

01/IV
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORDS RULES, 1990)

(V) RA 2/04 order pg 1 to 2 Dismissed

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O.A/T.A No 284/2002

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SECTION OFFICER (Judl.)

Arshita
28/11/07

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

284 / OF 1992/2002

Applicant(s) Santosh Roy Torts(12)

Respondent(s) U.O.I Torts

Advocate for Applicant(s) B.K. Sharma, S.Sarma, U.K. Nair
Miss U. Das

Advocate for Respondent(s) C.B.S.C.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Summons return is filed / not filed C.F. for Rs. 50/- is paid vide IPO/2002/NO/576648 Dated 8.8.2002 By Register.	10.9.02	Heard Mr. S.Sarma, learned counsel for the applicant. The application is admitted. Call for the records. List on 9.10.2002 for orders.
Steps along with envelope taken Date 30/8/02	9.10.2002 mb	List the case on 22.11.2002 enabling the respondents to take appropriate steps
No written statement has been filed.	22.11.02 bb	At the request of learned counsel for the respondents four weeks time is allowed to the respondents to file written statement. List on 20.12.02 for orders.

Vice-Chairman

Vice-Chairman

Members

Notes of the Registry	Date	Order of the Tribunal
<u>20/1/03</u> No W/S has been filed by the respondents. <u>NS</u> <u>20/1/03</u>	20.12.2002 nkm	Four weeks time allowed to the respondents to file their written statement. List for orders on 21.1.2003. Kishan Member
No written statement has been filed.	<u>21/1/03</u> 7.2.2003 bb	Agreement did not set today. The case is adjourned to 7/2/2003. Mr b put up the matter on 7.3.2003 to enable the respondents to file written statement. Vice-Chairman
No written statement has been filed.	<u>7/3/03</u> 4.4.03 bb	Court did not set today. The case is adjourned to 4/4/2003. Mr On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file written statement. List on 9.5.2003 for written statement. Vice-Chairman
No written statement has been filed.	<u>8/5/03</u> 9.5.2003 mb	On the prayer made by Mr. A. Deb Roy, learned Sr. G.G.S.G. four weeks time is allowed to the respondents to file written statement. List the case on 20.6.2003. for order. Vice-Chairman
No written statement has been filed.	<u>19/6/03</u> bb	

Notes of the Registry

Date

Orders of the Tribunal

20.6.2003

Mr. A. Deb Roy, learned Sr. C. G.S.C. appearing on behalf of the respondents stated that the respondents are filing written statement within short time. The case is accordingly adjourned.

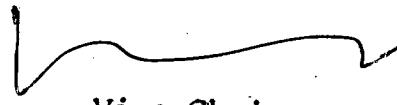
Put up again on 8.8.2003 for written statement.

16.7.03

W/S submitted
by the respondents.

mb

8.8.2003


 Vice-Chairman

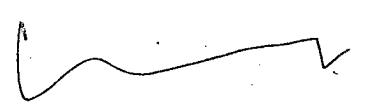
Written statement has been filed. The case may now be listed for hearing on 29.8.2003. The applicant may file rejoinder, if any, within two weeks from today.

No rejoinder has been filed.

28.8.03.

mb

29.8.03


 Vice-Chairman

Written statement has not been filed. Let this case be listed on 19.9.03 for ~~exams~~ filing of written statement and further orders.


 Vice-Chairman

lm

19.9.03

On the prayer of learned counsel for the parties case is adjourned to 22.9.03 for hearing.



Member

lm

22.9.2003

List again for hearing on 24.9.03. The respondents shall produce the relevant records.



Member

(W)

Notes of the Registry

Date

Orders of the Tribunal

24.9.03

On the prayer of Mr S.Sarma, learned counsel for the applicant the case is adjourned to 24.10.03 for hearing.

K. Prabodh
Member

pg

24.10.03

There is no Bench today.
Adjourned to 28.10.03.

870
lm

28.10.03

On the prayer of Mr S.Sarma, learned counsel for the applicant the case is adjourned to 14.11.03.

W/S has been taken

✓
Vice-Chairman

pg

3/1.04

14.11.03

no Bench today,
Adjourned to 9.12.03.

870
lm

2.1.2004

On the prayer of Mr. S. Sarma, learned counsel for the applicant, the case is adjourned to 7.1.2004 for hearing.

K. Prabodh
Member (A)

mb

7.1.2004 Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets.

Aug 16/2
The application is dismissed in terms of the order. No costs.

19.2.04

Copy of the Judgment
has been sent to the
D/secy. for record
the same to the L/Adv.
for the applicant.

bb

I.C.V. Prachinadeva
Member

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~Reg.~~ No. 1111 284 of 2002.

DATE OF DECISION 7.1.2004.

Sri Santosh Roy & 11 Others.

APPLICANT(S).

Mr. S. Sarma, U.K. Nair & Ms. U. Das.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India & Others.....RESPONDENT(S)

Mr. A. Deb Roy, Sr. C. G. S. C.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

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 (A).

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.284 of 2002.

Date of Order : This, the 7th Day of January, 2004.

THE HON'BLE MR. K. V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Sri Santosh Roy
2. Sri Jitendra Rai
3. Sri Rameshar Rai
4. Sri Ram Niwas Rai
5. Sri Ram Murti Rai
6. Sri Kamal Rai
7. Sri Arun Kumar Rai
8. Sri Biswajit Rai
9. Sri Rabindra Kumar Rai
10. Sri Amar Nath Rai
11. Sri Pramod Kumar Thakur
12. Sri Marindra Thakur. Applicants.

By Advocates Mr.S.Sarma, U.K.Nair & Ms.U.Das.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Sanchar Bhawan
New Delhi - 1.
2. The Chairman cum Managing Director
Bharat Sanchar Nigam Limited (BSNL)
New Delhi.
3. The Chief General Manager, Telecom
Assam Telecom Circle
Guwahati, Assam.
4. The Telecom District Manager
Dept. of Telecom
Tezpur. Respondents.

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

O R D E R (O R A L)

PRAHLADAN K.V., MEMBER (ADMN.) :

The applicants are twelve in number. Since the cause of action and reliefs sought for by the applicants are of similar nature, they were granted leave to espouse their grievances by a single application in terms of Rule 4(5) of the Central Administrative Tribunal (Procedure) Rules, 1987. The applicants were working as casual labourers

with effect from 1988 to 1992 in the office of the SDO (phones) I Tezpur. The applicants claim their entitlement to the benefits of the 'Casual Labourers (Grant of Temporary Status and Regularisation Scheme, 1989', prepared by the Govt. of India, since they had been continuously working more than 240 days in a year during the aforesaid period.

