

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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disposed Date- 12/08/2003

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FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 245/02

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Smt. P. M. Hazarika

-Vs-

Respondant(s) M. O. I. Guwahati

Advocate for the Appellant(s) M. Chanda, A. K. Chakrabarty
H. Datta

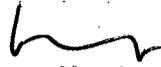
Advocate for the Respondant(s) CAC

Notes of the Registry	Date	Order of the Tribunal
	9.8.02	Heard Mr. M. Chanda, learned counsel for the applicant.
76576557 27.7.02 He. W. B. 20/8/02		Issue notice to show cause as to why the application shall not be admitted.
		Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks.
		List on 30.8.2002 for admission.
Notices prepared and sent to D. Section for issuing of the same to the respondent through Royal post with A.D. Yield D.N. 2242 to 2244 Dtd- 27.8.02 14.8.02	30.8.02	Heard learned counsel for the parties. The respondents have filed their written statement. Application is admitted and the matter be listed for hearing on 16.9.02.
	lm	contd/-

(2)

O.A. 245 of 2002

30.8.02 The applicant may file rejoinder if any, within 3 weeks.


Vice-Chairman

lm

2.9.02

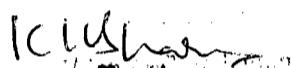
WJS submitted
by the Respondents.

16.9.2002 List the case on 4.10.2002 for hearing.


Vice-Chairman

bb

4.10.2002 List the case again on 8.11.2002 again for hearing.

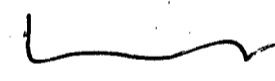

Member

bb

8.11.02

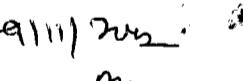
Rejoinder submitted
by the applicant in
reply to the WJS.

8.11.02 The respondents have filed the written statement. The applicant may file rejoinder, if any. List the matter for hearing on 15.11.2002.


Vice-Chairman

mb

(5/11) Due to circuit sitting at Bellary,
the case is adjourned to 29/11/2002.


Vice-Chairman
16/11/2002

23.1.03

WJS submitted
by the Respondents.
and an additional
applicant submitted
by the Respondent No. 3.

29.11.2002 List the case on 22/12/2002
for hearing.


Vice-Chairman

bb

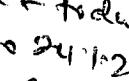
(18/12) No representation
WJS on 23/1/2003.


Vice-Chairman

A/W/S

23.1.2003

(19/12) Single bench did not sit today
The case is adjourned to 24.1.2003.


Vice-Chairman

A/W/S

Note of the Registry	Date	Order of the Tribunal
	13.6.2003	Put up again on 24.6.2003 for hearing alongwith O.A. 230/2002. Vice-Chairman
	mb 24.6.2003	Pass over on the prayer of Mr. G.N. Chakrabarty, learned counsel for the applicant. List again on 25.6.2003 for hearing. Vice-Chairman
	mb 25.6.2003	List the case on 30.6.2003 again for hearing. Vice-Chairman
	bb 30.6.2003	In course of hearing Mr.M.Chanda, learned counsel for the applicant referred to additional rejoinder submitted by him after the O.A. was posted for hearing. In the said rejoinder Mr.Chanda has mentioned the names of fifteen Casual Workers recruited after the applicant and they are working under the department. Let the ^{addition} respondents file reply, if any, on the rejoinder within two weeks from today. List the case on 25.7.2003 again for hearing. Vice-Chairman
	bb	

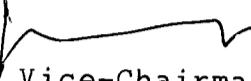
Note of the Registry

Date

Order of the Tribunal

(3)

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

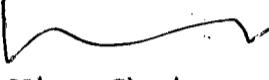
20.3.03

Rejoinder submitted
by the applicant.



nkm
28.2.2003

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



Vice-Chairman

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 23.5.2003.



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 hearing did not sit today.
The case is adjourned to 13/6/2003, my
P.K.D.

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 the matter
again on 4.8.2003 for hearing.

28.7.03

An additional
Rejoinder submitted by
the applicant.

mb

Member

RJ.

4/8 ~~Shri~~ Shri Shyam Sunder did not
speak today. The case is adjourned
to 21.8.2003.

My
Ass'ty

12.8.2003

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

12/9/03

Copy of the Judgment
has been sent to
the office for
issuing the same to
the applicant as
well as to Mr. Mr.
G. S. C. for the record.

nkm

Vice-Chairman

KK

12/17/9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXX. No. 111 245 of 2002

DATE OF DECISION 12.8.2003

Smt Padmarani Mudal Hazarika

.....APPLICANT(S).

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

Mr H. DuttaADVOCATE 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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.245 of 2002

Date of decision: This the 12th day of August 2003

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

Smt Padmarani Mudal Hazarika
Wife of Shri Ballav Hazarika,
Chandmari Colony, Nizarapar,
Guwahati.

.....Applicant

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

- Versus -

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

2. The Director General
Archaeological Survey of India,
New Delhi.

3. The Superintending Archaeologist,
Archaeological Survey of India,
Guwahati Circle, Ambari,
Guwahati, Assam.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

Conferment of temporary status in the light of the Office Memorandum dated 10.9.1993 issued by the Government of India is the issue raised in this O.A. in the following circumstances:

The applicant was initially appointed as Assistant Librarian on casual basis on 14.7.1993. According to the applicant she was thereafter shifted to the General Section as Group 'D' Worker and entrusted with different works. The applicant was working as such under the

respondents and moved this O.A. for conferment of temporary status. It seems that by order dated 1,8,2002 the employment of the applicant as casual worker was to be terminated after one month from the date of issued of the order. The applicant, on receipt of the same preferred a Misc. Petition and vide order dated 30.8.2002 in M.P.No.109 of 2002 the impugned order of termination was kept under suspension. By the present O.A. the applicant has claimed for conferment of temporary status in the light of the O.M. dated 10.9.1993.

2. The respondents submitted their written statement and asserted that the applicant was engaged as a casual worker on 14.7.1993 on daily wage basis subject to availability of work. According to the respondents the applicant was not entitled for being conferred the temporary status on the score that she was engaged as a casual worker on 14.7.1993 and she did not complete the requisite number of days, i.e. 206 days as on 10.9.1993, the basic criteria for conferment of temporary status to casual workers.

3. The controversy in this application centres round the interpretation of the Scheme known as the Casual Labourers' (Grant of Temporary Status and Regularisation) Scheme, 1993. According to the applicant the Scheme favours for conferment of temporary status to her, whereas accordingt to the respondents the applicant did not fulfil the conditions prescribed in the Scheme, more particularly in Clause 4(i) of the Scheme read with the Office Instructions issued by the Department from time to time.

4. I have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. at length. Mr A. Deb Roy submitted that the Scheme in

question.....

question is a one time measure and not an ongoing process. The applicant no doubt was employed on the date of issue of the O.M. dated 10.9.1993, but then she did not fulfil the other conditions, namely she did not complete 206 days when the Scheme came into operation. The Scheme in question was issued in the light of the Judgment and Order rendered by the Principal Bench of the Central Administrative Tribunal in O.A.No.2306 of 1989 disposed of on 16.2.1990 (Raj Kamal and others Vs. Union of India). In the said O.A. the applicants prayed for regularisation of their services. The Principal Bench of the Central Administrative Tribunal finally disposed of the said O.A. and issued numerous directions on the respondents to consider regularisation of the employees. In the light of the said order of the Tribunal the above mentioned Scheme was formulated for granting temporary status to casual workers who were employed on the date of issuance of the Notification dated 10.9.1993. Clause 4(i) of the Scheme indicated the condition for conferment of temporary status, which reads as follows:

"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)."

4. According to Mr Chanda since the applicant was in employment on the date of issue of the O.M., she was entitled for conferment of temporary status on completion of one year service. Mr A. Deb Roy referred to the communication dated 10.3.1998 issued by the Government of India, Archaeological Survey of India to All Heads of Circles/Branches and contended that the grant of temporary

status.....

status is a one time affair and is applicable in respect of those casual employees who were on service on the date of NOTification of the Scheme, i.e. 10.9.1993 and had rendered one year of continuous service with 240 days or 206 days of service as the case may be on that date. Mr A. Deb Roy, in other words, submitted that both the conditions must be fulfilled for conferment of temporary status, namely one must be on employment on 10.9.1993 and one must have already rendered one year of continuous service with 240 days or 206 days of service as the case may be, on the date of issue of the Notification.

