sri G. N. Chalerang
on 20.3.2003. In
advance

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has already been stated in detail in Original application. Therefore it is not a fact that the applicant would be engaged as and when work and fund available.

It is categorically submitted that the applicant has discharged his duties in the month of Nov. 2001 and Dec. 2001 but surprisingly no payment is made to the applicant by Sri D.K.Majumdar following the instruction of the circle office. However, Sri D.K. Majumdar made an offer to the applicant to take wages for the month of November, 2001 and December, 2001 in the fake name but the applicant did not agree to such proposal and as a result payment of wages for the month of November 2001 and December 2001 is arbitrarily denied to the applicant.

So far the question of payment of bonus for 2000-2001 has not yet been paid to the applicant and in the written statement it is stated that the same will be looked into now after a lapse of 2 years. Therefore it is quite clear from the facts and circumstances as well as the statement of the respondents that they have adopted an unfair labour practice in the instant case of applicant.

2. That with regard to the statement made in paragraph 7,10,13,14 and 17 of the written statement, the applicant categorically denied the same and further begs to state that the salary for the month of Nov.

(51)
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2001 and Dec. 2001 has not yet been made to the applicant, and wages for the month of September 2002 has not paid only for a period of 15 days although the applicant attended to work whole month of September. But the payment is restricted by Sri D.K. Majumdar following the instruction of the Circle Office. Be its stated that full payment of wages is made to Sri Parameswar Das, Sri Samad Ali, Umesh Ali and to Sri Pran Koch. But surprisingly no payment is made to the applicant in the aforesaid period.

It is further submitted that in view of long casual service rendered by the applicant, he is entitled to be considered for regular absorption in Group D category and also entitled to be considered for grant of Temporary Status.

In the facts and circumstances stated above the application is deserves to be allowed with costs.

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VERIFICATION

I, Shri Vhupen Deka, S/o Shri Sunanda Ram Deka, aged about 27 (twenty seven) years, resident of village- Chapon, P.O. Lahkarpara, District Kamrup, Assam applicant in O.A. No.230 /2002 do hereby verify that the statements made in Paragraph 1 and 2 of this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 20/3 day of March, 2003.

Shri Bhuspur Deka.