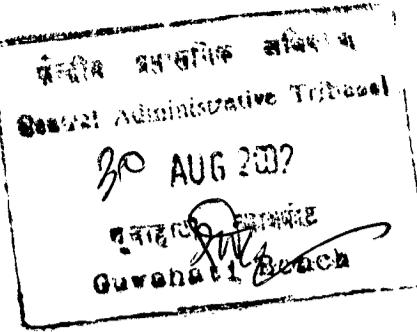
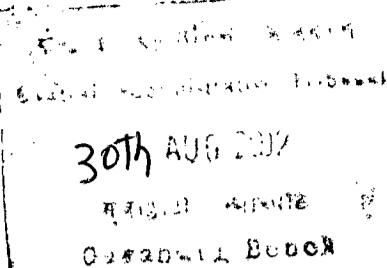
2. The respondents, according to the statement submitted by them, appointed a Committee which examined all the available records to verify the claims of the present applicants. The Committee also afforded an opportunity to the applicants to present their case in support of their claims. The Committee, on verification of the records, found that the applicants were not eligible for the benefit of the scheme since they had not worked more than 240 days in any year and hence their claims were rejected.

3. I have heard Mr.U.K.Nair, learned counsel for the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

Considering all the aspects of the matter, I come to the conclusion that the applicants are not eligible for the benefit of temporary status on the face of the records produced. Hence the case is dismissed. No order as to costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER

bb



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 284 of 2002

BETWEEN

Shri Santosh Roy & ors. Applicants.

AND

Union of India & ors. Respondents.

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		33, 34

Filed by : Miss. U. Das Advocate.

Regn. No. :

File : C:\WS7\SANTOSH

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

(An application under section 19 of the Central Administrative
Tribunal Act, 1985)

O.A. No. 284 of 2002

Between

1. Sri Santosh Roy,
2. Sri Jitendra Rai.
3. Sri Rameshwar Rai.
4. Sri Ram Niwas Rai.
5. Sri Ram Murti Rai.
6. Sri Kamal Rai.
7. Sri Arun Kumar Rai.
8. Sri Biswajit Rai.
9. Sri Rabindra Kumar Rai.
10. Sri Amar Nath Rai.
11. Sri Pramod Kumar Thakur.
12. Sri Harindra Thakur.

... Applicants.

- AND -

1. Union of India,
represented by the Secretary to the Government of India,
Ministry of Communication, Sansar Bhawan, New Delhi-1.
2. The Chairman cum Managing Director,
Bharat Sanchar Nigam Limited (BSNL)
New Delhi.
3. The Chief General Manager, Telecom, Assam Telecom Circle
Guwahati, Assam.
4. The Telecom District Manager,
Dept of Telecom, Tezpur.

... Respondents

DETAILS OF THE APPLICATION.

11. PARTICULARS OF ORDER AGAINST WHICH THIS
APPLICATION IS MADE.

The present application is not directed against any particular order but has been made against the inaction of the part of the respondents in not considering the case of the applicants for grant of temporary status and regularisation in

Filed by
the applicant through
Abha Das,
Advocate
27/8/02

the light of Apex Court verdict and the scheme prepared pursuant to the said verdict as well as subsequent clarifications issued from time to time by the Ministry concerned. The Applicants through this application pray for an appropriate direction to the respondents to extend the benefit of the scheme as well as its subsequent clarifications by granting temporary status and subsequent regularisation by implementing the judgment and order dated 3.11.00 passed in O.A No 299/00 filed by them.

2.

JURISDICTION OF THE TRIBUNAL

That the Applicants declare that the subject matter of the present application is well within the Jurisdiction of this Hon'ble Tribunal.

3.

LIMITATION

The Applicant declare that the present application have been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

4.

FACTS OF THE CASE

4.1. That the applicants are citizens of India and as such they are entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder. The applicants are Casual Worker working under the Respondents No 4. The cause of action and relief sought for in the present case by the applicants are similar and hence they pray before the Hon'ble Tribunal for allowing them to join together in a single application invoking Rule 4(5) (a) of the Central Administrative Tribunal (procedure) Rules 1987.

4.2. That the applicants got their appointment as a casual worker in the years ranging from 1988 to 1992 in the office of the SDO (Phones) I Tezpur. The applicants although have been appointed as casual worker but in fact they have been treated as regular Gr-D staff in all respect and the post they are presently holding are sanctioned posts and till date no one has been appointed in the said posts on regular basis. It is noteworthy to mention here that the all applicants are getting the pay through the office of the respondent No 4.

4.3. That the applicants were initially appointed as casual worker in the years ranging from 1988 to 1992 and their services were put under the casual establishment w,e,f, their entry into the service and as such they are entitled to get the benefit of the scheme prepared pursuant to a verdict of Hon'ble Supreme Court. The applicants beg to state that since 1988 to 1992, each year they have been continuously working for more than 240 days and as such they fulfills all the required qualifications as described in the scheme and its subsequent clarifications issued from time to time. Till date they have been working as casual worker but the respondents have not yet granted them temporary status and other benefits as described in the scheme as well as its subsequent clarifications. Numbers of casual workers who had approached the Hon'ble Tribunal, who are junior to the applicants have been granted with temporary status in the light of the said scheme but the respondents have shown their helplessness in absence of any order from the Hon'ble Tribunal for consideration of their cases. Hence this application praying for an appropriate direction to the respondents to extend the benefit of the scheme as well as its subsequent clarifications by granting them temporary status and subsequent regularisation. The service particulars of the applicants are annexed as ANNEXURE-A.

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4.4. That the applicants beg to state that some of the casual workers of the Department of Post had approached this Hon'ble Supreme Court and the Hon'ble Supreme Court after hearing the parties was pleased to issue a direction to the official Respondents thereto to prepare a scheme. Claiming similar benefit another set of casual workers working in the Telecommunication department also approached the Hon'ble Supreme Court seeking a similar direction and the said matter was also disposed of by a similar order and direction has been issued to the Respondents to prepare a scheme on rational basis for the casual workers who has been working continuously for one year and who have completed 240 days of continuous service.

A copy of the order of the Hon'ble Supreme Court is annexed herewith and marked as Annexure-1.

4.5. That the applicants beg to state that the respondents thereafter issued an order vide No. 269-10/89-STN dated 7.11.89 by which a scheme in the name and style "Casual Labourers" (grant of temporary status and regularisation scheme) 1989" has been communicated to all heads of Departments. As per the said scheme certain benefit have been granted to the casual workers such as conferment of temporary status, wages and daily rates etc.

A copy of the order dated 7.11.89 is annexed herewith and marked as Annexure-2.

4.6. That the Applicants state that as per the direction contained in Annexure-1 judgment of the Hon'ble Supreme Court and Annexure-2 schemes they are entitled to get the benefit including temporary status and subsequent regularisation. The

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Applicants fulfill all the required qualifications mentioned in the said judgment and as such they are entitled to all the benefits as described in the aforesaid scheme.