5. There is no dispute to the fact that the applicant was in employment on the date of issue of the O.M. The controversy is as regards the fact that the applicant did not complete 206 days when the Scheme came into existence. From the records it appears that the applicant continued to serve under the respondents and by order dated 10.10.2000 the applicant was considered for semi skilled status with effect from 1.10.2000 until further orders and on which capacity she continued to work. On perusal of Clause 4(i) it appears that for conferment of temporary status one was to be in employment on the date of issue of the O.M. dated 10.9.1993 and one was to render a continuous service of at least one year which means one was to be engaged for a period of 240 or 206 days as the case may be. There are two conditions for conferment of temporary status - (1) one was to be in employment on the date of issue of the Notification and (2) one was to complete the period of service as prescribed. There is no dispute that a casual worker was required to be in employment when the Scheme was introduced vide O.M. dated 10.9.1993 - a clear-cut date was given. In addition, a

casual.....

casual worker was to complete 240 days or 206 days of service. Mr A Deb Roy submitted that the second condition would be fulfilled only in those cases where the persons completed 240 days or 206 days as the case may be when the Scheme was introduced. I find it difficult to accept the contention of Mr A. Deb Roy. The Scheme was introduced from a particular date. That means the Scheme was applicable to all those casual employees who were in employment on the date of issue of the Scheme. Paragraphs 2 and 3 of the Scheme are relevant for this purpose, which read as follows:

"This scheme will come into force w.e.f. 1.9.1993.

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....."

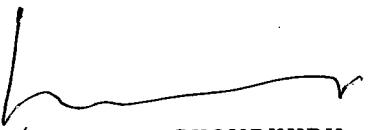
6. The Scheme was made for those casual employees who were in employment on the date of issue of the Scheme. It did not contemplate that those persons were required to complete the prescribed period of 240 days or 206 days as the case may be on the date the Scheme came into force. the O.M. No.40011/2/2002-Estt.(C) dated 12.4.2002 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, seemingly clarified the position. It referred to the stipulation contained in the O.M. dated 10.9.1993, namely that "(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of OM; and (ii) should 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)".

Paragraph.....

Paragraph 2 further mentioned that in most cases the first condition stipulated was ignored and a view was taken as if the scheme was an ongoing scheme. The Supreme Court in Union of India and another Vs. Mohan Pal, etc disposed of on 29.4.2002 clarified the scheme and observed that the scheme in question was not an ongoing scheme and that temporary status could be conferred on the casual labourers under the 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). The Government of India purposely gave a cut-off date that employees were to be in employment on the date of the Scheme and to get temporary status one is to render continuous service of at least one year, which means that the casual employee was to be engaged for at least 240 days or 206 days in a year as the case may be. Clause 4 of the Scheme did not give a blanket authority to confer temporary status to all casual workers as and when they complete one year continuous service. To earn the benefit a casual employee must be in employment on the date when the scheme was introduced.

7. For the reasons stated above the application is allowed and the respondents are directed to consider the case of the applicant for conferment of temporary status in the light of the Scheme and the findings and observations made above.

No order as to costs.



(D. N. CHOWDHURY)
VICE-CHAIRMAN

Central Administrative Tribunals
AUG 2002
Guwahati Bench

14
Filed by the applicant
through Sri G. C.
Chakravart, Advocate
on 18-7-2002 for

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. 245/2002
 Smt. Padmarani Mudai Hazarika: Applicant
 - Versus -
 Union of India & Others : Respondents.

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10	VII	Copy of Representation dated 3.8.2001	26.
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Filed by

Date :

Advocate

Padmarani Mudai Hazarika
1

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1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

O.A. No. 245.../2002

BETWEEN

Smti Padmarani Mudai Hazarika
Wife of Shri Ballav Hazarika
Chandmari Colony
Nizarapur
Guwahati-781003

.....Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Art and Culture
New Delhi.
2. The Director General
Archaeological Survey of India
Janapath,
New Delhi-110011

Padmarani Mudai Hazarika

3. The Superintending Archaeologist,
 Archeological Survey of India,
 Guwahati Circle, Ambari
 Guwahati-781001, Assam.

... Respondents.

DETAILS OF THE APPLICATION

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

This application is made praying for a direction upon the respondents to grant temporary status to the applicant with effect from September 1993 as Casual worker which has been given to other similarly situated persons working with the applicant in terms of the relevant scheme launched by the Government of India.

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

Padmarani Mudali Hazarika

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. She is also a member of the Scheduled Caste Category.

4.2 That the applicant was initially appointed as casual worker under the Respondents in July, 1993 vide order No. 1/1993 dated 14.7.1993 issued by the Respondent No.3 and was attached to Library Section in the office of the Respondent No.3 for assisting the in-charge Librarian.

Copy of the Office Order dated 14.7.1993 is annexed hereto as **Annexure-I.**

4.3 That since her appointment as casual worker on 14.7.1993, the applicant has been serving continuously under the respondents, without any break where she is still continuing. However, the salary for the month of November and December, 2001 was not paid to the Applicant. At present she is working in General Section as Group "D" Worker and is being entrusted with different types of works.

4.4 That the applicant has been attending to all types of works as assigned to her by the Respondents from time to time and has been performing her works to the best satisfaction of the respondents who have appreciated her qualities and abilities on different occasions and have issued valuable certificates in her favour.

Copy of certificates dated 18.7.1995 and dated 16.7.99 are annexed hereto as **Annexure II and III** respectively.

4.5 That by virtue of her continuous service from 1993 under the respondents as casual worker, she has become entitled for grant of Temporary Status under "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India, 1993" issued by the D.O.P.T., Government of India under its O.M. dated 10.9.1993. The said Scheme inter alia provides 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

Padmarani Mudali Hagerika.

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case of offices observing 5 days week).

ii) Such enforcement 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."

Needless to state that in the instant case the applicant has fulfilled all the criteria as stated above. This apart, even the respondent department vide its order No. F. 33/12/96-Admn. II dated 10.3.1998 directed their concerned officials to take immediate

Padmarani Mudali Hazarika.

action for grant of Temporary status to Casual Workers in the light of the O.M. dated 10.9.1993 of G.O.I.

Copy of O.M. dated 10.9.1993 and order dated 10.3.1998 are annexed hereto as **Annexure-IV and IV A** respectively.

4.6 That the applicant begs to state that she is a member of Scheduled Caste Category and as such deserves privileged considerations as guaranteed under the Constitution of India. Her name has duly been registered for employment by the District Employment Exchange, Guwahati, Government of Assam.

Copy of SC certificate issued by D.C. Kamrup and copy of registration certificate dated 23.4.1987 of District Employment Exchange are annexed hereto as **Annexure V and VI** respectively.

4.7 That in spite of her entitlement for grant of Temporary status under the Scheme aforesaid, the applicant is not being considered by the Respondents over these years for grant of the said benefit. In the year 1999, Temporary Status has been granted to one Smti Ranju Devi who was also appointed along with the Applicant as Casual Worker by the Respondents but the said benefit was denied to the applicant on the false plea that she did not work for 206 days during the year as required under the scheme and that her services fell short by 21 days than the required 206 days for grant of Temporary Status as required under the Scheme and hence

Padmarani Mudoi Hayerika.

she did not qualify for the said status. It is relevant to mention here that Smti Ranju Devi, who was engaged along with the applicant, fell short by 21 days than the requirement of 206 days during the year but she was granted the Temporary Status under the aforesaid Scheme without any objection whereas the same was denied to the applicant who was similarly situated with that of Smti Ranju Devi. Further, the number of days as shown by the respondents in case of the applicant are also not correct since the applicant worked for more than 206 days in each year. Hence the entire service records of the applicant showing days of her attendance including relevant payment vouchers for all those years with effect from July 1993 to till date needs be produced by the respondents before the Hon'ble Tribunal for correct ascertainment of facts and proper adjudication thereof.

4.8 That the applicant since then approached the respondents time and again praying for grant of Temporary Status to her and eventually submitted representation on 3.8.2001 to the Respondent No.2 praying for grant of Temporary Status but with no response.

Copy of the representation dated 3.8.2001 is annexed hereto as Annexure-VII.

4.9 That the applicant begs to state that by denying the benefit of Temporary Status to the applicant, the

respondents have acted in an arbitrary, unjust, unfair and discriminatory manner. The respondents however, considered the applicant for semi skilled category with effect from 1.10.2000 vide their office order No. 155/2000 dated 18.10.2000 but Temporary Status has not been granted thus depriving her of all the legitimate benefits ancillary to that.

Further, it is understood from reliable sources that the respondents are now trying to oust the applicant from service in order to cover up their lapses and injustices and the applicant is apprehending to be ousted at any moment and as such prays for kind protective hands of the Hon'ble Tribunal for protection of his rights and interests.

Copy of Office order dated 18.10.2000 is annexed hereto as **Annexure-VIII.**

4.10 That the applicant most humbly submits that due to non consideration of the case of the applicant for grant of Temporary Status by the Respondents, the applicant has been deprived of his bonafide and legitimate claims. It is relevant to mention here that though the applicant has been working as Group "D" Worker on casual basis but he is otherwise qualified for Group "C" posts also and the respondents may consider the applicant even for Group "C" post, if so available, after granting him temporary status in his present capacity as per the professed policy and guidelines of the Government of

Padmarani Mudri Hasrika

India as stated above. In the face of the discriminatory treatment meted to him, the applicant finding no other alternative, is approaching this Hon'ble Tribunal praying for justice and further prays that the Hon'ble tribunal be pleased to direct the respondents to produce all the service records of the applicant including attendance, payment receipts with effect from July, 1993 before the Hon'ble Tribunal and direct the respondents to grant Temporary Status to the applicant retrospectively with effect from September, 1993 as has been granted to Smti Ranju Devi.

4.11 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 Labour since July, 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 has been serving since 1993 continuously and without any break and his

Padmavati Mudali Hayonika

performances have been certified as satisfactory by the respondents.

5.4 For that, such Temporary Status has been granted to another similarly situated Casual Worker.

5.5 For that, the denial of the grant of Temporary status and appointment to the applicant is arbitrary, unjust, unfair and violative of the principles of natural justice and also of Article 14 and 16 of the Constitution of India.

5.6 For that, the applicant submitted representations and made approaches to the respondents for grant of Temporary Status but with no result.

5.7 For that even the Respondent department vide its letter dated 10.3.1998 (Annexure- IV A) directed its concerned officials to take appropriate action to grant Temporary Status to Casual Labourers in terms of O.M. dated 10.9.1993 of Government of India.

6. Details of remedies exhausted.

That the applicant states that she has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application. Personal approaches and representation made by the applicant failed to evoke any response.

Padmavati Mudali Hazenka

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

The applicant further declares that she 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 in terms of the Government Scheme, 1993 retrospectively with effect from September 1993.

8.2 Costs of the application.

Padmavati Mudali Hazarika

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

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 7G576557.
- ii) Date of Issue : 27.7.2002.
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As given in the index.

Padmarani Nudri Hazarika.

VERIFICATION

I, Smti Padmarani Mudai Hazarika, Wife of Sri Ballav Hazarika of Chandmari Colony, Nizarapar, Guwahati-3, District Kamrup, Assam, 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 _____ day of August, 2002.

Padmarani Mudai Hazarika

Signature

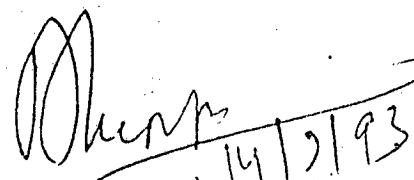
1/19-Admn/Officer
Government of India,
Archaeological Survey of India,
Office of the Superintending Archaeologist,
Guwahati Circle, Dispur, Guwahati-781005.

OFFICE ORDER NO.

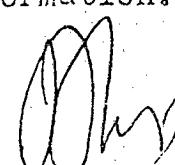
1992

14/7/93

Miss Padmarani Mudai has been engaged as Assistant librarian
as casual basic from 14/7/1993.


(D. Bhengra).
Superintending Archaeologist,
Head of Office

1. Copy to Miss Padmarani Mudai for information.
2. UDC Adm.
3. Office Copy.


Superintending Archaeologist,

Superintending Archaeologist
Archaeological Survey of India
Guwahati Circle, Dispur
GUWAHATI-CIRCLE

Pls. file
for ref.

भारत सरकार

GOVERNMENT OF INDIA

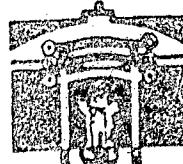
दूरभास : ८७९६१

कार्यालयः

अधीक्षक पुरातत्वविद
भारतीय पुरातत्व सर्वेक्षण
गुवाहाटी मंडल
दिसपुर,
गुवाहाटी-७८१००५, असम

क्रमांक.....

दिनांक..... १९



प्रत्यक्षीतिमपाद्यु

ANNEXURE-II

PHONE : 87961

OFFICE OF THE

SUPERINTENDING ARCHAEOLOGIST
ARCHAEOLOGICAL SURVEY OF INDIA
GUWAHATI CIRCLE

DISPUR, GUWAHATI-781005, ASSAM

No.....

Dated the..... 19

TO WHOME IT MAY CONCERN

THIS to certify that Mrs. Padma Ranji Mudai Hazarika
W/o Sri Ballav Hazarika of Chandmari, Guwahati is working in
this office as Assistant Librarian on casual basis since
14.7.93 till the date. She posses a good knowledge in her work.
She is sincere, hard worker and obedient.

I wish her every success in her life.

D. BENGHRA

SUPERINTENDING ARCHAEOLOGIST
HEAD OF OFFICE

SUPERINTENDING ARCHAEOLOGIST
ARCHAEOLOGICAL SURVEY OF INDIA
Guwahati Circle, Dispur,
GUWAHATI-781005

भारत सरकार

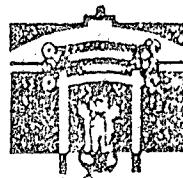
GOVERNMENT OF INDIA

दूरभाष : ६१९६१

PHONE : 61961

कार्यालय :

आधीक्षक पुरातत्त्वविद
भारतीय पुरातत्त्व सर्वेक्षण
गुवाहाटी मंडल



प्रत्यक्षितमपावृणु

गुवाहाटी-७८१००१ असम

क्रमांक

दिनांक

१९

OFFICE OF THE
SUPERINTENDING ARCHAEOLOGIST
ARCHAEOLOGICAL SURVEY OF INDIA
GUWAHATI CIRCLE

Amphan GUWAHATI-781 001, ASSAM

No 1/9/99-Adm.-1117

Dated the 16.7.99.

TO WHOM IT MAY CONCERN

Certified that Srimati Padmarani Mudai working on casual basis in this office since July, 1993 and attached with the Library Section to assist the incharge Librarian in matters off accessioning of books, safe keeping them in the shelf and issued as and when needed. Besides she knows English Typing and time to time typed letters etc. Partening the Library section, I found her very honest, sincere and dutiful.

I wish her all sucess in her future career to get a regular job in any Central and State Govt. Offices, where her competency could be utilised properly, if appointment ~~awarded~~ as office assistant/Library assistant.

Debbed
(Dr. G. C. Chauhan)
Superintending Archaeologist -

Guwahati Circle.

16/7/99

*Debbed
July 1999
S. C. Chauhan*

17. 27-29

Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training
Government of India
New Delhi, 11/2/90-Ett(C)

Annexure

IV

New Delhi, the 10th Sept. 1993

Subject: 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.

The guidelines in the matter of recruitment of person on
daily-wage basis in Central Government offices were issued
by this Department's O.M. No. 49014/2/86-Ett(C) dated 7.6.86.
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
of Union of India and it has been decided that while the
existing guidelines contained in O.M. dated 7.6.86 may continue
to be followed, the grant of temporary status to the casual
employees, who are presently employed and have rendered one year
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
to 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 7.6.86. Cases of negligence should be viewed
seriously and brought to the notice of appropriate authorities
taking prompt and suitable action.

And have rendered one year
of continuous serv. (Y.G. Parande) Sd/-
Director

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

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

Not to be
handled per
as CL
W.e.f. 93
10.9.93

(Y.G. Parande) Sd/-
Director

Revised
Per
Revoke

Per 32/45
Not com
206 days
on 10.9.93.

(1990)2 CAT 169
Sri Raj Kumar V UOI

DD 16.2.90

APPENDIX

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

11. 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 schemes.

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.

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 atleast 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.

ii) 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

Who have
rendered a
continuous service

Revised
for
Review

26/24

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

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

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

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.

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. Disposal/conferment of temporary status, the services of a casual labourers 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 in various 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 illiteracy or casual labourers of 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

*After 2nd
Amendment
Advocate*

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

9. On regularization of casual workers 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 Departmental O.M. dated 7.6.80 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.

*Approved
D.P.T. & C.O.*

- 21 - ANNEXURE - IV A

62

OS

No. F. 33/12/96-Adm. II
Government of India
Archaeological Survey of India

Janpath, New Delhi-11.

Dated: 10.3.98.

To:

All Heads of Circles/Branches:

Sub:- Grant of Temporary Status to Daily Wagers - reg.