4.7. That the applicants beg to state that after issuance of Annexure-2 schemes dated 7.11.89 the respondents issued an order vide No. 269-4/93-STN-II dated 17.12.93 by which the benefit conferred to the casual workers by the said scheme has been clarified.

4.8. That the applicants beg to state that the respondents thereafter have issued various orders by which modification / clarifications has been made in the aforesaid Annexure-2 scheme dated 7.11.89. By the aforesaid clarifications the Respondents have made the scheme applicable to almost all the casual workers who have completed 240 days continuous service in a year. To that effect mention may be made of order dated 1.9.99 issued by the Government of India Department of Telecommunication by which the benefit of the scheme has been extended the recruits up to 1.8.98.

A copy of the said order dated 1.9.99 is annexed and marked as Annexure-3.

4.9. That the applicants beg to state that some of the similarly situated employees like that of the Applicant had approached this Hon'ble Tribunal by way of filing OA No. 299/96 and 302/96 and the Hon'ble Tribunal was pleased to passed an order dated 13.8.97 directing the Respondent to extend the benefit of the said scheme.

A copy of the order dated 13.8.97 is annexed herewith and marked as Annexure-4.

4.10. That the applicants being aggrieved by the said action submitted numbers of representations to the concerned authority i.e. respondent No. 3 for grant of temporary status and regularisation but till date nothing has been done so far in this matter. The applicant instead of annexing all the representations begs to produce all the representations at the time of hearing of the case.

4.11. That the applicants beg to state that under similar facts situation numbers of casual workers had approached this Hon'ble Tribunal by way of filing various OAs and the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said OAs by a common judgement and order dated 31.8.99 directing to the Respondents to consider their cases in the light of Hon'ble Apex Court verdict as well as the scheme and its subsequent clarifications issued from time to time.

A copy of the said judgment and order dated 31.8.99 is annexed herewith and marked as Annexure-5.

4.12. That the applicants beg to state that their cases are covered by the aforesaid judgement of this Hon'ble Tribunal. It is stated that pursuant to the aforesaid judgment and order dated 31.8.99 the respondents have initiated a large scale proceeding for fill up at least 900 posts of DRM under Assam Circle. However, the respondents have only taken into consideration those casual labourers who had approached this Hon'ble Tribunal and in whose favour the Hon'ble Tribunal has given the direction. The applicants have been pursuing the matter before the respondents but the respondents have shown their helplessness in absence of any order of this Hon'ble Tribunal. It is therefore the applicants had to approach the Hon'ble Tribunal by way of filing

O.A No 299/00 praying for an appropriate direction from this Hon'ble Tribunal to the Respondents to consider their cases for grant of temporary status and regularisation in accordance with the verdict of the Hon'ble Apex Court as well as the scheme and its subsequent clarifications issued from time to time. The said O.A was disposed of vide judgment dated 3.11.00 with a similar direction to consider their cases for grant of temporary status and subsequent regularisation.

A copy of the said Judgment dated 3.11.00 is annexed herewith and marked as ANNEXURE-6.

4.13. That the applicants beg to state that the respondents have acted illegally in not considering their cases. The law is well settled that in a given case if any law is laid down for one set of employees, same is applicable to all the similarly situated employees. However, in the present case the respondents have acted illegally in differentiating the applicant with others and for that the entire action of the respondents is liable to be set aside and quashed.

4.14. That the applicants beg to state that as per the direction of the Hon'ble Apex Court (Annexure-1) they are entitled to all the benefits described in the Annexure-2 schemes dated 7.11.89. The direction of the Hon'ble Apex Court is very clear and respondents now cannot shift their burden by taking the ground of not having any order from this Hon'ble Tribunal. The judgment and order of the Hon'ble Apex Court is applicable to all the casual employees working under the Telecommunication departments and as such the applicant is also entitled to all the benefits as has been granted to others similarly situated employees like that of him.

4.15. That the applicants beg to state that presently they are the only earning members of their family and the respondents are making a move to discontinue their services w.e.f, 31.8.2002, in absence of any order from this Hon'ble Tribunal. It is therefore, the applicants pray for an appropriate interim order directing the respondents not to terminate their service during the pendency of this OA. It is noteworthy to mention here that till date they have been working as casual worker under the respondent No. 4 and other the said respondents there are as many as 148 vacancies are in existence under the Group D Establishment of which posts are being occupied by the present applicants. It is therefore the balance of convenience lies very much in favour of the applicants in passing the aforesaid interim as prayed for and there is every likelihood that in case their interests are not protected by way of passing an appropriate interim order as prayed for, the respondents may disengage them causing irreparable loss and injury.

5. GROUNDS WITH LEGAL PROPROVISIONS

5.1. For that the entire action on the part of the respondents in not granting the temporary status to the applicant violating the provisions contained in the Annexure-1 judgment and order passed by the Hon'ble Apex Court is illegal and arbitrary and same are liable to be set aside and quashed.

5.2. For that action of the respondents in treating the applicants not at per with the other similarly situated employees to whom the benefit of the scheme has already been granted is violative of Article 14 and 16 of the Constitution of India. The respondents being a model employer should have extended the said

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benefit to the applicant without requiring him to approach this Hon'ble Tribunal, more so whereas themselves have allowed the said benefit to one set of their employees. In any case the respondents cannot differentiate their employees in regard to employment as has been done in the instant case. Hence the entire action of the Respondents is illegal and not sustainable in the eye of law.

5.3. For that the respondents have acted illegally in not considering the case of the applicants for grant of temporary status in view of order dated 1.9.99 as well as judgment and order dated 31.8.99 passed in similar matters and hence same is liable to set aside and quashed with a further direction to the Respondents to extend the benefits of the said scheme to the applicant including all other consequential benefits.

5.4. For that in any view of the matter the action on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the applicants declare that he has exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently he has got no other alternative than to approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declare that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8.

RELIEF SOUGHT:

Under the facts and circumstances stand above the applicants pray that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

8.1. To direct the Respondents to extend the benefit of the scheme and to grant the applicants temporary status as has been granted to the other similarly situated employees like that of them with retrospective effect with all consequential service benefits including arrears salary and seniority etc.

8.2. To direct the respondents to allow the applicants to continue in their present posts after granting temporary status and regularisation.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the present Applicants are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

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Under the facts and circumstances of the case the applicants
pray for interim order directing the respondents not to disengage
them from their current employment and to allow them to continue
in their services pending disposal of this application.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

(I) I.P.O. No.: 76 576648 (ii) Date: 8/8/02
(iii) payable at Guwahati

12. LIST OF ENCLOSURES : As stated in the Index.

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VERIFICATION

I, Shri Santosh Kumar Roy, S/o S. Roy, aged about 40 years, resident of Vill Dhekiajuli, Dist Sonitpur, at present working as Casual Worker, working under SDOT Tezpur, do here by solemnly affirm and state that the statement made in this petition from paragraph 1-41, 4'6, 4'10, 4'13, 4'15 & 5'01² are true to my knowledge and those made in paragraphs 4'2-4'5, 4'7-4'9, 4'11, 4'12 are matters records of records information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I am the applicant No 2 in the present application and I have been authorised by the other applicants to swear this verification.