Sir,

It may kindly be recalled that a number of daily wage workers had been granted Temporary Status in 1993-94 in accordance with the DOP & Trg. "Casual Labourers(Grant of Temporary status and Regularisation) Scheme of Govt. of India 1993". It is also possible that a number of cases for grant of temporary status are pending in your office. The DOPT instructions have been circulated vide O.M. No. 52016/2/90-Estt(C) dated 10.3.1993 and this Deptt. have subsequently also issued a number of instructions on the subject. The grant of Temporary Status in the Survey has been reviewed in consultation with DOP & Trg. in connection with a representation submitted by one of the ex. casual labourer before the Chairman, National Commission for Scheduled Castes & Scheduled Tribes, New Delhi. The advice given by DOP & Trg. in the case is reproduced below for guidance:-

*Referred
After 1st call*

- i. The Scheme for grant of temporary status to the casual employees was formulated in pursuance of the judgement dated 16.2.90 of the CAT Principal Bench, New Delhi in the case of Shri Raj Kamal & others Vs. Union of India & others. The Scheme for grant of temporary status is a one time affair and is applicable in respect of those 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 206 days of service as the case may be, on that date. The provisions of the scheme are also not applicable in respect of those casual employees who were recruited otherwise than through the sponsorship of employment exchange.
- ii. In this connection attention is also invited to the Supreme Court judgement dated 27.1.97 in the case of Passport Officer, Trivandrum & Others vs. Venugopal C & Ors. in which the hon'ble court has held that "if Department decides that only those employees who were recruited in normal manner i.e. through the employment exchange shall be given the temporary status, no fault can be found with the Deptt.

P.T.O.

The decision cannot be said to be unreasonable or arbitrary. Therefore, we find it difficult to accept the line of reasoning taken by the Tribunal in holding that the decision was inconsistent with Article 14 of the Constitution".

In view of the above, you are requested to review all the cases for grant of temporary status to casual workers immediately for appropriate action. A detailed report may be furnished to this office for information and record within one month.

Yours faithfully,

Sd/-
(SATYA PAL)
DIRECTOR (ADMINISTRATION)

Attended
Jaswant

Book No. 27

ASOM ANUSUCHITA JATI PARISAD

SATI RADHIKA SANTI ROAD

CHARUZAN BAZAR : Guwahati-781001 (Assam)

Regd. No. : 1046 of 1981-82



(RADHA RANI MUDAI)

This is to Certify that Shri/Smti Radha Rani Mudai, daughter/wife of C.S. Sarker, of village P. S. Nacetti, Nacetti in the District of Charuza, Assam belongs to the Kachari Community, which is recognised as a scheduled caste under the constitution of Scheduled Castes and Scheduled Tribes Order 1950 as amended by the scheduled castes and scheduled tribes list (modified order) 1976.

Shri/Smti Radha Rani Mudai and her family originally resides in village P. S. Nacetti, Nacetti in the District of Charuza, Assam.

ASOM ANUSUCHITA JATI PARISAD.

President

Guwahati

President

Asom Anusuchita Jati Parisad

Guwahati-2

Signature

Designation

Scalp Nacetti

Place

Charuza

Deputy Commissioner
CHARUZA, GUWAHATI

Other
Signature

PG

16:32 C B I ACB CHL

16

- 24 -

171

District Employment Exchange,
Guwahati.

Regn No H-418187
Date of Regn..... 23.4.87

Scheduled Caste

X-10(B)

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR & EMPLOYMENT
DISTRICT EMPLOYMENT EXCHANGE
SILCHAR-GUWAHATI-3

(Not on Instruction Card (see instruction card
supplied))

1. Name of the applicant K.C. Patra, Rajni, Meheri
2. Date of registration. 23.4.84.....
3. Registration no. 417187.....
4. N.C.O. Code No. 3.C.430.....
5. Date of birth. 12.12.1921 - 8-62

INSTRUCTIONS TO THE CARRIER OF THIS CARD

a) Carry this card with you whenever you
come to the Exchange.

b) Give your Registration Number and N.C.O.
card whenever you enter the Exchange.

c) Renew your Registration Every Three years.
If you do not renew by the due date your
Registration will be cancelled.

d) Renew your Registration personally
or by post. For renewal by post DO NOT SEND THIS
CARD. Apply to the Exchange on a reply & paid post
card.

e) Give correct information with

1. Name and address

2. Date of birth, date of marriage

3. Date of birth of first 2 children and age in years

4. Date of marriage

(Married or not married)

After
Signature
Stamp

1/1/84
Labour & Employment
District Employment Exchange
SILCHAR-GUWAHATI-3

To

The Director General,
Archaeological Survey of India,
Janapath, New Delhi - 110011.

(Through Superintending Archaeologist, Archaeological Survey of India, Guwahati Circle, Assam).

Sub : Request for regularisation of service in respect of Smt. Padmarani Hazarika, Casual worker in to a Gr. 'C' or Gr. 'D' Post - regarding.

Sir,

With due respect and humble submission, I beg to put forth my grievances on the subject cited above for favour of your kind consideration and sympathetic order please.

That, I have been working as Asstt. Librarian on casual basis since 14/7/1993 till to date with best satisfaction of my superior officers. The xerox copies of my experience certificates issued in my favour are enclosed herewith for your kind reference please.

That, as to my educational qualification, I am a Graduate lady and have passed from University of Guwahati since 1986. Apart from that I have attended the Bachelors Degree in Library and information Science and also passed typewriting with the 40 (forty) speed and placed 1st division on typing line.

That, I have already registered my name in the Guwahati Employment Exchange and my registration number is W-417187 dt. 23.4.1987.

That, I am a Schedule Caste lady and coming under women quota. As per provision made by the Govt. of India, I am now entitled to get Temporary Status which have been deprived since long.

Therefore I request you to kindly look into my case sympathetically and regularise me into Gr. 'C' or Gr. 'D' post immediately for which act of your kindness I shall be ever grateful to you.

Pls. Refer
Yours faithfully,

Padmarani Hazarika.

Encl : As above.

12 Sheets of Certificates
copies.

(Smt. Padmarani Hazarika)
ASI, Guwahati Circle.

Date : 3/8/2001.

No. 1/23-Adm/2000
Government of India
Archaeological Survey of India
Office of the Superintending Archaeologist
Guwahati Circle: Ambari: Guwahati-781001

Dated, the

OFFICE ORDER NO. 109 /2000

18 | 10 | 200

Sri R.Cheudhury and Smt. Padmarani Mudali Hazari are considered for semi skilled category w.e.f. 1.10.2000 till further order. ' '

Superintending Archaeologist
Head of Office

No. 1/23-Adm/2000 - 1866

Copy to:-

- 1. Accounts Section .
- 2. Person concerned .
- 3. Store Section .
- 4. Office Order Book .

18/10/2000

Superintending Archaeologist
Head of Office

Jly 9 3

1.4.97

Scans Got. 2.1 f. 1.9.93

In the Central Administrative Tribunal
Guwahati Bench, Guwahati

2 SEP 2002

O.A. No.245/2002

Smt P. M. Hazarika

-Vs-

Union of India and others

-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 and 4.1 of O.A. the respondents beg to offer no comments.
2. That with regard to para 4.2 of O.A., the respondents beg to state that it is the fact that the applicant was engaged as casual worker on 14.7.1993 on daily wages basis subject to availability of work and fund.
3. That with regard to para 4.2 of O.A., the respondents beg to state that it is baseless to say that the wages of Mrs. Hazarika for the month of November 2001 and December 2001 have not been paid. Actually Mrs. Hazarika was not engaged for work in the month of November 2001 and December 2001.
4. That with regard to para 4.4 of O.A., the respondents beg to offer no comments.
5. That with regard to para 4.5 of O.A., the respondents beg to state that the applicant does not qualify for conferring T.S. in terms of the provisions contained in the Circular dated 10.9.93 issued by the Department of Personnel and Training, Govt. of India, New Delhi followed by the clarification/instruction issued by the Department of Archaeological Survey of India, New Delhi vide para (1) (i) of his office letter No.13/12/96-Adm II dated 10.3.98 and 13/24/2002-Adm.II dated 4.7.2002 (Annexure I, II & III).

Since Mrs. Hazarika was engaged as a casual worker on 14.7.93, she did not qualify the requisite number of days, i.e. 206 days as on 10.9.93, the basic criteria for conferring T.S. to casual workers.

6. That with regard to para 4.6 of O.A., the respondents beg to offer no comments.
7. That with regard to para 4.7 to 4.11 of O.A., the respondents beg to state that the facts already stated above in the para 4.5.

10.9.03

42
30/8/02
Filed by
(A. DEBSON)
Smt. C. G. S. C.
C. A. T., Guwahati Bench

29

43

8. That with regard to para 5.1 of O.A. the respondents beg to state that she was engaged time to time as per availability of the work and fund.
9. That with regard to para 5.2 to 5.7 of O.A. the respondents beg to state that the facts already stated above in the para 4.5.
10. That with regard to para 6 to 7 of O.A. the respondents beg to offer no comments.
11. That with regard to para 8.1 of O.A. the respondents beg to state that the facts already stated above in the para 4.5.
12. That with regard to para 8.2 to 8.3 and 9.1 of O.A. the respondents beg to offer no comments.

VERIFICATION

I, Syed Jamal Hasan presently working as Superintending Archaeologist be duly authorised and competent to sign this verification do, hereby solemnly affirm and declare that the statements made in para 2 & 3:

are true to my knowledge and belief, these made in para 5, 8 & 13.
being matter of record, are true to my information derived there from 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 28th day of August, 2002.