And I sign this verification on 29th day of Aug 2002.

Sri Santosh Roy

✓

ANNEXURE- A.

	NAME	F/NAME	DATE OF ENTRY/ UNDER
1.	Sri Santosh Ray,	Suken Ray	2.12.92 / SDO(T)/TZ
2.	Sri Jitendra Ray.	M.P.Ray	12.11.92 / SDO(P)-I/TZ SDE Cable/TZ
3.	Sri Rameshar Ray.	M.P.Ray	1.01.88 -do-
4.	Sri Ram Niwas Ray.	B.Ray	4.5.91 SDO(T) /TZ
5.	Sri Ram Murti Ray.	B.Ray	26.10.92 -do-
6.	Sri Kamal Ray.	Nagina Ray	1.2.92 SDO(P)-I/TZ SDE Cable/TZ
7.	Sri Arun Kumar Ray.	Suraj Deo Ray	6.7.92 -do-
8.	Sri Biswajit Ray.	R.G.Ray	1.1.92 SDO(T)/TZ
9.	Sri Rabindra Kumar Ray.	M.Ray	5.2.91 -do-
10.	Sri Amar Nath Ray.	Suraj Deo Ray	21.11.92 SDO(P)-I/TZ SDE Cable/TZ
11.	Sri Pramod Kumar Thakur.	J.Thakur	1.1.91 SDE Cable/TZ
12.	Sri Harindra Thakur.	T.Thakur	10.1.86 -do-

*Ans. to
Note.
1000/-*

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24

ANNEXURE-1..

Absorption of Casual Labours
Supreme Court directive Department of Telecom take back all
Casual Mazdoors who have been disengaged after 30.3.85.

In the Supreme Court of India
Civil Original Jurisdiction.

Writ Petition (C) No 1280 of 1989.

Ram Gopal & ors. Petitioners.

-versus-

Union of India & ors Respondents.

With

Writ Petition Nos 1246, 1248 of 1986 176 , 177 and 1248 of 1988.

Jant Singh & ors etc. etc. Petitioners.

-versus-

Union of India & ors. Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India .

The principal allegation in these petitions under Art 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as Casual Labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30 th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour Vs. Union of India & ors. 1988 (1) Section (122) squarely applies to the petitioner though that was rendered in case of Casual Employees of Posts and Telegraphs Department. It is also contended by the counsel that the decision rendered in that case also relates to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communication issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

" We direct the respondents to prepare a scheme on a

Attested
1/100
Advocate.

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rational basis for absorbing as far possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department".

We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working more than one year, the counter affidavit does not dispute that petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this court in the reported decision. On principles, therefore the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondents shall prepare a scheme on a rational basis absorbing as far as practical who have continuously worked for more than one year in the Telecom Deptt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are also disposed of accordingly. There will be no order as to costs on account of the facts that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranganath Mishra) J.

New Delhi

April 17, 1990.

Sd/-

(Kuldeep Singh) J.

Attested

Yoginder
Advocate

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ANNEXURE-2.

CIRCULAR NO. 1
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

STN SECTION

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General Managers, Telecom Circles
M.T.H.I New Delhi/Bombay, Metro Dist.Madras/
Calcutta.
Heads of all other Administrative Units.

Subject : Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme.

Subsequent to the issue of instruction regarding regularisation of casual labourers vide this office letter No.269-29/87-STC dated 18.11.88 a scheme for conferring temporary status on casual labourers who are currently employed and have rendered a continuous service of at least one year has been approved by the Telecom Commission. Details of the scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer temporary status on all eligible casual labourers in accordance with the above scheme.

3. In this connection, your kind attention is invited to letter No.270-6/84-STN dated 30.5.85 wherein instructions were issued to stop fresh recruitment and employment of casual labourers for any type of work in Telecom Circles/Districts. Casual labourers could be engaged after 30.3.85 in projects and Electrification circles only for specific works and on completion of the work the casual labourers so engaged were required to be retrenched. These instructions were reiterated in D.O letters No.270-6/84-STN dated 22.4.87 and 22.5.87 from member(pers. and Secretary of the Telecom Department) respectively. According to the instructions subsequently issued vide this office letter No.270-6/84-STN dated 22.6.88 fresh specific periods in Projects and Electrification Circles also should not be resorted to.

3.2. In view of the above instructions normally no casual labourers engaged after 30.3.85 would be available for consideration for conferring temporary status. In the unlikely event of there being any case of casual labourers engaged after 30.3.85 requiring consideration for conferment of temporary status. Such cases should be referred to the Telecom Commission with relevant details and particulars regarding the action taken against the officer under whose authorisation/approval the irregular engagement/non retrenchment was resorted to.

3.3. No Casual Labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme finalised in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No

Attested
V.D.
Advocate

SMF/78/98 dated 27.9.89.

5 Necessary instructions for expeditious implementation of the scheme may kindly be issued and payment for arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Copy to.

P.S. to MDS (C).

P.S. to Chairman Commission.

Member (S) / Adviser (HRD), GM (IR) for information.
MOG/SEA/TE -II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

sd/=

ASSISTANT DIRECTOR GENERAL (STN).

Attested
W. D. D.
Advocate

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✓

ANNEXURE

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS AND REGULARISATION) SCHEME.

1. This scheme shall be called "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Department of Telecommunication, 1989".

2. This scheme will come in force with effect from 1.10.89. onwards.

3. This scheme is applicable to the casual labourers employed by the Department of Telecommunications.

4. The provisions in the scheme would be as under.

A) Vacancies in the group D cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointment on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility qualification prescribed in the relevant Recruitment Rules. However regular Group D staff rendered surplus for any reason will have prior claim for absorption against the existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as actual labour for the purpose of the age limit prescribed for appointment to the group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.

B) Till regular Group D vacancies are available to absorb all the casual labourers to whom this scheme is applicable, the casual labourers would be conferred a Temporary Status as per the details given below.

Temporary Status.

i) Temporary status would be conferred on all the casual labourers currently employed and who have rendered a continuous service at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

ii) Such conferment of temporary status would be without reference to the creation / availability of regular Gr. D posts.

iii) Conferment of temporary status on a casual labourers would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed any where within the recruitment unit/territorial circles 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 Gr. posts.

Attested
V. S. D.
Advocate

6. 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 of regular Gr.D officials including DA, HRA, and CCA.
- ii) Benefits in respect of increments in pay scale will be admissible 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.
- iii) Leave entitlement will be on a pro-rata basis one day for every 10 days of week. Casual leave or any other leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encasement of leave on termination of services for any reason or their quitting service.
- iv) Counting of 50 % of service rendered under Temporary Status for the purpose of retirement benefit after their regularisation.
- v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated at par with the regular Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival Advance/ food advance on the same condition as are applicable to temporary Gr.D employees, provided they furnish two sureties from permanent Govt. servants of this Department.
- vi) Until they are regularised they will be entitled to Productivity linked bonus only at rates as applicable to casual labour.

7. No benefits other than the specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the offices of a casual labour may be dispensed within accordance with the relevant provisions of the industrial Disputes Act.1947 on the ground of availability of work. A casual labourer with temporary status can quite service by giving one months notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encasement of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the scheme and/or to issue instructions in details within the framing of the scheme.

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Attested
R. S. D.
Advocate

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ANNEXURE . . 3

No.269-13/99-STN-II
Government of India
Department of Telecommunications
Sanchay Bhawan
STN-II Section
New Delhi

Dated 1.9.99.

To

All Chief General Managers Telecom Circles,
All Chief General Managers Telephones District,
All Heads of other Administrative Offices
All the IFAs in Telecom. Circles/Districts and
other Administrative Units.

Sub: Regularisation/grant of temporary status to Casual
Labourers regarding.

Sir,

I am directed to refer to letter No.269-4/93-STN-II dated 12.2.99 circulated with letter No.269-13/99-STN-II dated 12.2.99 on the subject mentioned above.

In the above referred letter this office has conveyed approval on the two items, one is grant of temporary status to the Casual Labourers eligible as on 1.8.98 and another on regularisation of Casual Labourers with temporary status who are eligible as on 31.3.97. Some doubts have been raised regarding date of effect of these decision. It is therefore clarified that in case of grant of temporary status to the Casual Labourers, the order dated 12.2.99 will be effected w.e.f. the date of issue of this order and in case of regularisation to the temporary status Mazdoor eligible as on 31.3.97, this order will be effected w.e.f. 1.4.97.

Yours faithfully

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

All recognised Unions/Federations/Associations.

(HARDAS SINGH)
ASSISTANT DIRECTOR GENERAL (STN)

Advocate

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ANNEXURE-4.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.299 of 1996.

and

302 of 1996.

Date of order : This the 13th day of August, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

O.A.No.299 of 1996

All India Telecom Employees Union,

Line Staff and Group-D,

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

O.A. No.302 of 1996.

All India Telecom Employees Union,

Line Staff and Group-D

Assam Circle, Guwahati & Others. Applicants.

- Versus -

Union of India & Ors. Respondents.

Advocate for the applicants : Shri B.K. Sharma

Shri S. Sharma

Advocate for the respondents : Shri A.K. Choudhury

Addl.C.G.S.C.

ORDER

BARUAH J. (V.C.)

Both the applications involve common question of law and similar facts. In both the applications the applicants have

Attested
V.D.
Advocate

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prayed for a direction to the respondents to give them certain benefits which are being given to their counter parts working in the Postal Department. The facts of the cases are :

1. O.A. No.302/96 has been filed by All India Telecom Employees Union, Line Staff and Group-D, Assam Circle, Guwahati, represented by the Secretary Shri J.N.Mishra and also by Shri Upen Pradhan, a casual labourer in the office of the Divisional Engineer, Guwahati. In O.A. 299/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A. No.299/96 represents the interest of the casual labourers referred to Annexure-A to the Original Application and the applicant No.2 is one of the labourers in Annexure-A. Their grievances are :

2. They are working as casual labourers in the Department of Telecom under Ministry of Communication. They are similarly situated with the casual labourers working in the Department of Postal Department under the same Ministry. Similarly the members of the applicant No 1 are also casual labourars working in the telecom Department. They are also similarly situated with their counter parts in the Postal Department. They are working as casual labourers. However the benefits which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicants Unions. The applicants state that pursuant to the judgment of the Apex Court in daily rated casual labourers employed under Postal Department vs. Union of India & Ors. reported in (1988) in sec.122 the Apex Court directed the department to prepare a scheme for absorption of the casual labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit

*Attested
John
Advocate.*

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to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers , working under the department of Telecommunication before the Apex Court praying for directing to give similar benefits to them as was extended to the casual labourers of Department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers(Supra). The Apex Court, after considering the entire matter directed the Department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communication prepared a scheme known as "Casual Labourers (Grant of Temporary Status and regularisation)Scheme" on 7.11.89. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary Status, Wages and Daily Rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.93 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the casual labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the Department of Posts as on 21.11.1989 were eligible for temporary Status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94 . Pursuant to that judgment, the Govt.of India issued a letter dated 1.11.95 conferring the benefit of Temporary Status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communication also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman

Attested
N.Sar
Advocate

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, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not been disposed of. Hence the present application.

3. O.A.299/96 is also of similar facts. The grievances of the applicants are also same.

4. Heard both sides, Mr.B.K.Sharma, learned Counsel, appearing on behalf of the applicants in both the cases submits that the Apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr.Sharma further submits that the action in not giving the benefits to the applicants is unfair and unreasonable. Mr.A.K.Choudhury, learned Addl.C.G.S.C for respondents does not dispute the submission of Mr.Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the J.C.M level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of casual labourers (grant of temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working under the Department of Posts as per Annexure-3(in O.A.302/96) and Annexure-4 (in O.A.No.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

Sd/- Vice Chairman.

Affested
R.D.
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.107 of 1998 and others.
Date of decision : This the 31 st day of August 1999.

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

The Hon'ble Mr.G.L.Sanglyine, Administrative Member.

1. O.A. No.107/1998

Shri Subal Nath and 27 others. Applicants.
By Advocate Mr. J.L. Sarkar and Mr. M.Chanda
- versus -
The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl. C.G.S.C.

2. O.A. No.112/1998

All India Telecom Employees Union,
Line Staff and Group- D and another..... Applicants.
By Advocates Mr.B.K. Sharma and Mr.S.Sarma.
- versus -
Union of India and others. Respondents.
By Advocate Mr.Mr.A.Deb Roy, Sr. C.G.S.C.

3. O.A.No. 114/1998

All India Telecom Employees Union
Line Staff and Group-D and another. Applicants.
By Advocates Mr. B.K. Sharma and Mr. S.Sarma.
- versus -
The Union of India and others Respondents.
By Advocate Mr. A.Deb Roy, Sr. C.G.S.C.

4. O.A.No.118/1998

Shri Bhupan Kalita and 4 others. Applicants.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms.N.D. Goswami.
- versus -
The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

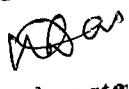
5. O.A.No.120/1998

Shri Kamala Kanta Das and 6 others Applicant.
By Advocates Mr. J.L. Sarkar, Mr.M.Chanda
and Ms. N.D. Goswami.
- versus -
The Union of India and Others Respondents.
By Advocate Mr.B.C. Pathak, Addl.C.G.S.C.