Declarant

Enclo : As stated above

Syed Jamal Hasan
Superintending Archaeologist
ARCHAEOLOGICAL SURVEY OF INDIA
Guwahati Circle
Guwahati

17-27-00
G.O. No. 112/90-Cdt(C)
Government of India
Ministry of Personnel, P.G. and Pensions
Department of Personnel & Training

(30) Annexure - I

Annexure - I

New Delhi, the 10th Sept. 1993

OFFICE MEMORANDUM

Subject: 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.

The guidelines in the matter of recruitment of persons on
daily-wage basis in Central Government offices were issued
by this Department's O.M. No. 49014/2/86-Cdt(C) dated 7.6.86.
The policy has further been reviewed in the light of the
judgment 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 7.6.86 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.

Ministries of Finance etc. are requested to bring the scheme
to 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 7.6.86. Cases of negligence should be viewed
seriously and brought to the notice of appropriate authorities
taking prompt and suitable action.

Sd/-
(Y.G. Parando)
Director

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

to: (1) All attached and subordinate offices of
(i) Ministry of Personnel, P.G. and Pensions
(ii) Ministry of Home Affairs
(2) All offices and sections in the MIA and
Ministry of Personnel, P.G. and Pensions.

Ajor on
14/5/93

Sd/-
(Y.G. Parando)
Director

Employ on 11.9.93

to have rendered 1 yrs

Central Govt.

10,9.93

(i) Department of Propagation & Training, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.
(ii) 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 cast workers in Railways, Department of Telecommunication and Department of Posts who already have their own scheme.

4. Temporary status

*and
Who have
of 6 months
a continuous
Service or
at least one
Year*

- 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 conferral 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 a 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

ON all CL who are on employs
and who have rendered a
continuous service of at least
one year on the dt 2/1/94

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iv) To carry forward the leave at their credit on their regularization. They will not be entitled to the benefit of encashment of leave on termination of service for any reason or on their quitting service.

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

vi) 50% of the service rendered under Temporary Status would be counted for the purpose of entitlement benefits after their regularization.

vii) After rendering three years continuous service after confirmation 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 sanction from permanent Govt. servants of their Department.

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. On completion 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 posts in respective offices where the casual labourers have been working would be filled up on par with recruitment rules and in accordance with the instructions issued by Department of Personnel & Training from time to time 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 literate casual labourers of those who fail to fulfil the minimum qualification prescribed for post, regularization will be considered only against those posts in respect of which literacy or

(7) 34-48

F.A.M.H.H.N.T - IV-A

(b) Annexure - II

No. F.33/12/96-Adm. II
Government of India
Archaeological Survey of India
Janpath, New Delhi-11.

Dated: 10.3.98.

To

All Heads of Circles/Branches:

Sub:- Grant of Temporary Status to Daily Wagers - reg.

sir,

It may kindly be recalled that a number of daily wage workers had been granted Temporary Status in 1993-94 in accordance with the DOP & Trg. "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Govt. of India 1993". It is also possible that a number of cases for grant of temporary status are pending in your office. The DOPT instructions have been circulated vide O.M. No: 52016/2/90-Estt(C) dated 10.3.1993 and this Deptt. have subsequently also issued a number of instructions on the subject. The grant of Temporary Status in the Survey has been reviewed in consultation with DOP & Trg. in connection with a representation submitted by one of the ex. casual labourer before the Chairman, National Commission for Scheduled Castes & Scheduled Tribes, New Delhi. The advice given by DOP & Trg. in the case is reproduced below for guidance:-

1. The Scheme for grant of temporary status to the casual employees was formulated in pursuance of the judgement dated 16.2.90 of the CAT Principal Bench, New Delhi in the case of Shri Raj Kamal & others vs. Union of India & others. The Scheme for grant of temporary status is a one time affair and is applicable in respect of those 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 206 days of service as the case may be, on that date. The provisions of the scheme are also not applicable in respect of those casual employees who were recruited otherwise than through the sponsorship of employment exchange.
- ii. In this connection attention is also invited to the Supreme Court judgement dated 27.1.97 in the case of Passport Officer, Trivandrum & Others v. Vengopal C & Ors. in which the hon'ble court has held that "if Department decides that only those employees who were recruited in normal manner i.e. through the employment exchange shall be given the temporary status, no fault can be found with the Deptt.

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The decision cannot be said to be unreasonable or arbitrary. Therefore, we find it difficult to accept the line of reasoning taken by the Tribunal in holding that the decision was inconsistent with Article 14 of the Constitution.

In view of the above, you are requested to review all the cases for grant of temporary status to casual workers immediately for appropriate action. A detailed report may be furnished to this office for information and record within one month.

Yours faithfully,

156/-
(SATYALAL)
DIRECTOR (ADMINISTRATION)

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Annexure - 111 50

IMMEDIATE

No.F. 13/24/2002-Adm.II
Government of India
Archaeological Survey of India

4 JUL 2002

Janpath, New Delhi-11.

Dated: 25.6.2002.

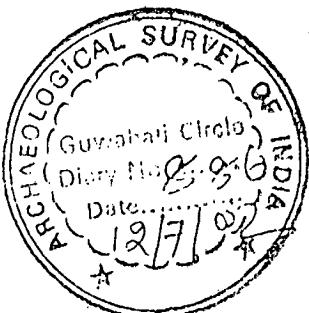
~~Stamp Adm~~
~~Annexure 121~~
Sub:- Casual Labourers (Grant of Temporary Status and Regularisation) Scheme
of Govt. of India – 1993 – Clarification.

I am directed to enclose herewith a copy of letter No.40011/2/2002-Estt.(C) dated 12.4.2002 received from Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training and copy of the judgement delivered by the Supreme Court of India in S.B. Appeal NO. 3168 of 2002 filed by the Union of India V/s Mohan Pal etc. which are self explanatory.

2. In this context the following two conditions for grant of temporary status to the persons recruited on daily wage basis in pursuance to DoPT O.M. No.51016/2/90-Estt. © dated 10.9.1993 have been stipulated:-

- i) Temporary status would be conferred on all casual labaourers who were in employment on the date of issue of DoPT letter dated 10.9.1993 quoted above; and
- ii) Should have rendered a continuous service of at least one year as on the date of issue of above O.M. 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).
- iii) The scheme of grant of temporary status was one time scheme and not an ongoing scheme applicable to those daily wage workers who satisfy the conditions at (i) and (ii) above on the date of issue of DoPT O.M. dated 10.9.1993.
- iv) S.As / Head of Offices are advised to defend the court cases on the lines of the principle laid down by the Supreme Court in its judgement dated 11.3.2002 indicated in para 2 of DoPT O.M. dated 12.4.2002.
- v) All S.As / Head of Offices are directed to send the names of those casual labourers who have been awarded temporary status / regularisation in service against the vacancy of Group 'D' subsequent to the date of issue of DoPT O.M. dated 10.9.1993 after 1.9.1993 onwards for necessary action.

Contd..2/-



vi) The above clarifications may be given wide publicity and got noted from all supervisory staff. In future, the guidelines issued by DoPT and Supreme Court judgement should be followed strictly in the matter of engagement of casual labourers and grant of temporary status / regularisation of their services. Any violations of DoPT instructions / Supreme Court judgement will be viewed very seriously and suitable disciplinary action will be taken against the guilty officials / officers.

Director General, Archaeological Survey of India has seen this.

Umesh Kumar
(UMESH KUMAR)
Director (Administration)
Tel No. 3018614

Encl: As above.

Copy to:-

- i) All Archaeological Offices.
- ii) All Sections / Officers in Hqrs. Office.
- iii) Pay and Accounts Office, A.S.I, New Delhi / Hyderabad.
- iv) F.A. (T & C), Ministry of Tourism & Culture, Department of Culture.

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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, Lt. Governor (Andaman & Nicobar Islands) 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/Departments 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.

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- (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 10 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.

It was also made clear that apart from these benefits, that may accrue to the employees on conferment of 'temporary' status, the casual workers

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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.

In those 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 can be dispensed with as per clause 7 as if they were regular casual labourers.

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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).

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

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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.

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 a 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.

The Division Bench of Calcutta High Court in Writ Petition(CT) No. 85/29 (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

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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.

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.

In Civil Appeals arising out of SLP(Civil) No. 6738-6739/2000, SLP (Civil) Nos. 6740-41 and 6742-43/2000 and SLP(Civil) No. 970/2000, 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.

In Civil Appeals arising out of SLP(Civil) No. 2234/2000 SLP(Civil) No. 13024/2001, SLP(Civil) No. 1563/2001 SLP(Civil) No. 17174-17176/2000

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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 1.8.1993 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.