6. O.A.No.131/1998

All India Telecom Employees Union and another...Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

Attested



Advocate

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- versus -

The Union of India and others. Respondents.
By Advocate Mr. B.C. Pathak, Addl.C.G.S.C.

7. O.A.No.135/98
All India Telecom Employees Union
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and
Mr.U.K.Nair.

- versus -

The Union of India and others . . . Respondents.,
By Advocate Mr.A.Deb Roy, Sr. C.G.S.C.

8. O.A.No.136/1998
All India Telecom Employees Union,
Line Staff and Group-D and 6 others. Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma and Mr.U.K.Nair.

- versus -

The Union of India and others. Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

9. O.A.No.141/1998
All India Telecom Employees Union,
Line Staff and Group-D and another Applicants.
By Advocates Mr.B.K.Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

- versus -

The Union of India and others Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

10. O.A. No.142/1998
All India Telecom Employees Union,
Civil Wing Branch. Applicants.
By Advocate Mr.B.Malakar

- versus -

The Union of India and others. Respondents.
By Advocate Mr.B.C. Pathak, Addl. C.G.S.C.

11. O.A. No.145/1998
Shri Dhani Ram Deka and 10 others. Applicants
By Advocate Mr.I.Hussain.

- versus -

The Union of India and others. Respondents.
By Advocate Mr.A,Deb Roy, Sr. C.G.S.C.

12. O.A.No. 192/1998
All India Telecom Employees Union,
Line Staff and Group-D and another Applicants
By Advocates Mr.B.K. Sharma, Mr.S.Sarma
and Mr.U.K.Nair.

-versus-

The Union of India and others..... Respondents
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

Attested
J. Sen
Advocate

13. O.A.No.223/1998

All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By advocates Mr. B.K.Sharma and Mr.S.Sarma.
 - versus -
 The Union of India and others .. Respondents.
 By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

14. O.A.No.269/1998

All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By advocates Mr. B.K.Sharma and Mr.S.Sarma,
 Mr.U.K.nair and Mr.D.K.Sharma
 - versus -
 The Union of India and others .. Respondents.
 By Advocate Mr.B.C.Pathak,Addl. Sr.C.G.S.C.

15. O.A.No.293/1998

All India Telecom Employees Union,
 Line Staff and Group-D and another Applicants
 By advocates Mr. B.K.Sharma and Mr.S.Sarma,
 and Mr.D.K.Sharma.
 - versus -
 The Union of India and others .. Respondents.
 By Advocate Mr.B.C.Pathak,Addl. Sr.C.G.S.C.

O R D E RBARUAH.J. (V.C.)

All the above applicants involve common question of law and similar facts. Therefore, we propose to dispose of all the above applications by a common order.

2. The All India Telecom Employees Union is a recognised union of the Telecommunication Department. This union takes up the cause of the members of the said union. Some of the applicants were submitted by the said union, namely the Line Staff and Group-D employees and some other applicantion were filed by the casual employees individually. Those applications were filed as the casual employees engaged in the Telecommunication Department came to know that the services of the casual Mazdoors under the respondents were likely to be terminated with effect from 1.6.1998. The applicants in these applications, pray that the respondents be directed not to implement the decision of termi-

*Attested**W.D. Deb
Advocate*

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nating the services of the casual Mazdoors, but to grant them similar benefits as had been granted to the employees under the Department of Posts and to extend the benefits of the scheme, namely casual Labourers (Grant of Temporary Status and Regularisation) Scheme of 7.11.1998, to the casual Mazdoors concerned O.A.s, however, in O.A. No.269/1998 there is no prayer against the order of termination. In O.A. No.141/1998, the prayer is against the cancellation of the temporary status earlier granted to the applicants having considered their length of services and they being fully covered by the scheme. According to the applicants of this O.A., the cancellation was made without giving any notice to them in complete violation of the principles of natural justice and the rules holding the field.

3. The applicants state that the casual Mazdoors have been continuing their service in different office in the Department of Telecommunication under Assam Circle and N.E. Circle. The Govt. of India, Ministry of Communication made a scheme known as Casual Labourers (Grant of Temporary Status and Regularisation) Scheme. This scheme was communicated by letter No.269-10/89-STN dated 7/11/89 and it came in to operation with effect from 1989. Certain casual employees had been given the benefits under the said scheme, such as conferment of temporary status, wages and daily wages with reference to the minimum pay scale of regular Group-D employees including D.A. and HRA. Later on, by letter dated 17.12.1993 the Government of India clarified that the benefits of the scheme should be confined to the casual employees who were engaged during the period from 31.3.1985 to 22.6.1988. However, in the Department of Posts, those casual labourers who were engaged as on 29.11.89 were granted the benefits of temporary status on satisfying the eligibility criteria. The benefits were further extended to the casual labourers of the Department of

Attested
C. D. Sen
Advocate

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Posts as on 10.9.93 pursuant to the judgement of the Ernakulam Bench of the Tribunal passed on 13.3.1995 in O.A. No.750/1994. The present applicants claim that the benefits extended to the casual employees working under the Department of Posts are liable to be extended to the casual employees working in the Telecom Department in view of the fact that they are similarly situated. As nothing was done in their favour by the authority they approached this Tribunal by filing O.A. Nos 302 and 229 of 1996. This Tribunal by order dated 13.8.1997 directed the respondents to give similar benefits to the applicants in those two applications as was given to the casual labourers working in the Department of Posts. It may be mentioned here that some of the casual employees in the present O.A.s were applicants in O.A.Nos.302 and 229 of 1996. The applicants state that instead of complying with the direction given by this Tribunal, their services were terminated with effect from 1.6.1998 by oral order. According to the applicants such order was illegal and contrary to the rules. Situated thus the applicants have approached this Tribunal by filing the present O.As.

4. At the time of admission of the applications, this Tribunal passed interim orders. On the strength of the interim orders passed by this Tribunal some of the applicants are still working. However, there has been complaint from the applicants of some of the O.A.s that in spite of the interim orders those were not given effect to and the authority remained silent.