The appeals are disposed of accordingly.

D.P. MCHAP (T.R.A.)

(K.G. SALAKRISHNA)

New Delhi
April 29, 2002.

A high-contrast, black and white image showing a dense, circular pattern of small, dark, irregular shapes, possibly a microscopic view of a cell or a specific type of tissue structure. The pattern is roughly circular with a serrated or jagged edge. The interior is filled with a dense, granular texture, with some darker, more solid areas near the center and more open, stippled areas towards the periphery. The overall appearance is organic and cellular.

URGENT, FEE Rs. 5/-

SEARCH WARRANT OF INSTANT
S. NO. 1-25 in:
Matter No. 2-A.M. 2168/2007
U.C.J. 2 Div.
Date -
Brief Cause: Mohan Lal

11-11491

Date of application for copy 3/5/1922
Date of notifying registrant 3/1/1922
Date of delivery of copy 3/2/1922
Date of which the copy 3/5/1922
Date of delivery to user 3/5/1922

1935年

Section 10
Proposed Comm of 1940

SI NO. 11 (R)

No. 40011/2/2002-Estt. (C)

Government of India

Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi, dated the 12th April, 2002

Office Memorandum

Subject:- Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme of Govt. of India, 1993-
Clarification.

The undersigned is directed to say that the Casual Labourers (Grant of Temporary Status & Regularisation) Scheme of Govt. of India, 1993, formulated in pursuance of the CAT, Principal Bench, Judgement dated 16th April, 1990 in the case of Raj.Kamal & Others Vs Union of India and circulated vide this Department's OM No.51016/2/90-Estt. (C) dated 10th September, 1993, Inter alia, stipulate the following two conditions for grant of temporary status to the persons recruited on daily wage basis in the Central Government Offices:-

- (i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of OM; and
- (ii) should 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).

2. The various Benches of the CAT, Including High Courts, while deciding the cases of casual labourers have ignored the first condition stipulated above and have been taking views that the scheme is an ongoing affair. In the meantime the Supreme Court in its judgement dated 11-3-2002 in the case of Punjab State Electricity Board & Anr. V. Wazir Singh (JT 2002(3) SC 49) have observed "since the circular issued by the appellant board stipulated two conditions namely that the concerned daily wage worker should not only put in 500 working days in service up to the cut off date but should be actually in service on the date of issuance of the circular, the second condition regarding continuance in service cannot

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Sl No. 2 (R)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3168 OF 2002
(Arising out of SLP(Civil) No. 2224/2000)

Union of India and Anr.

Vs.

Mohan Pal, etc. etc.

With 3182, 3179, 3176-3179 & 3169 of 2002, 3181/2002

CIVIL APPEAL NOS. 3170-71 OF 2002
(Arising out of SLP(Civil) No. 13024/2001, SLP(Civil) No. 1563/2001,
SLP(Civil) No. 17174-17176/2000, SLP(Civil) No. 2151/2000, SLP(Civil)
326/2001)

AND

CIVIL APPEAL NOS. 3172-73 OF 2002
(Arising out of SLP(Civil) Nos. 6730-6739/2000)

Li Governor (Admin.) & Ors.

Vs.

Sadanandan Bhaskar & Ors., etc. etc.

Appellants

Respondents

With 3172 & 3173 of 2002 and 3175 of 2002 and 3180/2002

CIVIL APPEAL NOS. 6740-41 OF 2002
(Arising out of SLP(Civil) Nos. 6740-41 and 6742-43/2000 and
970/2001)

JUDGMENT

K.G. Balakrishnan, J.

Leave granted

18 42 (6)

be ignored as done by the High Court." A copy of the judgement as appeared in 'Judgements Today' is enclosed.

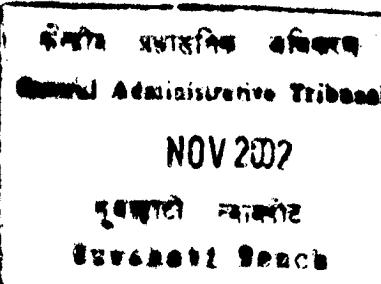
3. The Court cases in the matter may accordingly be defended on the lines of the principle laid down by the Supreme Court in its judgement dated 11-3-2002 indicated in para 2 above.

4. The above judgement of the Supreme Court may also be brought to the notice of the Government Counsels defending the cases of the casual labourers.

P Mohan
(Pratibha Mohan)
Director

To

All Ministries/Departments of the Govt. of India and Attached and Subordinate Offices as per the standard list.



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

Filed by the applicant
through manik chandan
Affidavit on 5-11-2002

O.A. No. 245 of 2002

Smt. Padma Rani Mudoi Hazarika

vs.

Union of India & Ors.

In the matter of :

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

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

1. That with regard to the statement made in paragraphs 2 and 3 of the written statement the applicant begs to state that she was engaged in the office of the respondent no. 3 way back on 14.7.1993 against permanent nature of work and there was necessity of engagement of a casual worker. She is serving under the establishment of the respondents continuously since 14.7.1993 without any break. The applicant is being entrusted with different nature of works, like Smt. Ranju Devi but unfortunately temporary status was not granted to the applicant but the benefit of conferment of temporary status has already been granted to Smt. Ranju Devi during the year 1999 for the reasons best

known to the authorities. It is relevant to mention here that during the month of November and December 2001, the applicant attended to the office regularly but surprisingly no wages were paid to her and in fact there was no order of termination and the same has been done at the instance of Respondent No.3. So far the applicant came to learn from a reliable source the strategy of non payment of wages adopted by the respondent no. 3 for the months of November and December 2001 with the view of intention to deprive the benefit of temporary status to the applicant, in other words the respondent no.3 restrained the applicant for completion of 206 days during the calendar year 2001-2002. Therefore Hon'ble Tribunal be pleased to direct the respondents to treat the applicant as on duty in the absence of any order of termination. It is specifically admitted by the respondent no.3 in paragraph 3 of the written statement that she was not engaged during the month of November 2001 and December 2001. Surprisingly, no reason has been disclosed for her disengagement for the aforesaid period. It is categorically stated that payment of wages has been made to the applicant on regular basis since 14.7.1993 and the same would be evident from the payment vouchers/register. Therefore Hon'ble Tribunal be pleased to direct the respondents to produce the relevant payment vouchers/register so far the applicant is concerned for perusal of the Hon'ble Tribunal.

2. That your applicant categorically denies the statement made in paragraph 5,8,9 and 11 of the written statement and further begs to state that the applicant long back completed the required number of working days in a year i.e. 206/240 during the every calendar year since her engagement under the respondents with effect from 14.7.1993. Therefore, denial of temporary status to the applicant is contrary to the law. The applicant is confident that if the records/payment vouchers are produced before this Hon'ble Tribunal from which it would be crystal clear that the applicant has attained eligible for grant of temporary status in the light of the Scheme issued by the Government of India for grant of Temporary Status and Regularisation. It is pertinent to mention here that the respondent No. 3 on a query from the headquarter office, New Delhi submitted a report showing lesser number of working days in respect of the present applicant with the intention to deprive the benefit for grant of temporary status and regularization but surprisingly the report where no. of working days in respect of the applicant shown to the headquarter office not disclosed in the written statement. Therefore, Hon'ble Tribunal be pleased to direct the respondent to produced all connected records before the Hon'ble Tribunal, more particularly the report furnished by the respondent no. 3 with reference to letter bearing No. F.No. 30-1/2001-Adm.II dated 7.9.2001.

Detail particulars of working days in respect of the applicant since her joining are furnished hereunder :

Sl. No.	Year	No. of working days
1	14.7.1993	114
2	1994	243
3	1995	207
4	1996	246
5	1997	201
6	1998	217
7	1999	219
8	2000	240
9	2001	219

The above table is prepared by the applicant so far the number of working days are concerned. In this connection it is relevant to mention here that the respondent authority also did not count the Saturday and Sunday for the purpose of granting temporary status. It is true that the applicant on many occasions were not paid wages for Saturdays and Sundays but the same ought to have been counted for the purpose of granting temporary status.

The contention of the respondents that she did not qualify the requisite number of days i.e. 206 days as on 10.9.1993 is not correct and the same has been made without consulting the records i.e. attendance register, payment voucher etc.

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

VERIFICATION

I, Smti Padmarani Mudai Hazarika, Wife of Sri Ballav Hazarika of Chandmari Colony, Nizarapar, Guwahati-3, District Kamrup, Assam, applicant in O.A. No.245/2002 do hereby verify that the statements made in Paragraph 1 to 2 in this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 16 day of September, 2002.

Padmarani Mudai Hazarika.