5. The contention of the respondents in all the above O.As is that the Association had no authority to represent the so called casual employees as the casual employees are not members of the union Line Staff and Group-D. The casual employees not being regular Government servant are not eligible to become members or office bearers to the staff union. Further, the re-

Attested
M. D. Rao
Advocate

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spondents have stated that the names of the casual employees furnished in the applications are not verifiable, because of the lack of particulars. The records, according to the respondents, reveal that some of the casual employees were never engaged by the Department. In fact, enquiries in to their engagement as casual employees are in progress. The respondents justify the action to dispense with the services of the casual employees on the ground that they were engaged purely on temporary basis for special requirement of specific work. The respondents further state that the casual employees were to be disengaged when there was no further need for continuation of their services. Besides, the respondents also state that the present applicants in the O.As were engaged by persons having no authority and without following the formal procedure for appointment/engagement. According to the respondents such casual employees are not entitled to re-engagement or regularisation and they can not get the benefit of the scheme of 1989 as this scheme was retrospective and not prospective. The scheme is applicable only the casual employees who were engaged before the scheme came in to effect. The respondents further state that the casual employees of the Telecommunication Department are not similarly placed as those of the Department of Posts. The respondents also state that they have approached the Hon'ble Gauhati High Court against the order of the Tribunal dated 13.8.1997 passed in O.A. No.302 and 229 of 1996. The applicants does not dispute the fact that against the order of the Tribunal dated 13.8.1997 passed in O.A. Nos.302 and 229 of 1996 the respondents have filed writ application, before the Hon'ble Gauhati High Court. However according to the applicants no interim order has been passed against the order of the Tribunal.

6. We have heard Mr.B.K.Sharma, Mr. J.L.Sarkar, Mr.I.

Attested
S. D. S.
Advocate.

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Hussain and Mr.B.Malakar, learned counsel appearing on behalf of the applicants and also Mr.A.Deb Roy, learned Sr.C.G.S.C. and Mr.B.C. Pathak, learned Sr.C.G.S.C. appearing on behalf of the respondents. The learned counsel for the applicants dispute the claim of the respondents that the scheme was retrospective and not prospective and they also submit that it was up to 1989 and then extended up to 1993 and thereafter by subsequent circulars. According to the learned counsel for the applicants the scheme is also applicable to the present applicants. The learned counsel for the applicants further submit that they have documents to show in that connection. The learned counsel for the applicants also submits that the respondents can not put any cut off date for implementation of the scheme, inasmuch as the Apex Court has not given any such cut off date and had issued direction for conferment of temporary status and subsequent regularisation to those casual workers who have completed 240 days of service in a year.

7. On hearing the learned counsel for the parties we feel that the applications require further examination regarding the factual position. Due to the paucity of material it is not possible for this Tribunal to come to a definite conclusion. We, therefore, feel that the matter should be re-examined by the respondents themselves taking in to consideration of the submissions of the learned counsel for the applicants.

8. In view of the above we dispose of these applications with direction to the respondents to examine the case of each applicant. The applicants may file representations individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on

Affested
W.S. Das
Advocate

merits of each case within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations.

9. No order as to costs.

SD/- VICE CHAIRMAN

SD/- MEMBER (A)

Arrested
W.M.
Advocate

ANNEXURE - 6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 SUWAHATI BENCH: SUWAHATI, 5. (FORM NO. 4)
 ORDER SHEET. (See Rule-42)

APPLICATION NO. 249/2002

Applicant(s): Saatosh Ray and ors.

Respondents(s): Union of India and ors.

Advocate for Applicant(s): Mr. B.K. Sharma

Mr. S. Sarma.

Advocate for Respondent(s): Mr. C.K. Goonjani

C.G.S.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

3.11.00



The subject matter of the application relates to Extending the benefits of the scheme of Casual labourer(Grant of Temporary Status and Regularisation Scheme) dated 8.11.98 to the Casual Mazdoor concerned. It has been stated that the like cases are already decided. They are decided and disposed of in O.A.No.107 of 98, Shri Subal Nath and 27 others Vs. Union of India & Ors and also in O.A.Nos. 112 of 98, 114 of 98 and 118 of 98 host of such application, disposed of 31.8.99.

contd/.

Attested
U.Das
Advocate

O.A. 299 of 2000

30/11/00

In the light of the direction given by this Tribunal the similar directions are also issued in the following manner.

The applicants are directed to file representation individually within a period of one month from the date of receipt of the order and if such representations are filed individually, the respondents shall scrutinize and examine each case in consultation with the records and thereafter pass a reasoned order on merits of each case, within a period of six months thereafter. The interim order passed in any of the cases shall remain in force till the disposal of the representations. There shall be no order as to costs.

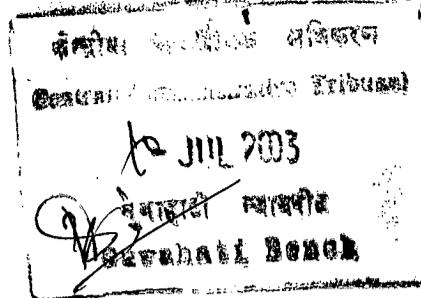
Sd/ VICE CHAIRMAN

Certified to be true Copy

Section Officer (A)
Registration & Service Bureau
Central Administrative Tribunal
Central Administrative Tribunal
Court of Appeal - 2000
Surajmal Soni, Chairman
Registration & Service Bureau

Attested

John
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 284 OF 2002

Shri Santosh Roy & Others.

..... Applicants.
- And -

Union of India & Others.

..... Respondents.

- And -

In the matter of :

Written statement submitted by
the respondents.

The humble respondents beg to submit the para wise
written statement as follows :-

1. That with regard to the statement made in para 1, of the application the respondents beg to state that the petitioners' cases were indeed considered and examined by the respondents. In compliance to the order dated 31.08.99, SSA wise verification committee was set up to examine, scrutinize the records to workout the engagement particulars of the claimants and assess the eligibility for grant of the benefit of the Departmental Scheme. The Committee set up for ^{To your} ~~Jorhat~~ SSA, comprising of one DE, one SDE and one AO, examined the Departmental records like paid voucher, Muster Roll etc, and worked out the engagement particulars of all claimants including the

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present applicants. The committee also afforded an opportunity to the applicants to present their cases before the committee and to submit information/documents in support of their claim.

It is the resultant finding of the committee that the applicants are not eligible for the benefit of the scheme of the Department and they have not worked for 240 days in any year. The Departmental authority considered the report of the committee and passed the final order rejecting the claims of the applicant. The order passed by the authority is a reasoned one and it contains the detailed engagement particulars. The applicants have suppressed the fact.

2. That with regard to para 2, 3 and 4.1, of the application the respondents beg to offer no comments.
3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that the respondent completely deny the averment made in para 4.2. The applicant were never appointed to any post.

The engagement of daily rated mazdoor is not an appointment to any post. According to rules even for Group 'D' employees the recruitment process according to rules is an essential pre-condition for any appointment to a Govt. Post. The applicant was never appointed to any post.

Routine operation and maintenances are attended to by Departmental employees of appropriate cadres. In case of any sudden spurt of activities or during special Mtc. Drive, mazdoors are engaged to assist the regular employees. Such casual engagement of mazdoors are necessitated by unusual situation

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and is of purely casual or intermittent in nature. When the special occasion disappears or the specific work for which the labour was engaged comes to end, there is no further need for continuous engagement of the labour.

The applicants might have been engaged on some occasion for very small duration on day to day basis for performance of work of very casual and intermittent nature. As the engagement was not continuous one they are not eligible for benefit for the benefit of Temporary status scheme. Moreover, these applicants have not been engaged for any work in the last five years for even a single day.

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the respondent completely deny the statement made by the applicants regarding their appointment and continuous service as casual labourers. The applicants are not eligible for the benefit of the departmental scheme as they have not put in continuous service.

5. That with regard to the statement made in para 4.4, of the application the respondents beg to state that pursuant to the Judgement delivered by the Hon'ble Supreme Court of India, the Department of Telecom prepared a scheme in 1989 for absorption of all casual labourers who have put in at least 240 days casual service in a year. The scheme is known as casual labourers (Grant of Temporary Status and Regularization) Scheme, 1989 and came into effect on 01.10.89.

The Scheme is intended to cover all casual labourers who were on engagement on the day of introduction of the scheme and have completed at least 240 days in one calendar year. Under the provision of the scheme, the Department has regularized thousands of casual labourers who were engaged before 01.10.89 and have worked for more than 240 days in a year.

The Department has imposed a complete ban on engagement of casual labourer with effect from 22.06.88 and restraining orders was issued to all concerned. The Telecom officers are devoid of any power/competence to engage any casual labour for any type of work .

There is irregularity of an enormous scale in the engagement of casual labourers after 22.06.88. Some field units have resorted to irregular engagement of casual labourers in defiance of ban order. No selection procedure of any kind was followed in any case. Such engagement, in most of the cases, was unjustified and without jurisdiction and on choose and pick basis. The accumulated result of such mind less engagement by field units that too without maintaining proper records has aggravated the situation to the detriment of the Department .

The Department of Telecom has addressed the situation on humanitarian ground and as an one time relaxation it has been decided that all casual mazdoor on engagement as on 01.08.98 and have continuously worked for at least 1(one) year would be granted temporary Status followed by regularization. In the process the Departmental has liberalized the scheme and advanced the cut off date to 01.08.98.

6. That with regard to the statement made in para 4(5), of the application the respondents beg to state that the essence of the direction issued by the Hon'ble Supreme Court as well as the departmental scheme is to provide security to the casual labourer who have put on duty continuously for at least 1(one) year. The present applicants have not worked continuously to complete 240 days in a year. They are, therefore, not entitled for the benefit of the scheme.

7. That with regard to the statement made in para 4(6), of the application the respondents beg to state that ~~the~~ after the introduction of the scheme in 1989 the department has time to time advanced the cut off date to extend the benefit of the scheme to the casual mazdoors engaged irregularly during ban period provided they have completed 240 days in a year.

8. That with regard to the statement made in para 4(7) & 4(8), of the application the respondents beg to state that the department of Telecom addressed the plight of the genuine casual labourers who was urgently engaged during ban period and continuously worked for more than 1 year and passed orders for their absorption as an one time measure. Since the applicants have not worked continuously for a period of one year they are not eligible for the said period.

9. That with regard to the statement made in para 4(9) of the application the respondents beg to state that the O.A. No. 299/96 and 302/96 was aimed at to remove the disparity in the cut off date as the Postal Scheme accommodated all casual labourers recruited up to 01/10/89. Now that the provision

of the Telecom Scheme has been relaxed to cover all casual labourers working as on 01/08/98 and have put at least 240 days in a year the Telecom Scheme has turned to be more benefit. In the changed situation, reference to postal scheme is not in the interest of the casual labourers of Telecom Department.

10. That with regard to the statement made in para 4(10), of the application the respondents beg to state that the department of Telecom, more particularly the Assam Telecom Circle examine the case of all deserving casual labourers and extended the benefit of the scheme to all casual labourers who have put in at least 1 year continuous service and was currently on 1.8.98. None of the present applicant was on job as on 01.08.98 nor they have completed continuous service of one year.

11. That with regard to the statement made in para 4(11), of the application the respondents beg to state that the respondents department contested the O.As by filing the written statement of defence through which the department made a humble effort to present a clear picture of the case and the large scale irregularities that have been committed in the units in the matter of mindless engagement of casual mazdoors without justification and jurisdiction in defiance of all established and fair norms. After hearing both sides the Hon'ble Tribunal was pleased to pass the common judgement and order dated 31.08.1999, thereby affording an opportunity to the department to examine each case in depth and take decision on merit.

12. That with regard to the statement made in para 4(12) of the application the respondents beg to state that pursuant to the order dated 31.08.1999, the respondent no.2 formed SSA level committee to examine each case on the basis of the authenticated records of the department. The claimant was also given an opportunity of hearing to present their case to establish the claim on the basis of records/information which may be available in their possession.

On the basis of the verification Temporary Status has been granted followed by regularization of the eligible casual labourers numbering about thousand. The cases of the present applicants were also examined in the same manner and they were found to be net eligible as they have not completed 1 year continuous service.

13. That with regard to the statement made in para 4(13), of the application the respondents beg to state that pursuant to the judgement and orders dated 03. 11.2000 in O.A. No. 299/2000 the respondent department re-examined the cases of the applicant afresh on the basis of the departmental records. On re-verification of all the available connected records it again transpired that none of the applicants has put in continuous service for a period of one year at any time and they were not engaged for a single day after July 1998.

The applicants are not eligible for grant of temporary status under the departmental scheme.

Accordingly their claim have been rejected and the decision was communicated to the applicants vide letter no. X-38/ CMPT/Vol-1/02-03 series dated 02.05.2002.

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14. That with regard to the statement made in para 4(14), of the application the respondent beg to state that the essence of the direction of the Hon'ble Apex Court and the departmental scheme formulated is to provide the relief to the casual labourer who have put in at least one year continuous service. The applicants do not satisfy the basis condition of the length of casual service and they are not eligible for the benefit of the under the scheme. Moreover, none of the applicants was engaged for any work for a single day during the last 5 years.

15. That with regard to the statement made in para 4(15), of the application the respondents beg to state that it is an admitted fact that in defiance of the ban orders some filed units have been indulged in irregular engagement of casual labourers without jurisdiction and justification. No selection procedure of any kind was followed while engaging the C/Ls. In the process huge number of C/Ls were engaged from time to time without job justification. This is a drainage of public excheover.

The Assam Telecom Circle has formed SSA wise Verification Committee to examine the case of the casual labourers on the basis of authentic records and granted temporary status to all casual labourers who have completed at least 1 year's continuous service.

Verification.....

VERIFICATION

I, Shri Shantanu Chandra Das, presently working as Assistant Director Telecom (Legal), being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 to 15 are true to my knowledge and belief and those made in para 16 to 20, being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 20th day of June, 2003 at Guwahati.

Shantanu Chandra Das

Deponent.
Shantanu Chandra Das (Fitter)
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