Central Administrative Tribunal
Guwahati Bench, Guwahati
Guwahati Bench

JAN 2002
Guwahati Bench

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File No. 23/1/03
A. DEB
S. C. 62
C. A. T. Guwahati Bench

In the Central Administrative Tribunal
Guwahati Bench, Guwahati
Guwahati Bench

Misc. Petition No. 140/2002

- In -

O. A. No. 245/2002

Mrs. Padma Rani Mudoi Hazarika

- Vrs. -

Union of India and others

- 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 of M.P., the respondents beg to state that the applicant does not qualify for conferring Temporary Status in terms of the provisions contained in the Circular dated 10.9.93 issued by the Department of Personnel and Training, Govt. of India, New Delhi followed by the clarification/instructions issued by the Department of Archaeological Survey of India, New Delhi, vide para (1)(i) of his office letter no.13/12-96-Adm.II dated 10.3.98 and 13/24/2002.-Adm.II dated 4.7.2002. The fact has already been submitted to the Hon'ble Court, vide para 5 of the Written Statement of O.A. No.245/2002.

The termination order no.1/23/2002/C/Adm.-1086 dated 1.8.2002 was issued well in advance than the filing of O.A.No.245/2002 by the applicant in the Hon'ble Court and in no way the termination letter is consequential to filing of

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O.A.No.245/2002 by the applicant which has already been submitted to the Hon'ble Court, vide para 4 of the W.S. of the Misc. Petition No.109/2002 of O.A. No.245/2002.

2. That with regard to para 2 of M.P., the respondents beg to offer no comments.

3. That with regard to para 3(4.10A & 4.10B) of M.P., the respondents beg to state that the payment to casual worker is made on the basis of his/her presence on the day of work and as such there is no provision for leave for casual worker.

4. That with regard to para 3 (4.10C) of the M.P. the respondents beg to state that the termination order of the service of the applicant was issued in pursuance of the order of the Director General, Archaeological Survey of India, New Delhi, vide letter no.30/1/2001-Adm.II dated 3.7.2002, already submitted to the Hon'ble Court, vide para 3 of the W.S. of the M.P. No.109/2002 of O.A.No.245/2002

5. That with regard to para 3 (4.10 D) of the M.P., the respondents beg to state that the casual worker is engaged time to time as per availability of the work and fund.

6. That with regard to para 3 (4.10 E & 4.10 F) of the M.P., the respondents beg to state that the applicant does not qualify for awarding T.S. The fact has already been stated in para 1.

7. That with regard to para 3 (4.10 F) of the M.P., the respondents beg to offer no comment.

8. That with regard to para 3 (4.10 G & 4.10 H) of M.P., the respondents beg to state that the fact has already been stated in the para 1.

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9. That with regard to para 3 (4.10 I & 4.10 J) of M.P., the respondents beg to offer no comments.

10. That with regard to para 4 (5.8,5.9 & 5.10) of the M.P., the respondents beg to state that the facts has already been stated in para 1 above.

11. That with regard to para 4(5.11), of the M.P., respondents beg to offer no comment,

12. That with regard to para 5 (8.1A), of the M.P. respondents beg to state that the facts already stated above in para 1.

13. That with regard to para 5(8.1B) of the M.P. the respondents beg to state that the casual worker is engaged on the availability of work and fund and at present there is no work for the applicant. However, in compliance of the order of the Hon'ble Court the applicant has been allowed to continue without work.

14. That with regard to para 5(8.1 C) of the M.P. the respondents beg to state that the facts already stated above in para 1

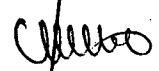
15. That with regard to para 6 and 7 of the M.P., the respondents beg to offer no comments.

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

I Syed Jamal Hasan presently working as Superintending Archaeologist be duly authorised and competent to sign this verification do ~~hereby~~ solemnly affirms and declare that the statements made in para 1 & 2 are true to my knowledge and belief, these made in para 4 & 13 being matter of record, are true to my information derived there from 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 5th day of December 2002.

Declarant


Syed Jamal Hasan
Superintending Archaeologist
ARCHAEOLOGICAL SURVEY OF INDIA
Anand Ganj

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X1

Central Administrative Tribunal
Guwahati Bench
GUWAHATI BENCH : GUWAHATI

JAN 2003

O.A. NO.245 OF 2002

Filed by
C.A. DEEPMALA

C.A.T. Guwahati Bench
O.A. NO.245 OF 2002

Smt. Padma Rani Mudai Hazarika

Applicant

Versus

Union of India and others

Respondents

Additional Affidavit by Respondent No. 3

I, Syed Jamal Hasan, Superintending Archaeologist, Archaeological Survey of India, Guwahati Circle, Guwahati, the Respondent No.3 herein, do hereby solemnly affirm and state as under.

1. I am 3rd 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 Nos. 1 & 2.
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 Anr. 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

✓ 53 ✓

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 them complete one year's continuous service.

4. I submit that as per her own showing the Applicant herein was employed vide Order No. 1 of 1993 dated 14.7.1993 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 the petitioner herein has filed Misc. Petition No.140 of 2002 praying for amendment in O.A. No.245 of 2002 by inserting para 4.10 H and contending that "denial of benefit of conferment of 'temporary' status to the present applicant on the plea of one time Scheme, is highly arbitrarily, illegal, unfair and the same is also violative of Article 14 of the constitution of India".

I submit that the petitioner herein has placed reliance upon grant of 'temporary' status to certain people in the Department of Telecommunication and Department of Posts. The Scheme formulated by the DOPT vide O.M. No.51016/2/90 dated 10.9.1993 is not applicable to the Railway and the Telecommunication Departments, and as such there is no discrimination or violation of Article 14 of the Constitution of India.

6. 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.

D E P O N E N T

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

Aliya
15.1.03
Syed Jamal Hasan
Superintending Archaeologist
ARCHAEOLOGICAL SURVEY OF INDIA
Guwahati Circle

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2002(4) SCALE
UNION OF INDIA AND ANR.

MOHAN PAL, ETC. ETC.

VS

216
Appellants

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 210 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 3180/45 2002 of 2002 (Arising out of SLP (C) Nos. 6740-41/2000 and 6742-43/2000 and 970/2001).

U.O.I. vs Mohan Pal (Balakrishnan, J.)

— 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). 5

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). 15

Approved: *T. Rajakilli & Ors. vs Union of India & Ors. etc. etc. [W.P. (CT) No. 86/991]*

K.J. Balakrishnan, J.—Leave granted.

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. 25

(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. 30

(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. 35

(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. 40 45

5 (5) Maternity leave to lady casual labourer would be permissible on par with Group 'D' employees.

10 (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.

15 (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.

20 (8) They would be entitled to Productivity Linked Bonus/Ad hoc Bonus only at the rates applicable to casual labourers.

25 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 30 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 35 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 40 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 45 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 a 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 'D' 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 uncanonical 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.

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. 45

C/L

① should have been in employment as on the date of 6th Jan 2000
and

② he should have also rendered a continuous service of at least one year with

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

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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.

2002(4) SCALE
RAM NARAYAN SHARMA

VS

SHAKUNTALA GAUR

1.9.93
220
Appellant

Respondent

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

30 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,

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.

35 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

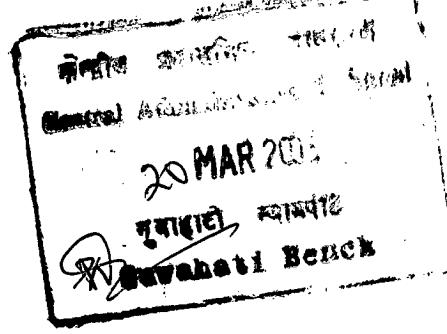
40 Section 18 of the Act in cases where the District Magistrate had exercised jurisdiction not vested or has failed to exercise the jurisdiction or has exercised it illegally or with irregularity. Under sub-s.(2) of Section 18, the revisional authority is entitled to confirm or rescind or remand the case to the District Magistrate for re-hearing. (Para 10).

RENT CONTROL — UTTAR PRADESH URBAN BUILDINGS (REGULATION OF

45 Judgment dated April 29, 2002 in C.A. No. 3159 of 2002 (Arising out of S.L.P (C) No. 5179 of 2000).

They should have been casual labourers in employment

Who have rendered continuous service



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

In the Matter of :

O. A. No. 245 of 2002

Mrs. Padma Rani Mudoi Hazarika

vs.

Union of India & Ors.

-And-

In the matter of :

An Additional rejoinder submitted
by the applicant.

The applicant above named -

Most Respectfully begs to state as under:

1. That your applicant with regard to the statement made by the respondent in their written statement filed in M.P. No. 109/2002 beg to stat that a large number of casual workers who are recruited after 14th July 1993 & junior to the present applicant in different offices under the Superintending ARCHAEOLOGICAL SURVEY OF INDIA, Guwahati Circle. The detail particulars of those juniors who are still working furnished hereunder for perusal of the Hon'ble Tribunal.

Filed by the applicant
through advocate
G. D. Chakravarthy
22-3-2003
Sh. Baruah

Sl. No.	Name	Place of posting
1	Sri Parameswar Das	Surya Pahar, Goalpara
2	Sri Pravat Baruah	Goalpara
3	Sri Biren Kalita	Goalpara
4	Sri Dipen Deka	Guwahati
5	Sri Pradip Deka	Tezpur
6	Sri Samar Ali	Guwahati
7	Smt. Sashirani Saka	Udaipur, Tripura
8	Sri Bijoy Kurmi	Sibsagar, Assam
9	Sri Saraj Barman	Guwahati
10	Smt. Sabitri Nath	
11	Sri Samar Das	Guwahati
12	Smt. Dipali Brahma	
13	Sri Mukut Kumar	Tezpur
14	Sri Amal Medhii	Guwahati
15	Sri Bhupen Deka	Suryapahar, Goalpara

It is quite clear from above that under a large number of junior casual workers are retained in service, therefore there is no justification for the termination of the service of the present applicant. The decision for termination of service of present applicant is highly arbitrary, unfair and illegal and the said action of the respondent is violative of Article 14 of the Constitution of India. As such the order of termination of service of the applicant is liable to be set aside and quashed.

2. That with regard to the statement in paragraph 3 of the written statement submitted by the respondent in Misc. Petition No. 109/2002, the applicant begs to state that the decision for termination of service of the applicant by the Director General after receiving the existing rules is highly arbitrary in view of the fact that a large number of casual workers who are junior to the present applicant are still retained in service. Therefore, termination of service of the present applicant who has rendered more than 10 years of service in an isolated manner smacks mala fide and more so in view of the fact that the Director General has considered the case of termination only for the present applicant in the light of the existing rules alleged on pick and choose manner. As such the order of termination dated 1.8.2002 is set aside & quashed.

In the facts & circumstances stated above, the application deserves to be allowed with costs.

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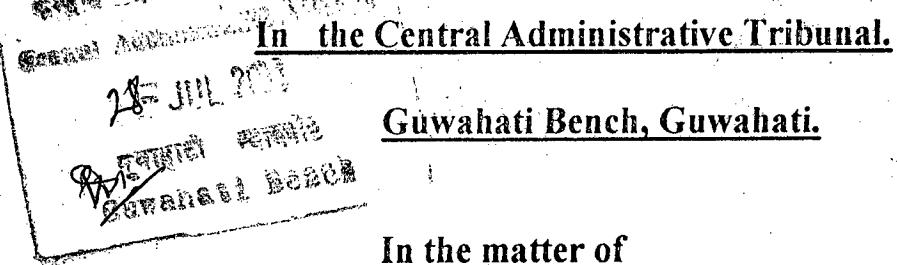
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VERIFICATION

I, Smti Padmarani Mudai Hazarika, Wife of Sri Ballav Hazarika of Chandmari Colony, Nizarapar, Guwahati-3, District Kamrup, Assam, applicant in O.A. No.245/2002 do hereby verify that the statements made in Paragraph 1 and 2 of this additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 20/5 day of March, 2003.

Padmarani Mudai Hazarika.



Fe 9 by 25/7/02
A. D. D. B. R. O. N. C. G. S. C.
A. r. Guwahati Bench

In the matter of

O.A. NO. 245/2002

Mrs. P.M. Hazarika

Vs.

Union of India & others

- And -

In the matter of

An additional rejoinder submitted by the applicant.

The respondents beg to submit written statement as follows:

1. That the labourers are engaged time to time on daily wages basis to meet-out the requirement at the monument/site by the Site In-charge within the jurisdiction of the Circle, i.e. whole of the North Eastern States. Likewise the labourers are also engaged in Guwahati to meet out the purely temporary nature of work.

Some of the persons mentioned by the applicant in her rejoinder are also engaged on daily wages basis by the Site In-charge at different Sites/Monuments within their jurisdiction subject to availability of work and fund against the particular estimate. A status report to this effect is submitted for perusal (Annexure -1).

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The termination letter No.30/1/2001-Adm.II dated 3.7.2001 (Annexure I) was issued in pursuance of her representation made to the Director General, Archaeological Survey of India, New Delhi-11 for her regularization/Conferment of T.S. which is not feasible in the light of the instructions issued by the Govt. time to time.

The Department has been engaging the applicant on daily wages basis time to time on the availability of the work.

It is further submitted that the O.A. No. 245/2002 has been filed for conferment of T.S., which could not be awarded to the applicant due to the lack of the requisite number of days on 10.9.1993, in the light of the Circular dated 10.9.1993 issued by the Department of Personnel & Training, Govt. of India, New Delhi.

VERIFICATION

I, R.D. Singh, presently working as Superintending Archaeologist, be duly authorized and competent to sign this verification, do hereby solemnly affirm and declare that the statement made is true and correct based on the knowledge derived from the record of the case and nothing material concealed therefrom.

And I sign this verification on 2nd day of July, 2003.

Declarant.


(R.D. Singh)

रामदीप सुराधना पात्र
Superintending Archaeologist
राष्ट्रीय सुराधन सर्कार
Archaeological Survey of India
गृहस्थी भवान, दिल्ली

The status report of the persons mentioned by the applicant in her rejoinder is as follows :

<u>Sl. No.</u>	<u>Name</u>	<u>Reply</u>
1.	Shri Parameswar Das	He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in December 1994 & he is engaged time to time as per requirement of the work and availability of fund.
2.	Shri Pravat Baruah	He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in January 1995. He is engaged time to time as per requirement of the work and availability of fund.
3.	Shri Biren Kalita	He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in July 1996. He is engaged time to time as per requirement of the work and availability of fund.
4.	Shri Dipen Deka	He was engaged as a casual labour on consolidated basis from 15/11/99 and skilled casual labour on daily wages basis from April 2001. He is engaged time to time as per requirement of the work and availability of fund.
5.	Shri Pradip Deka	He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in June 1999. He is engaged time to time as per requirement of the work and availability of fund.
6.	Shri Samar Ali	No person named Samar Ali was engaged in the department. However person named Samat Ali was engaged as a skilled casual labour on daily wages basis in November 2000. He is engaged time to time as per requirement of the work and availability of fund.
7.	Smt. Sashirani Saha	She was engaged as a part time Sweeper from 1979 to 1991 and as a casual sweeper on daily wages basis from 1992. She is engaged time to time as per requirement of the work and availability of fund.

8. Shri Bijoy Kurmi

He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in August 1996. He is engaged time to time as per requirement of the work and availability of fund.

9. Smt. Saroj Barman

She was engaged as a casual labour on daily wages basis for sweeping and cleaning of the office of the Guwahati Circle in April 1999. She is engaged time to time as per requirement of the work and availability of fund.

10. Smt. Sabtri Nath

She has been appointed as Monument Attendant on compassionat ground due to death of her husband late Arun Ch. Nath, Chowkidar.

11. Shri Samar Das

He was engaged as a casual labour on daily wages basis in March 2000. He is engaged time to time as per requirement of the work and availability of fund.

12. Smt. Dipali Brahma

No casual labour named Smt. Dipali Brahma was engaged is the department. However, casual labour named Smt. Dipali Dey was engaged as a casual sweeper on daily wages basis in April 1999. She is engaged time to time as per requirement of the work and availability of fund.

13. Shri Mukut Kumar

He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in September 1996. He is engaged time to time as per requirement of the work and availability of fund.

14. Shri Amal Medhi

No person named Amal Medhi was engaged by the department. However person named Amal Mudai was engaged as a casual labour on daily wages basis in July 1995 for cleaning of the monuments and sites. He is engaged time to time as per requirement of the work and availability of fund.

15. Shri Bhupen Deka

He was engaged as a casual labour on daily wages basis for cleaning of the monuments and sites in July 1995. He is engaged time to time as per requirement of the work and availability of fund.

No. 1/23/2002/C/Admin/1086/0/088
 Government of India
 Archaeological Survey of India
 Guwahati Circle

Ambari, Guwahati, dated the

1-8-2002

OFFICE ORDER NO. 103 /2002

In pursuance of the order of the competent authority the engagement of Mrs. Padma Rani Hazarika, Casual Worker would stand terminated after one month from the date of issue of this letter.

UML
 of Superintendent Archaeologist

To,

Mrs. Padma Rani Hazarika,
 Casual Worker,
 Archaeological Survey of India
 Guwahati Circle,
 Guwahati.

No. 1/23/2002/C/Admin

Dated, the

Copy forwarded to the Director General, Archaeological Survey of India, New Delhi for information with reference to her letter No. 30/1/2001-Adm-II dated 3.7.2002.

It is further informed that Sri R. Goudhury, Casual Worker is not working in this office for more than one year.

UML
 of Superintendent Archaeologist